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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2013–0004]

Asian Longhorned Beetle; Quarantined Areas in Ohio

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Asian longhorned beetle regulations by adding a portion of Clermont County, OH, to the list of quarantined areas and restricting the interstate movement of regulated articles from that area. This action is necessary to prevent the artificial spread of the Asian longhorned beetle to noninfested areas of the United States.

DATES: This interim rule is effective May 13, 2013. We will consider all comments that we receive on or before July 12, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0004-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0004, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0004* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (ALB, *Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. The ALB regulations in 7 CFR 301.51–1 through 301.51–9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States.

Surveys conducted in Ohio have revealed that infestations of ALB have occurred in the Townships of Batavia and Stonelick in Clermont County, OH. The State of Ohio has quarantined the infested areas to prevent the further spread of ALB within the State. On August 30, 2012, APHIS issued a Federal Order establishing a quarantine area in the Townships of Batavia and Stonelick in Clermont County, OH, to prevent the spread of ALB.

The regulations in § 301.51–3(a) provide that APHIS will list as a quarantined area each State, or each portion of a State in which ALB has been found by an inspector, where the Administrator has reason to believe that ALB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where ALB has been found.

Less than an entire State will be quarantined only if (1) the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of ALB.

In accordance with these criteria and the recent ALB findings described above, we are amending the list of quarantined areas in § 301.51–3(c) to include land parcels in Batavia and Stonelick Townships in Clermont County, OH. The quarantined areas are described in detail in the regulatory text of this document.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the artificial spread of ALB to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register.** The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. The full analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

ALB is an invasive forest pest that was introduced into the United States in 1996. ALB attacks hardwood trees and can cause extensive economic and environmental damage. There are currently ALB infestations being eradicated in Ohio. This interim rule expands the quarantine in Clermont County.

In Ohio, entities likely to be affected by this rule include landscape companies, tree service companies, and

waste haulers. Other types of businesses that may be impacted could include firewood dealers, trucking companies, construction companies, excavators, or property management companies. Additional costs of operating such businesses under ALB quarantine are small, and principally derive from self-inspection and certification of regulated material under compliance agreements. Most if not all of the businesses that will be affected by this rule in Ohio are small entities. We welcome public comment on the extent to which small entities in the areas regulated or deregulated may be specifically affected.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301–DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.51–3, paragraph (c), under the heading ''Ohio,'' the entry for *Clermont County* is revised to read as follows:

§ 301.51–3 Quarantined areas.

* * * * *

(c) * * *

Ohio

Clermont County. (1) The portion of Clermont County, including all of the municipalities of Tate and East Fork State Park, and the portions of the Township of Monroe that include the following land parcels: 232609C094, 232609C113, 232609C215, 232609C085, 232609C128, 232609B224, 232609B188, 232609E223, 232609B215, 32609B193, 232609E075, 232609B161, 232609E156, 232609E245, 232609E037, 232609E074, 232609E230, 232609E031, 232609E220, 232609E232, 232609E240, 232609E239, 232609E241, 232609E175, 232609E228, 232609E250, 232609E235, 232609E238, 232609E227, 232609E242, 32609E226, 232609E249, 232609E236, 232609E234, 232609C217, 232609C040, 234715.008, 232609C227, 232609C222, 232609C092, 232609C093, 232609C129, 232609C098, 232609C195, 232609C100, 232609C169, 232609C136, 232609C097, 232609C139, 232609C148, 232609C042, 232609C150, 232609C182, 234715.009, 234715.005, 234715.006, 234715.001, 232609E246, 232609E247, 234715.004, 234715.003, 232609E222, 232609C228, 234425.001, 232609E233, 232609C170, 232609C216, 232609C196, 232609C105, 232609E237, 232609C225, 232609C091, 232609C197, 232609C218, 232609C198, 232609C041, 232609C212, 232609C194, 232609C214, 232609E224, 232609E231, 232609E248, 234715.007, 234715.002, 232609C120, 232609C226, 232609C229, 232609C043; and

(2) The portions of the Townships of Batavia and Stonelick that include the following land parcels: 302909I048, 304436.008, 302909H084, 302909K030, 022003B040, 012003H093, 025503D053, 022003B024, 302909G132, 304436A017, 304436.004, 302909F109, 012003E028, 012003C087, 012003H097, 022003C080, 302909G120, 302909K046, 302909H083, 302909F116, 012003E031, 012003C085, 022003B039, 302909G128, 302909F120, 302909H095, 302909F104, 012003E029, 012003C086, 022003F033, 302912E118, 302909G119, 302909G115, 302909H082, 302909F115, 012003E027, 302909G010, 022003F015, 302909B081, 302909G114, 302909H094, 302909I097, 012003E022, 022004H018, 022004H061, 302909E112, 302909B065, 302909G130, 302909H096, 302909F107, 025503B015, 012003H078, 022004H019, 302909E113, 302909G129, 304436A018, 302909F118, 302909I098, 012003E043, 302909G117, 304436A012, 302909E120, 302909B069, 304436.007, 304436.003, 302909K109, 012003E032, 302909G131, 302909F110, 302909E116, 302909J087, 302909H089, 302909F123, 302912E029, 012003E037, 302909F101, 022003A077, 302909E073, 302909J089, 302909H086, 304436.002, 302909F021, 015503I058, 302909F063, 022003A022, 302909E110, 304436A013, 304436A019, 304436.001, 302909F102, 012003E041, 302909G133, 302909F130, 302909E102, 302909E097, 302909H029, 302909F117, 012005H008, 012003E039, 302909D109, 302909F129, 302909K084, 302909J091, 302909H087, 302909F124, 302909I099, 012003E026, 302909E043, 302909I095, 302909K055, 302909K051, 304436.006, 302909B093, 302909K028P, 012003E040, 302909D049, 022003A023, 302909K107, 302909J086, 304436A020, 302909F128, 302909K110, 025503B013, 302909E090, 302909E114, 302909K054, 304436A014, 302909H090, 302909K047, 302909I025, 012003E034, 302909K044, 304436.010, 302909H093, 302909B040, 012005I010, 025503B012, 302912E135, 302909F132, 302909K032, 304436A015, 302909H085, 302909F112, 022003A078, 012003H102, 022003E020, 302909F131, 302909K059, 302909B015, 302909F119, 302909F125, 302909I096, 012003E023, 022003B038, 302909F022, 302909K108, 302909J041, 302909H088, 302909F113, 302909I024, 012003E033, 012003E035, 302909B083, 302909K031, 304436.009, 304436.005, 302909F114, 012003H101, 012003H100, 012003E011, 302909B070, 302909K099, 302909B103, 302909F122, 302909F127, 022003F034, 012003E024, 025503I058, 302909B076, 302909K028, 304436A016, 302909B064, 302909F111, 022003F018, 012003H104, 022003G023, 304436.011, 302909K042, 302909A039, 302909H091, 302909H097, 302909I023, 012003E036, 022003G022, 302909B038, 302909K052, 302909F121, 302909K071, 022003A076, 012003C027, 025503B016, 022003B043, 302909K094, 302909G116, 302909H081, 302909F126, 012005I005, 012003H094, 025503B017, 022003B044, 302909K092, 302909K106, 302909E106, 302909K053, 022003G014, 012003I072, 060224.026, 302909G110, 302909D107, 302909K061, 302909E115, 302909K058, 022003F019, 022003C062, 060224.009, 302909G109, 302909H018, 302909E016, 302909K057, 012003E038, 012003E030, 012003D009, 302909G121, 302909G127, 302909H017, 302909E014, 302912B150, 012003C061, 012003E047, 012003C078, 302909G108, 302909E013, 302909H080, 302909K027, 302909K066, 012003C028, 012003E046, 302909H099, 022003B042, 302909H020, 022005G014, 302909K068, 012003C088, 022003B025, 302909G011, 302909H098, 302909H092, 012003E042, 012003E021, 012003E045, 012005I007, 302909J067, 302909K105, 302909G122, 302909G123, 302909G124, 302909G125, 302909G126.

Done in Washington, DC, this May 8, 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11312 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2012–0108]

Black Stem Rust; Additions of Rust-Resistant Species and Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the black stem rust quarantine and regulations by adding two varieties to the list of rust-resistant *Berberis* species and varieties and one variety to the list of rust-resistant *Mahonia* species and varieties. This action will allow for the interstate movement of these newly developed varieties without unnecessary restrictions.

DATES: This rule will be effective on July 12, 2013, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 12, 2013. If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date.

ADDRESSES: You may submit comments or written notice of intent to submit adverse comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0108-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0108, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0108* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Prakash K. Hebbar, National Program Manager, Black Stem/Barberry Rust Program, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1231; (301) 851–2228.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus (*Puccinia graminis*) that reduces the quality and yield of infected wheat, oat, barley, and rye crops. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis, Mahoberberis,* and *Mahonia.* The fungus is spread from host to host by windborne spores.

The black stem rust quarantine and regulations, which are contained in 7 CFR 301.38 through 301.38–8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia and govern the interstate movement of certain plants of the genera *Berberis, Mahoberberis,* and *Mahonia,* known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of the rust; rust-susceptible plants do pose such risks. Section 301.38–2 of the regulations includes a listing of regulated articles and indicates those species and varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* that are known to be rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate. In accordance with the procedures described below under ''Dates,'' this direct final rule will add *B. thunbergii* varieties 'Della' and 'O' Byrne' to the list of rust-resistant *Berberis* species in § 301.38–2(a)(1). Similarly, this rule will add the *Mahonia x media* variety 'Lionel Fortescue' to the list of rust-resistant *Mahonia* species in § 301.38–2(a)(2)(ii).

The addition of these species is based on recent testing to determine rust resistance conducted by the Agricultural Research Service of the United States Department of Agriculture (USDA) at its Cereal Disease Laboratory in St. Paul, MN. The testing is performed in the following manner: In a greenhouse, the suspect plant or test subject is placed under a screen with a control plant—a known rust-susceptible species of *Berberis, Mahoberberis,* or *Mahonia.* Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100 percent humidity. This causes the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80 percent relative humidity. If the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, the test results indicate that the test plants are rust-resistant. This test must be performed 12 times, and all 12 tests must yield the same result before USDA can make a determination as to whether the test plants are rust-resistant. The test may be conducted on 12 individual plants, or it may be performed multiple times on fewer plants (e.g., six plants tested twice or three plants tested four times). The tests must be performed on new growth, just as the leaves are unfolding. Therefore, the tests are usually conducted in the spring or fall, during the growing season. All 12 tests generally cannot be conducted on the same day because of the plants' different growth stages. Based on over 30 years of experience with this test, we believe that 12 is the reliable test sample size on which USDA can make its determination. We do not know of any plant that was subsequently discovered to be rust-susceptible after undergoing the test procedure 12 times and being determined by USDA to be rust-resistant.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on July 12, 2013, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 12, 2013.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication

of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register** before the effective date of this direct final rule confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This analysis provides the basis, as required by the Regulatory Flexibility Act, for certification by the APHIS Administrator that the rule will not have a significant economic impact on a substantial number of small entities.

This direct final rule will amend 7 CFR 301.38–2 by adding two varieties to the list of rust-resistant *Berberis* species and varieties and by adding one variety to the list of rust-resistant *Mahonia* species and varieties. The nursery and floriculture industries that may be affected by this rule are largely composed of small entities. We expect these entities to benefit from the rule, by being able to market interstate barberry species and varieties that have been determined to be rust-resistant.

The introduction and spread of plant pests can result in damage to crops and losses to the U.S. agricultural sector. For the purpose of this analysis and following the Small Business Administration (SBA) guidelines, we note that a major segment of entities potentially affected by this rule are classified within the following industries: Nursery and Tree Production (NAICS 111421), and Floriculture Production (NAICS 111422). According to the Census of Agriculture, these two categories included 52,845 farms in 2007, and represented 3 percent of all farms in the United States. These entities are considered small by SBA standards if their annual sales are $750,000 or less. Over 93 percent of the farms in these industries had annual sales of less than $500,000. Barberry plants are not one of the crops tracked by the Census and therefore data on production and number of producers are not available. Nurseries producing barberry plant species and varieties will not be negatively affected. In fact, they will benefit from being able to market the three varieties interstate. In addition, the rule does not require any additional reporting, recordkeeping, or other compliance measures beyond what is already in place.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Section 301.38–2 is amended as follows:

■ a. In paragraph (a)(1), by adding, in alphabetical order, two rust-resistant *Berberis* species; and

■ b. In paragraph (a)(2)(ii), by adding, in alphabetical order, one rust-resistant *Mahonia* species.

The additions read as follows:

§ 301–38–2 Regulated articles.

(a) * * *

(1) * * *

* * * * *

B. thunbergii 'Della'

* * * * *

B. thunbergii 'O'Byrne'

* * * * *

(2) * * *

(ii) * * *

* * * * *

M. x media 'Lionel Fortescue'

* * * * *

Done in Washington, DC, May 8, 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11318 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2012–0079]

Golden Nematode; Removal of Regulated Areas in Livingston and Steuben Counties, NY

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the golden nematode regulations by removing areas in Livingston and Steuben Counties in New York from the list of generally infested areas. Surveys have shown that certain areas in these two counties are free of golden nematode, and we determined that regulation of these areas was no longer necessary. As a result of that action, areas in Livingston and Steuben Counties in New York that had been listed as generally infested were removed from the list of areas regulated for golden nematode.

DATES: Effective on May 13, 2013, we are adopting as a final rule, without change, the interim rule published at 78 FR 1713–1715 on January 9, 2013, and corrected at 78 FR 3827–3828 on January 17, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan M. Jones, National Program Manager, Emergency and Domestic Programs, Plant Protection and Quarantine, APHIS, 4700 River Road, Unit 160, Riverdale, MD 20737; (301) 851–2128.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule [1] effective and published in the **Federal Register** on January 9, 2013 (78 FR 1713–1715, Docket No. APHIS–2012–0079) and corrected on January 17, 2013 (78 FR 3827–3828), we amended the golden nematode regulations in 7 CFR part 301 by removing areas in Livingston and Steuben Counties in New York from the list of generally infested areas.

Comments on the interim rule were required to be received on or before March 11, 2013. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301, that was published at 78 FR 1713–1715 on January 9, 2013, and that was corrected at 78 FR 3827–3828 on January 17, 2013.

Done in Washington, DC, May 8, 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11323 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 810

RIN 0580–AB12

United States Standards for Wheat

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Wheat under the United States Grain Standards Act (USGSA) to change the definition of Contrasting classes (CCL) in the class Hard White wheat. This change will help facilitate the marketing of wheat.

DATES: *Effective Date:* May 1, 2014.

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

SUPPLEMENTARY INFORMATION:

Background

The United States Grain Standards Act (USGSA) authorizes the Secretary of Agriculture to establish official standards of kind and class, quality and condition for wheat and other grains (7 U.S.C. 76). The United States Standards for Grain serve as the starting point to define grain quality in the marketplace. The United States Standards for Wheat are in the regulations at 7 CFR 810.2201–810.2205.

On November 27, 2009, GIPSA published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** (74 FR 62257) requesting public comment on what revisions, if any, are needed to the current wheat standards. GIPSA received 13 comments from wheat producers, breeders, market development groups, industry associations, and exporters.

In the April 11, 2012, **Federal Register** (77 FR 21685–21690) GIPSA invited comments to our proposed rule identifying changes to the United States Standards for Wheat to:

(1) Revise the United States Standards for Wheat under the United States Grain Standards Act (USGSA) to change the definition of Contrasting classes (CCL) in Hard White wheat, and

(2) revise the grade limits for shrunken and broken kernels (SHBN) in U.S. No. 1 and U.S. No. 2 wheat.

Proposed Rule Comment Review

GIPSA received 12 comments from wheat producer organizations, grain processor organizations, grain handlers, market developers, and others during the 60-day comment period for the proposed rule. On the basis of comments and other available information, GIPSA is implementing one of two proposed changes to the wheat standards. Some commentors requested additional changes which GIPSA believes are beyond the scope of the regulations. GIPSA will consider these comments for future policy changes. The following paragraphs address comments received regarding the proposed changes.

Contrasting Class Definition

GIPSA proposed changing the definition of contrasting classes for Hard White wheat so that Hard Red Winter wheat and Hard Red Spring wheat are no longer contrasting classes, and are considered only as wheat of other classes. Four comments were received supporting the proposal and no comment was received opposing the proposal. Therefore as set forth in the proposal, GIPSA is amending the grain standards to change the definition of contrasting classes in Hard White wheat so that Hard Red Winter wheat and Hard Red Spring wheat are no longer contrasting classes. The grade limits will remain unchanged.

Shrunken and Broken Kernel Grade Limits

GIPSA proposed making grade limits for SHBN more restrictive for U.S. No. 1 and U.S. No. 2, leaving the grade limits unchanged for U.S. No. 3, 4, and 5. In the proposed rule, GIPSA cited data for over 100,000 official export and domestic inspection samples for all wheat classes in market years 2005 through 2009.

GIPSA received 10 comments opposing the proposal and one comment supporting the proposal. Opposing comments from wheat producers in Oklahoma stated that more restrictive standards would place Oklahoma wheat growers at a competitive disadvantage. Those stakeholders suggested that because GIPSA's data was at the national level, it did not reflect the situation that Oklahoma wheat growers experience. Most other stakeholders who opposed the proposal, did so on similar grounds. North American Millers Association opposed the proposal stating GIPSA should consider a larger reduction in the grade limits. U.S. Wheat Associates supported the proposal stating their belief that the overall economic impact on wheat producers and the U.S. wheat industry would be positive.

Because of concerns raised over the issue of whether the data supported the proposal, GIPSA will not revise the standards to reduce the grade limits on SHBN for grades U.S. No. 1 and U.S. No. 2 wheat, but may propose these changes in a future rulemaking.

Effective Date

As specified in the USGSA (7 U.S.C. 76(b)), amendments to the standards

[1] To view the interim rule, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0079.*

cannot become effective less than one calendar year after public notification, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner. In accordance with that section of the Act, it is determined that it is in the public interest to have this final rule effective on May 1, 2014, in order to coincide with the start of the 2014 wheat harvest, and to facilitate domestic and export marketing of wheat.

Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget designated this rule as not significant for the purposes of Executive Order 12866.

GIPSA has determined that this amendment would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). The RFA requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action.

Under the USGSA, grain exported from the U.S. must be officially inspected and weighed. Mandatory inspection and weighing services are provided by GIPSA and delegated states at 60 export elevators (including four floating elevators). All of these facilities are owned by multi-national corporations, large cooperatives, or public entities that do not meet the requirements for small entities established by the Small Business Administration. For North American Industry Classification System (NAICS) code 424510 ''grain and field bean merchant wholesalers'' the Small Business Administration size standard is 100 or fewer employees. Most users of the official inspection and weighing services, and these entities that perform these services, do not meet the regulations for small entities. In addition to GIPSA, there are 55 official agencies that perform official services under the USGSA, and most of these entities do not meet the requirements for small entities.

GIPSA is amending the wheat standards to change the definition of contrasting classes in Hard White wheat. GIPSA believes that this change to the wheat standards will facilitate the marketing of wheat.

The U.S. wheat industry, including approximately 159,527 wheat farms (USDA–2007 Census of Agriculture-updated), handlers, processors, and merchandisers are the primary users of the wheat standards and utilize the official standards as a common trading language to market wheat. The USGSA (7 U.S.C. 87f–1) requires that all persons engaged in the business of buying grain for sale in foreign commerce be registered with USDA. In addition, those individuals who handle, weigh, or transport grain for sale in foreign commerce must also register. The USGSA regulations (7 CFR 800.30) define a foreign commerce grain business as persons who regularly engage in buying for sale, handling, weighing, or transporting grain totaling 15,000 metric tons or more during the preceding or current calendar year.

At present, there are 125 registrants who account for practically 100 percent of U.S. wheat exports, which for fiscal year 2011 totaled approximately 31,260,659 metric tons. While most of the 125 registrants are large businesses, some entities may be small. GIPSA believes that this proposed rule would not adversely affect or burden these users, nor add any additional cost for entities of any size.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The USGSA provides in section 87g (7 U.S.C. 87g) that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this rule would not preempt any State or local laws, or regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Executive Order 13175

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

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), the existing information collection requirements are approved under the Office of Management and Budget (OMB) Number 0580–0013. No additional collection or recordkeeping requirements are imposed on the public by this proposed rule.

E-Government Compliance

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

List of Subjects in 7 CFR Part 810

Export, Grain.

For reasons set out in the preamble, 7 CFR part 810 is amended as follows:

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

■ 1. The authority citation for part 810 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

■ 2. In § 810.2202, revise paragraph (b) to read as follows:

§ 810.2202 Definition of other terms.

* * * * *

(b) *Contrasting Classes.* Contrasting classes are:

(1) Durum wheat, Soft White wheat, and Unclassed wheat in the classes Hard Red Spring wheat and Hard Red Winter wheat.

(2) Hard Red Spring wheat, Hard Red Winter wheat, Hard White wheat, Soft Red Winter wheat, Soft White wheat, and Unclassed wheat in the class Durum wheat.

(3) Durum wheat and Unclassed wheat in the class Soft Red Winter wheat.

(4) Durum wheat, Hard Red Spring wheat, Hard Red Winter wheat, Soft Red Winter wheat, and Unclassed wheat in the class Soft White wheat.

(5) Durum wheat, Soft Red Winter wheat, and Unclassed wheat in the class Hard White wheat.

* * * * *

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–11253 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

[Docket No. FDA–2013–N–0002]

New Animal Drugs; Change of Sponsor's Name and Address; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name and address from Purina Mills, Inc., to Purina Nutrition LLC, and a change of sponsor for a new animal drug application (NADA) from Land O'Lakes Purina Feed LLC to Purina Nutrition LLC. The regulations are also being amended to reflect that Zoetis Inc. is a sponsor of approved NADAs.

DATES: This rule is effective May 13, 2013.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8300, email: *steven.vaughn@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Purina Mills, Inc., P.O. Box 66812, St. Louis, MO 63166–6812, has informed FDA that it has changed its name and address to Purina Nutrition LLC, 1080 County Road F West, Shoreview, MN 55126–2910. Land O'Lakes Purina Feed LLC, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 118–509 for Pasture Gainer Block 37 R350 and Pasture Gainer Block 20 R350 to Purina Nutrition LLC. Accordingly, the Agency is amending the regulations in 21 CFR parts 510 and 558 to reflect the change of name and address and the transfer of ownership.

In addition, Zoetis Inc. is a sponsor of approved NADAs. At this time, FDA is amending 21 CFR 510.600 to add entries for this firm.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Land O'Lakes Purina Feed LLC'' and ''Purina Mills, Inc.'', and alphabetically add entries for ''Purina Nutrition LLC'' and ''Zoetis Inc.''; and in the table in paragraph (c)(2), remove the entry for ''066071'', revise the entry for ''017800'', and numerically add an entry for ''054771'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Purina Nutrition LLC, 1080 County Road F West, Shoreview, MN 55126–2910 ...	017800
* * * * *	
Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007	054771
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
017800 ...	Purina Nutrition LLC, 1080 County Road F West, Shoreview, MN 55126–2910.
* * * * *	
054771 ...	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.
* * * * *	

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.

§ 558.355 [Amended]

■ 4. In § 558.355, paragraph (f)(7)(iii)(*a*), remove ''066071'' and add in its place ''017800''.

Dated: May 8, 2013.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2013–11283 Filed 5–10–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113]

25 CFR Part 162

RIN 1076–AE73

Residential, Business, and Wind and Solar Resource Leases on Indian Land

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; correcting amendment.

SUMMARY: The Bureau of Indian Affairs (BIA) published a rule in the **Federal Register** of December 5, 2012, announcing the revisions to regulations addressing non-agricultural surface leasing of Indian land. This notice makes a minor correction to redesignate section numbers for sections that were moved to a new subpart.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Acting Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

The final regulations (77 FR 72440) addressing non-agricultural surface leasing of Indian land, and redesignating certain sections related to agricultural leases, failed to specifically redesignate the section numbers of sections being moved to subpart F. This document corrects that error.

List of Subjects in 25 CFR Part 162

Indians—lands.

Accordingly, 25 CFR part 162 is corrected by making the following correcting amendment:

PART 162—LEASES and PERMITS

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

Authority: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968, 107 Stat. 2011, 108 Stat. 4572, March 20, 1996, 110 Stat. 4016; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 409a, 413, 415, 415a, 415b, 415c, 415d, 416, 477, 635, 2201 et seq., 3701, 3702, 3703, 3712, 3713, 3714, 3715, 3731, 3733, 4211; 44 U.S.C. 3101 et seq.

■ 2. Under the heading Subpart F—Special Requirements for Certain Reservations, redesignate §§ 162.500 through 162.503, as §§ 162.600 through 162.603.

Dated: May 3, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–11241 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–6W–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[EPA–HQ–OPPT–2005–0033; FRL–9369–1]

RIN 2070–AD16

Revocation of TSCA Section 4 Testing Requirements for One High Production Volume Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule implements EPA's decision to revoke certain testing requirements promulgated under the Toxic Substance Control Act (TSCA) for the High Production Volume (HPV) chemical substance, benzenesulfonic acid, [[4-[[4-(phenylamino)phenyl][4-(phenylimino)-2,5-cyclohexadien-1-ylidene]methyl]phenyl]amino]- (CAS No. 1324–76–1), also known as C.I. Pigment Blue 61. After publication in the **Federal Register** of a final rule requiring testing for C.I. Pigment Blue 61, EPA received adequate, existing studies which eliminated the need for testing.

DATES: This final rule is effective June 12, 2013.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2005–0033, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Yvonne Gonzalez, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–2912; email address: *gonzalez.yvonne@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This action is directed to the public in general and may be of particular interest to those persons who manufacture (defined by statute to include import), process, or export the chemical substance identified in this document. Because other persons may also be interested, the Agency has not attempted to describe all the specific persons that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What action is the Agency taking?

In this document, EPA is amending the TSCA section 4(a) chemical testing requirements for one HPV chemical substance included in 40 CFR 799.5085. Specifically, the amendment revokes some of the testing requirements for C.I. Pigment Blue 61. EPA bases its decision on information (discussed in Unit III.) received since publication of the final rule (Ref. 1) that established testing requirements for this chemical substance.

In the **Federal Register** issue of March 16, 2012 (Ref. 2), EPA issued a direct final rule revoking some or all of the testing requirements for 10 chemical substances, including C.I. Pigment Blue 61. EPA received an adverse comment pertaining to a statement in the preamble of the direct final rule that certain full studies for C.I. Pigment Blue 61 had been claimed as Confidential Business Information (CBI) and were, therefore, not available to the public, although robust summaries were available in the docket. The Environmental Defense Fund (EDF) objected to EPA's placing the robust summaries in the docket rather than applying the disclosure requirements of TSCA section 14(b) to the full health and safety studies. Consequently, in accordance with the procedures described in the March 16, 2012 **Federal Register** document (Ref. 2), EPA withdrew the revocation of certain testing requirements for C.I. Pigment Blue 61 in a separate final rule document published in the **Federal Register** issue of May 14, 2012 (Ref. 3), and also published a proposed rule document in the same **Federal Register** issue (Ref. 4) asking for comment. EPA is now issuing the final rule based on the May 14, 2012 **Federal Register** proposed rule document (Ref. 4).

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

Section 4(a) of TSCA authorizes EPA to require testing if certain findings are made. The TSCA section 4(a) findings include:

1. The chemical substance was produced in substantial quantities.

2. There are insufficient data upon which the effects of manufacture, distribution, processing, use, or disposal of a chemical substance on health or the environment can reasonably be determined or predicted.

3. Testing of the chemical substance with respect to such effects is necessary to develop such data. (See TSCA section 4(a)(1)(B)(i), (ii), and (iii); see also Ref. 1).

EPA amends the testing requirements for C.I. Pigment Blue 61 because some of the findings that EPA made under the criteria listed in this unit for this chemical substance are no longer supported.

III. Amendment to Chemical Testing Requirements

On July 17, 2006, the Color Pigments Manufacturers Association (CPMA) submitted a test plan for C.I. Pigment Blue 61. CPMA also submitted robust

summaries of existing data which CPMA asked EPA to accept as satisfying some of the Agency's data needs for C.I. Pigment Blue 61. Some of the existing data described in the summaries addressed C.I. Pigment Blue 56, a close analog of C.I. Pigment Blue 61, which CPMA requested EPA to accept as satisfying the Agency's data needs for C.I. Pigment Blue 61, arguing that there was a sufficiently close structure-activity relationship (SAR) between the two chemical substances to justify that request (Refs. 5 and 6). CPMA also asked EPA to accept results for water solubility and octanol/water partition coefficient that were obtained by using an alternative method, due to the extremely low predicted solubility of C.I. Pigment Blue 61, instead of the methods specified by the test rule (Ref. 5). Finally, CPMA asked EPA to accept that determining a melting point for C.I. Pigment Blue 61 was not relevant because the pigment thermally decomposes before it melts (Ref. 5).

EPA reviewed the submitted information on physical/chemical properties and decided that melting point, boiling point, and vapor pressure determinations were not relevant because C.I. Pigment Blue 61 decomposes before it melts and the decomposition temperature had been reported (Ref. 7). EPA accepted the submitted data on water solubility as satisfying the Agency's data needs for that endpoint, but did not accept the calculated value submitted to satisfy the testing requirement for octanol/water partition coefficient (Ref. 7). EPA believes the calculated value would, most likely, underestimate the measured value (Ref. 7) required to be determined by the test rule.

EPA reviewed CPMA's SAR argument concerning C.I. Pigment Blue 61 and C.I. Pigment Blue 56 and agreed that C.I. Pigment Blue 56 is an acceptable surrogate for C.I. Pigment Blue 61, thereby allowing adequate data on C.I. Pigment Blue 56 to satisfy data needs for C.I. Pigment Blue 61 (Ref. 8). As a result, a biodegradation study of C.I. Pigment Blue 56, found adequate by an EPA review, satisfies the need for biodegradation data on C.I. Pigment Blue 61 (Ref. 8). Likewise, a fish acute toxicity study and a chromosomal damage test of C.I. Pigment Blue 56, which EPA reviewed and found adequate, will satisfy the data need for those endpoints (Ref. 9) for C.I. Pigment Blue 61. EPA's review of the existing data on C.I. Pigment Blue 61 found the study on mammalian acute toxicity and the bacterial reverse mutation assay to be adequate to satisfy the data needs for those endpoints (Ref. 9). The existing study on repeated-dose toxicity, however, did not satisfy the test requirement for that endpoint (Ref. 9).

Therefore, EPA is revoking the testing requirements for melting point, boiling point, vapor pressure, water solubility, biodegradation, fish acute toxicity, mammalian acute toxicity, bacterial reverse mutation, and chromosomal damage for C.I. Pigment Blue 61 by removing those requirements from those listed for that chemical substance in Table 2 in 40 CFR 799.5085(j). In order to clarify that test requirements for acute toxicity to Daphnia (an aquatic invertebrate) and toxicity to algae has not been satisfied by existing studies, and that the fish acute toxicity test requirement has been satisfied, the test symbol C2 replaces C1 for C.I. Pigment Blue 61 in Table 2 in 40 CFR 799.5085(j). The testing requirements for C.I. Pigment Blue 61 that are not revoked include tests for octanol/water partition coefficient, acute toxicity to Daphnia, toxicity to algae, and combined 28-day repeated-dose toxicity with a reproduction/developmental toxicity screen (studies responding to those test requirements were conducted and submitted pursuant to the test rule and found by EPA to be adequate (Refs. 10–18)).

IV. Public Comment

Only one comment was received, from EDF, on the May 14, 2012 **Federal Register** proposed rule document (Ref. 4). The EDF comment indicated support for the May 14, 2012 **Federal Register** proposed rule document (Ref. 4) that revoked some of the testing requirements for C.I. Pigment Blue 61. The EDF acknowledged steps were taken to address the concerns that motivated the previous filing of an adverse comment. Namely, the submitter of the C.I. Pigment Blue 61 studies had withdrawn the CBI claim on the studies and the studies were made available to the public. The full studies and EDF's comment are included in the docket for the May 14, 2012 **Federal Register** proposed rule document (Ref. 4).

V. Economic Analysis

In the economic impact analysis for the final rule (Ref. 1) establishing testing requirements for C.I. Pigment Blue 61 and 16 other chemical substances, the Agency estimated the total testing cost to industry to be $4.03 million for all 17 chemical substances included in that final rule, with an average of approximately $237,000 per chemical substance (Ref. 19). This total included an additional 25% in administrative costs. An amendment to the final rule revoking testing requirements for coke-oven light oil (coal) reduced the total cost to industry to an estimated $3.7 million for the remaining 16 chemical substances, with an average compliance cost of approximately $232,000 per chemical substance. This final rule, combined with the direct final rule revoking all or some of the test rule requirements for 9 other chemical substances (see Ref. 1), would have the effect of further reducing the total testing cost by an estimated $1.5 million (approximately 41%) (Ref. 20). In addition, the 25% administrative costs would be eliminated for these tests. The reduced total cost for the remaining 12 chemicals is estimated to be $2.2 million (i.e., $3.7 million minus $1.5 million), with an average compliance cost per chemical substance of approximately $184,000 (Ref. 20).

VI. Export Notification

Persons who export or intend to export C.I. Pigment Blue 61 are and will remain subject to TSCA section 12(b) export notification requirements (See 40 CFR part 707, subpart D).

VII. References

As indicated under **ADDRESSES**, a docket has been established for this final rule under docket ID number EPA–HQ–OPPT–2005–0033. The following is a listing of the documents that are specifically referenced in this action. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Testing of Certain High Production Volume Chemicals; Final Rule. **Federal Register** (71 FR 13708, March 16, 2006) (FRL–7335–2). Document ID number EPA–HQ–OPPT–2005–0033–0001.
2. EPA. Revocation of TSCA Section 4 Testing Requirements Certain High Production Volume Chemical Substances; Direct Final Rule. **Federal Register** (77 FR 15609, March 16, 2012) (FRL–9335–6). Document ID number EPA–HQ–OPPT–2005–0033–0402.
3. EPA. Withdrawal of Revocation of TSCA Section 4 Testing Requirements for One High Production Volume Chemical Substance; Final Rule. **Federal Register** (77 FR 28281, May 14, 2012) (FRL–9350–2). Document ID number EPA–HQ–OPPT–2005–0033–0414.
4. EPA. Revocation of TSCA Section 4 Testing Requirements for One High Production Volume Chemical Substance; Proposed Rule. **Federal Register** (77 FR

28340, May 14, 2012) (FRL–9350–1). Document EPA–HQ–OPPT–2005–0033–0415.
5. CPMA. Letter to EPA from J. Lawrence Robinson concerning existing data and test plan. July 17, 2006. Document ID number EPA–HQ–OPPT–2005–0033–0185.
6. CPMA. Letter to EPA from J. Lawrence Robinson concerning existing data and test plan. May 9, 2007. Document ID EPA–HQ–OPPT–2005–0033–0246.
7. EPA. Memorandum from Diana Darling, Industrial Chemistry Branch (ICB), Economics, Exposure, and Technology Division (EETD), OPPT, to Greg Schweer, Chemical Information and Testing Branch (CITB), Chemical Control Division (CCD), OPPT. Testing requirements and existing data for physical/chemical properties of the HPV test rule chemical, C.I. Pigment Blue 61 (CAS No. 1324–76–1). May 17, 2007. Document ID number EPA–HQ–OPPT–2005–0033–0280.
8. EPA. Memorandum from Bob Boethling, Exposure Assessment Branch (EAB), OPPT, to Greg Schweer, CITB, CCD, OPPT. Review of SAR argument and a biodegradation test concerning an HPV test rule chemical, C.I. Pigment Blue 61 (CAS No. 1324–76–1). May 15, 2007. Document ID number EPA–HQ–OPPT–2005–0033–0279.
9. EPA. Email and attached review from David Brooks, Risk Assessment Division (RAD), OPPT, to Greg Schweer and Catherine Roman, CITB, CCD, OPPT. Review of C.I. Pigment Blue (CAS No. 1324–76–1). August 22, 2007. Document ID number EPA–HQ–OPPT–2005–0033–0286.
10. CPMA. Robust summaries submitted for C.I. Pigment Blue 61 on octanol/water partition coefficient, acute toxicity to Daphnia, toxicity to algae, and combined 28-day repeated-dose toxicity with a reproduction/developmental toxicity screen. Submitted on November 14, 2008. Document ID number EPA–HQ–OPPT–2005–0033–0318.
11. CPMA. Octanol/Water Partition Coefficient Test study with C.I. Pigment Blue 61. Submitted on April 13, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0440.
12. CPMA. Acute Toxicity Study in the *Daphnia Magna* with C.I. Pigment Blue 61. Submitted on April 13, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0443.
13. CPMA. Fresh Water Algal Growth Inhibition Test with C.I. Pigment Blue 61 study. Submitted on April 13, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0442.
14. CPMA. A Combined 28-Day Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test Study of C.I. Pigment Blue 61 of Rats by Oral Gavage. Submitted on April 13, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0445.
15. EPA. Memorandum and attached review from Tracy Williamson, ICB, EETD, OPPT, to Jim Willis, CITB, CCD, OPPT. Review of Determination of Log Kow for C.I. Pigment Blue 61. Submitted January 20, 2010. Document ID number EPA–HQ–OPPT–0033–0404.
16. EPA. Email and attached review from Ryan Wallace, EAD, OPPT, to Jeff Santacroce, RDMB, IMD, OPPT; Scott Sherlock, EAD, OPPT; and Catherine Roman, CITB, CCD, OPPT. Review of acute toxicity to Daphnia of C.I. Pigment Blue 61(CAS No. 1324–76–1). Submitted June 14, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0450.
17. EPA. Email and attached review from Ryan Wallace, EAD, OPPT, to Jeff Santacroce, RDMB, IMD, OPPT; Scott Sherlock, EAD, OPPT; and Catherine Roman, CITB, CCD, OPPT. Review of toxicity to algae of C.I. Pigment Blue 61 (CAS No. 1324–76–1). Submitted July 11, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0453.
18. EPA. Email and attached review from Ryan Wallace, EAD, OPPT, to Jeff Santacroce, RDMB, IMD, OPPT; Scott Sherlock, EAD, OPPT; and Catherine Roman, CITB, CCD, OPPT. Review of repeat-dose toxicity of C.I. Pigment Blue 61 (CAS No. 1324–76–1). Submitted June 14, 2012. Document ID number EPA–HQ–OPPT–2005–0033–0448.
19. EPA. Economic Analysis for the Final Section 4 Test Rule for High Production Volume Chemicals. Prepared by Economic Policy and Analysis Branch (EPAB), EETD, OPPT. October 28, 2005. Document ID number EPA–HQ–OPPT–2005–0033–0131.
20. EPA. Email from Stephanie Suazo to Catherine Roman. RE: ''Revised Economic Analysis for Revocation of Testing Requirements'' with attached economic analysis. December 14, 2009. Document ID number EPA–HQ–OPPT–2005–0033–0350.

VIII. Statutory and Executive Order Reviews

This final rule only eliminates existing requirements; it does not otherwise impose any new or revised requirements. As such, this action is not subject to review by the Office of Management and Budget (OMB) as a significant regulatory action under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Nor does it impose or change any information collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

Because this final rule eliminates existing requirements without imposing any new or revised requirements, the Agency certifies pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that this action will not have a significant economic impact on a substantial number of small entities.

For the same reasons, it is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), and does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in UMRA sections 203 and 204. This final rule does not have tribal implications, as specified in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), or federalism implications as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), and Executive Order 13211, entitled ''Actions concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The final rule does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

IX. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 799

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

Dated: May 6, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 799—[AMENDED]

■ 1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

■ 2. In § 799.5085, revise CAS No. ''1324–76–1'' in Table 2 of paragraph (j) to read as follows:

§ 799.5085 Chemical testing requirements for first group of high production volume chemicals (HPV1).

* * * * *

(j) * * *

TABLE 2—CHEMICAL SUBSTANCES AND TESTING REQUIREMENTS

CAS No.	Chemical name	Class	Required tests (see table 3 of this section)
*	*	*	*
1324–76–1	Benzenesulfonic acid, [[4-[[4-(phenylamino)phenyl][4-(phenylimino)-2,5-cyclohexadien-1-ylidene]methyl]phenyl]amino]-	2	A4, C2, F1.
*	*	*	*

* * * * *

[FR Doc. 2013–11313 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC673

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of big skate in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2013 total allowable catch of big skate in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 8, 2013, through 2400 hrs, A.l.t., December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The 2013 total allowable catch (TAC) of big skate in the Central Regulatory Area of the GOA is 1,793 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2013 TAC of big skate in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that big skate caught in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of big skate in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 7, 2013.

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

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

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

Dated: May 8, 2013.

James P. Burgess,

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

[FR Doc. 2013–11311 Filed 5–8–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 92
Monday, May 13, 2013

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS–2012–0089]

Cold Treatment for Fresh Fruits and Vegetables; MidAmerica St. Louis Airport, Mascoutah, IL

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, the cold treatment of imported fruits and vegetables upon arrival at the MidAmerica St. Louis Airport, Mascoutah, IL. We have determined that there are biological barriers at this port that, along with certain safeguards, would prevent the introduction of fruit flies and other insect pests into the United States in the unlikely event that they escape from shipments of fruits or vegetables before the fruits or vegetables undergo cold treatment. This action would facilitate the importation of fruit requiring cold treatment while continuing to provide protection against the introduction of fruit flies and other insect pests into the United States.

DATES: We will consider all comments that we receive on or before July 12, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0089-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0089, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0089* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. S. Gadh, Senior Risk Manager—Treatments, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2018.

SUPPLEMENTARY INFORMATION:

Background

The phytosanitary treatments regulations in 7 CFR part 305 set out general requirements for certifying or approving treatment facilities and for performing treatments listed in the Plant Protection and Quarantine (PPQ) Treatment Manual [1] for fruits, vegetables, and other articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. Within part 305, § 305.6 (referred to below as the regulations) sets out requirements for treatment procedures, monitoring, facilities, and enclosures needed for performing sustained refrigeration (cold treatment) sufficient to kill certain insect pests associated with imported fruits and vegetables and with regulated articles moved interstate from quarantined areas within the United States.

Most imported fruits or vegetables that require cold treatment undergo that treatment while in transit to the United States. However, the Animal and Plant Health Inspection Service (APHIS) also allows imported fruits or vegetables to undergo cold treatment at an approved cold treatment facility in either the country of origin or after arrival in the United States at a cold storage warehouse approved by the APHIS Administrator.

In § 305.6, paragraph (b) limits cold treatment facilities to those cold storage warehouses approved by the Administrator and located in the area north of 39° latitude and east of 104° longitude, or under special conditions at one of the following ports, which are outside the geographic area stipulated in the regulations: The maritime ports of Wilmington, NC; Seattle, WA; Corpus Christi, TX; and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; and Hartsfield-Atlanta International Airport, Atlanta, GA. The location restrictions serve as an additional safeguard against the possibility that fruit flies or other pests could escape from imported articles prior to treatment and become established in the United States.

As stated previously, the regulations do allow cold treatment facilities to be located outside the geographical area stipulated by the regulations. In order to approve those locations, APHIS conducts site-specific evaluations and determines whether regulated articles can be safely transported to cold treatment facilities under special conditions to mitigate the possible escape of pests of concern.

Proposed Additional Port

APHIS has received a petition from North Bay Produce, Inc., to designate the MidAmerica St. Louis Airport, Mascoutah, IL, as an approved location for the cold treatment of imported fruits or vegetables. In addition, some importers of fruits and vegetables have shown considerable interest in locating cold treatment facilities in places that are not currently allowed under the regulations. Currently, no cold treatment facilities are available near the proposed location. An APHIS-approved cold treatment facility in this location would allow importers to treat fruits and vegetables arriving from foreign locations and requiring a treatment to meet U.S. entry requirements.

In response to this request, we are proposing to add the MidAmerica St. Louis Airport, Mascoutah, IL, to the list of ports that are designated as approved locations for cold treatment of imported fruits or vegetables. This proposal is based on our determination that there are biological barriers in the area of this port that, along with certain safeguards, would prevent the introduction of fruit flies and other insect pests in the unlikely event that they escape from shipments of fruits or vegetables before the fruits or vegetables undergo cold treatment.

To support this action, we have prepared a treatment evaluation document (TED) entitled ''Allowing a new cold treatment facility at

[1] The PPQ Treatment Manual is available at (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf*).

Mascoutah, Illinois, located outside the area currently authorized.'' Copies of the TED may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** and may be viewed on the Internet on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and the location and hours of the reading room). In the TED, we concluded that the pest risks posed by the establishment of a cold treatment facility at the MidAmerica St. Louis Airport, Mascoutah, IL, outside of the area north of 39° latitude and east of 104° longitude, can be adequately managed through use of special conditions to mitigate the possible escape of pests of concern.

Special Conditions for the MidAmerica St. Louis Airport, Mascoutah, IL

In addition to the general requirements in § 305.6(a) through (g) of the regulations concerning cold treatment, we are proposing to apply the following requirements to cold treatment conducted at the MidAmerica St. Louis Airport, Mascoutah, IL. These requirements would be added to the regulations as a new paragraph (h)(5) of § 305.6.

In paragraph (h)(5)(i) of § 305.6, we are proposing that bulk and containerized consignments of fruits or vegetables arriving for cold treatment would have to be cold treated within the area over which the U.S. Department of Homeland Security is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

Under this proposal, paragraph (h)(5)(ii) would lay out a number of conditions that any proposed facility would have to meet, which would be agreed upon by the involved parties and included in the facility compliance agreement required under paragraph (f) of § 305.6. These conditions, which are described below, would be listed in paragraphs (h)(5)(ii)(A) through (h)(5)(ii)(F).

- The facility would only be certified if APHIS determines that regulated articles would be safely transported to the facility from the port of arrival without significant risk that plant pests will escape in transit or while the regulated articles are at the facility.
- Bulk consignments (those consignments which are stowed and unloaded by the case or bin) of fruit would have to arrive in pest-proof packaging that prevents the escape of the pests of concern.
- The facility would have to ensure that the pest-proof cartons are off-loaded from containers in a safeguarded environment and at no time would the articles be removed from the cartons prior to treatment.
- Arrangements for treatment would have to be made before the departure of a consignment from its port of entry or points of origin in the United States. The cold treatment facility and APHIS must agree in advance on the route by which consignments are allowed to move between the aircraft on which they arrived at the airport and the cold treatment facility. The movement of consignments from aircraft to a cold treatment facility will not be allowed until an acceptable route has been agreed upon.
- The facility would have to have contingency plans, approved by the APHIS Administrator, for safely destroying or disposing of fruit.
- The facility would have to maintain physical separation of treated articles from untreated articles and apply all required safeguards (e.g., larger consignments are broken up into smaller boxes following treatment and those treated articles are required to be packaged in pest-proof containers per an agreement between the treatment facility and the importer) before releasing to local markets or for movement to other States.

We believe that the mitigation measures described above, which are based on safeguards in place for other cold treatment facilities, would prevent the introduction of fruit flies and other plant pests that may be in shipments of fruits or vegetables arriving at the MidAmerica St. Louis Airport, Mascoutah, IL, for cold treatment.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This proposed rule would amend the regulations to allow a new cold treatment facility to be located at MidAmerica St. Louis Airport, Mascoutah, Illinois. The facility is expected to be used mainly to treat imported blueberries. While most, if not all, blueberry farms in the United States are small entities, we do not expect the rule to significantly affect the market for blueberries because the proposed facility is not projected to result in a significant increase in the quantity of blueberries imported into the United States. The United States is the world's largest producer of blueberries and U.S. blueberry exports exceed imports four-fold.

The proposed cold treatment facility is expected to benefit the MidAmerica St. Louis Airport and the local economy. The facility is expected to result in at least 800 flights of produce requiring cold treatment per year, raising at least $8 million in direct income for the airport. MidAmerica St. Louis Airport is classified as a small entity within the NAICS category of Other Airport Operations (NAICS 488119), for which the small-entity standard is annual revenue of not more than $30 million. Our initial regulatory flexibility analysis discusses the expected positive economic effects of the rule for the MidAmerica St. Louis Airport and related local businesses.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 7 CFR part 305 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 305.6 is amended as follows:

■ a. In paragraph (b), by adding the words ''MidAmerica St. Louis Airport, Mascoutah, IL;'' after the words ''Seattle-Tacoma International Airport, Seattle, WA;'' and

■ b. By adding a new paragraph (h)(5) to read as set forth below.

§ 305.6 Cold treatment requirements.

* * * * *

(h) * * *

(5) *Airport of Mascoutah, IL.* Consignments of fruits or vegetables arriving at the MidAmerica St. Louis Airport, Mascoutah, IL, for cold treatment, in addition to meeting all other applicable requirements of this section, must meet the following special conditions:

(i) Bulk and containerized consignments of fruits or vegetables arriving for cold treatment must be cold treated within the area over which the U.S. Department of Homeland Security is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(ii) APHIS will evaluate facility safeguards in light of the plant health risks involved and approve the operation of a facility in that location subject to the following conditions to be agreed upon by the involved parties and included in the compliance agreement required in § 305.6(f):

(A) The facility will only be certified if the Administrator determines that the regulated articles could be safely transported to the facility from the point of entry or origin without significant risk that plant pests will escape in transit to the facility or while the regulated articles are at the facility.

(B) Bulk consignments (those consignments which are stowed and unloaded by the case or bin) of fruit must arrive in pest-proof packaging that prevents the escape of the pests of concern.

(C) The facility must ensure that the pest-proof cartons are off-loaded from containers in a safeguarded environment and at no time are the articles to be removed from the cartons prior to treatment.

(D) Arrangements for treatment must be made before the departure of a consignment from its port of entry or points of origin in the United States. The cold treatment facility and APHIS must agree in advance on the route by which consignments are allowed to move between the aircraft on which they arrived at the airport and the cold treatment facility. The movement of consignments from aircraft to a cold treatment facility will not be allowed until an acceptable route has been agreed upon.

(E) The facility must have contingency plans, approved by the Administrator, for safely destroying or disposing of fruits or vegetables.

(F) The facility must maintain physical separation of treated articles from untreated articles and apply all required safeguards (e.g., larger consignments are broken up into smaller boxes following treatment and those treated articles are required to be packaged in pest-proof containers per an agreement between the treatment facility and the importer) before releasing to local markets or for movement to other States.

Done in Washington, DC, this May 8, 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11322 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[EERE–2013–BT–NOC–0023]

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Meeting for the Commercial HVAC, WH, and Refrigeration Certification Working Group

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Commercial Heating, Ventilation, and Air-conditioning (HVAC), Water Heating (WH), and Refrigeration Certification Working Group (Commercial Certification Group). The purpose of the Commercial Certification Group is to undertake a negotiated rulemaking to discuss and, if possible, reach consensus on proposed certification and compliance requirements for commercial HVAC, WH, and refrigeration equipment, as authorized by the Energy Policy and Conservation Act of 1975, as amended.

DATES: A two-day, open meeting will be held on:

Tuesday, May 14, 2013, 10 a.m.–6 p.m. (EDT) and

Wednesday, May 15, 2013, 8 a.m.–3 p.m. (EDT).

ADDRESSES: U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. Individuals will also have the opportunity to participate by webinar. To register for the webinar and receive call-in information, please register for Tuesday at *https://www1.gotomeeting.com/register/877431528* and for Wednesday at *https://www1.gotomeeting.com/register/300061736.*

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, ASRAC Designated Federal Officer, Supervisory Operations Research Analyst, U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, 950 L'Enfant Plaza SW., Washington, DC, 20024. Email: *asrac@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and recommendations to the U.S. Department of Energy on certification and compliance requirements of commercial HVAC, WH, and refrigeration equipment under the authority of the Negotiated Rulemaking Act (5 U.S.C. 561–570, Pub. L. 104–320).

Tentative Agenda: (Subject to change):

- Finalize and vote on Working Group's ground rules;
- Finalize and vote on Working Group's scope;
- Discuss Alternative Efficiency Determination Methods (AEDM) for commercial HVAC, WH, and refrigeration equipment; and
- Discuss model groupings for determination of ratings.

Public Participation: Members of the public are welcome to observe the business of the meeting and, if time allows, may make oral statements during the specified period for public comment. To attend the meeting and/or

to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov.* In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise ASRAC staff as soon as possible by emailing *asrac@ee.doe.gov* to initiate the necessary procedures, no later than Wednesday, May 8, 2013. Anyone attending the meeting will be required to present a government photo identification, such as a passport, driver's license, or government identification. Due to the required security screening upon entry, individuals attending should arrive early to allow for the extra time needed.

Members of the public will be heard in the order in which they sign up for the Public Comment Period. Time allotted per speaker will depend on the number of individuals who wish to speak but will not exceed five minutes. Reasonable provision will be made to include the scheduled oral statements on the agenda. A third-party neutral facilitator will make every effort to allow the presentations of views of all interested parties and to facilitate the orderly conduct of business.

Participation in the meeting is not a prerequisite for submission of written comments. Written comments are welcome from all interested parties. Any comments submitted must identify the Commercial HVAC, WH, and Refrigeration Certification Working Group, and provide docket number EERE–2013–BT–NOC–0023. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ASRACworkgroup 2013NOC0023@ee.doe.gov.* Include docket number EERE–2013–BT–NOC–0023 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The Secretary of Energy has approved publication of today's notice of open meeting.

Issued in Washington, DC, on May 7, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency and Renewable Energy.

[FR Doc. 2013–11309 Filed 5–10–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0401; Directorate Identifier 2012–SW–047–AD]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) for MD Helicopters Inc. (MDHI) Model 369A, 369D, 369E, 369H, 369HE, 369HM, 369HS, 369F and 369FF helicopters with certain MDHI or Helicopter Technology Company (HTC) tail rotor blades installed. The existing AD currently requires reducing the retirement life of each tail rotor blade (blade), performing a one-time visual inspection of each blade's pitch horn (pitch horn) for a crack or corrosion, and replacing any cracked blade or any blade that has exceeded its retirement life with an airworthy blade. The AD also requires reporting information to the FAA within 24 hours following the one-time inspection. Since we issued that AD, an accident in England prompted an investigation that showed corrosion on the blade's pitch horn that had not been detected under the paint. This proposed AD would retain some of the requirements in the existing AD but would require paint removal for all pitch horn inspections, inspecting for pitting and the shot peen surface's condition in addition to cracks and corrosion, and would add certain part-numbered blades to the applicability. The proposed actions are intended to prevent a pitch horn from cracking, leading to vibration, loss of tail rotor pitch control, and subsequent loss of tail rotor and helicopter control.

DATES: We must receive comments on this proposed AD by July 12, 2013.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt. For service information identified in this proposed AD, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; email *serviceengineering@mdhelicopters.com;* Web site *http://www.mdhelicopters.com* or contact Helicopter Technology Company, 12923 South Spring Street, Los Angeles, CA 90061; telephone 310–523–2750; email *gburdorf@helicoptertech.com;* Web site *www.helicoptertech.com.* You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, Los

Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5232; email *fred.guerin @faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

On July 2, 2003, we published AD No. 2003–08–51, Amendment 39–13215 (68 FR 39449) for MDHI Model 369A, 369D, 369E, 369H, 369HE, 369HM, 369HS, 369F and 369FF helicopters. AD No. 2003–08–51 requires reducing the retirement life of certain blades, performing a one-time visual inspection of each pitch horn for a crack or corrosion, and replacing an unairworthy blade with an airworthy blade. AD No. 2003–08–51 also requires revising the Airworthiness Limitations section of the helicopter maintenance manual to reflect the reduced retirement life, and reporting the information to the FAA within 24 hours following the one-time inspection. AD No. 2003–08–51 published in the **Federal Register** Emergency AD No. 2003–08–51, dated April 15, 2003. On August 11, 2003, the **Federal Register** published a correction to AD No. 2003–08–51 (68 FR 47447) to correct an error in a blade part number.

AD No. 2003–08–51 (68 FR 39449, July 2, 2003) was prompted by two reports of cracked pitch horns that failed during flight. The failures were caused by a fatigue crack in the pitch horns that developed before the blades reached their retirement lives. The pilots, however, landed the helicopters without further incidents.

The actions of AD No. 2003–08–51 (68 FR 39449, July 2, 2003) are intended to prevent a pitch horn from cracking and separating from the blade, leading to an unbalanced condition, vibration, loss of tail rotor pitch control, and loss of directional control of the helicopter.

Actions Since Existing AD Was Issued

Since we published AD No. 2003–08–51 (68 FR 39449, July 2, 2003) and its correction (68 FR 47447, August 11, 2003), a June 2011 accident in England prompted an investigation that found corrosion on the pitch horn of the blade that had not been detected under the paint. The corrosion compromised the shot peen surface, which caused premature fatigue failure. The pilot survived the accident but suffered serious injuries. These actions are intended to detect a crack or condition that could cause a crack on the blades, as well as on blades manufactured or reworked since the issuance of AD No. 2003–08–51. We are including HTC blades in the applicability of the AD because that company manufactures blades for MDHI.

FAA's Determination

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

Related Service Information

We reviewed MDHI Service Bulletin SB369D–210/SB369E–105/SB369F–091/SB369H–252, dated November 21, 2011, and HTC Mandatory Service Bulletin No. 3100–5, dated August 25, 2011 (service bulletins). The service bulletins specify removing the paint from the pitch horn, performing an inspection of the blade using a 10x magnifying glass and a bright light, repainting the pitch horn area, and repeating the inspection annually. The service bulletins state that no corrosion, pitting, or cracking is acceptable. The MDHI service bulletin adds that a lack, removal, or blending of the shot peen surface is unacceptable.

Proposed AD Requirements

This proposed AD would require establishing a retirement life for new applicable blades of 400 hours time-in-service (TIS). Installed blades with 390 to 700 hours TIS would need to be replaced within 10 hours TIS. Blades with more than 700 hours TIS would need to be replaced before further flight. Within 60 days and thereafter at intervals not to exceed one year, all other blades would need to be inspected with a 10X magnifying glass for a crack, pitting, corrosion and the condition of the dimpled shot peen surface. If there is a crack, pitting, corrosion or a nonconforming shot peen surface, then we would require replacement of the blade with an airworthy blade.

Differences Between the Proposed AD and the Service Information

The service bulletins require the initial corrosion inspection within 5 flight hours and annually thereafter. This AD proposes that the initial corrosion inspection occur within 60 days and annually thereafter.

We use the term ''pitch horn'' to describe the section that connects the blade to the tail rotor pitch link. The service bulletins use the term ''pitch control arm.''

Costs of Compliance

We estimate that this proposed AD would affect 827 helicopters of U.S. Registry and that labor costs would average $85 a work-hour. Based on these estimates, we expect the following costs:

- The inspection would require 4.5 work hours, and parts would cost $20 for a total cost of about $403 per helicopter and $333,281 for the U.S. fleet.
- Replacing a tail rotor blade, if needed, would require 1 work hour. Parts would cost $15,951, for a total cost of $16,036 per helicopter.
- The cost would be negligible to revise the Airworthiness Limitations section of the maintenance manual to reflect a blade's new retirement life.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13215 (68 FR 39449, August 11, 2003), and adding the following new airworthiness directive (AD):

MD Helicopters, Inc.: Docket No. FAA–2013–0401; Directorate Identifier 2012–SW–047–AD.

(a) Applicability

This AD applies to MD Helicopters, Inc., (MDHI) Model 369A, 369D, 369E, 369H, 369HE, 369HM, 369HS, 369F and 369FF helicopters with a tail rotor blade (blade) part number (P/N) 369D21640–501, 369D21640–503, 369D21641–501, 369D21641–503, 369D21642–501, 369D21642–503, 369D21643–501, or 369D21643–503 installed, or with a Helicopter Technology Company blade P/N 500P3100–101, 500P3100–301, 500P3300–501, or 500P3500–701 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as the tail rotor blade pitch horn (pitch horn) separating from the tail rotor blade, leading to an unbalanced condition, vibration, loss of tail rotor pitch control and loss of directional control of the helicopter.

(c) Affected ADs

This AD supersedes AD No. 2003–08–51, Amendment 39–13215 (68 FR 39449, July 2, 2003; correction 68 FR 47447, August 11, 2003).

(d) Comments Due Date

Comments are due July 12, 2013.

(e) Compliance

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

(f) Required Actions

(1) Before further flight, for each applicable blade, revise the Airworthiness Limitations section of the maintenance manual to reflect that the blade has a retirement life of 400 hours time-in-service (TIS).

(2) For helicopters with an applicable blade installed that has 390 through 700 hours TIS, within 10 hours TIS, replace the blade with an airworthy blade.

(3) For all other applicable helicopters, within 60 days, and thereafter at intervals not to exceed one year, remove the paint from the blade pitch control arm in accordance with the Accomplishment Instructions, Section 2.A.(1) through 2.A.(3), of MDHI Service Bulletin SB369D–210/SB369E–105/SB369F–091/SB369H–252, dated November 21, 2011 (MDHI SB).

(i) Using a 10X or higher power magnifying glass, inspect all four sides and the pocket of the blade pitch control arm for a crack, pitting, or corrosion and for the condition of the dimpled shot peen surface by referring to Figure 1 of the MDHI SB and by reviewing the rotorcraft maintenance records to determine whether rework was done in this area.

(ii) If there is pitting, corrosion, a crack, blending or removal of any of the dimpled shot peen surface, or any indication that the shot peen has not been done, replace the blade with an airworthy blade.

(iii) If there is no pitting, corrosion, cracks, or blending or removal of any of the dimpled shot peen surface, refinish the stripped pitch control arm in accordance with the Accomplishment Instructions, Section 2.A.(6) through 2.A.(7), of the MDHI SB.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Fred Guerin, Aviation Safety Engineer, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5232; email *fred.guerin@faa.gov.*

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

(3) AMOCs approved previously in accordance with AD No. 2003–08–51 (68 FR 39449, July 2, 2003; correction 68 FR 47447, August 11, 2003) are approved as AMOCs for the corresponding requirements in this AD.

(h) Additional Information

MD Helicopters Inc. maintenance manuals CSP–HMI2, TR12–001, CHP–H–4, and TR12–001, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; email *serviceengineering@mdhelicopters.com;* Web site *http://www.mdhelicopters.com* or contact Helicopter Technology Company, 12923 South Spring Street, Los Angeles, CA 90061; telephone 310–523–2750; email *gburdorf@helicoptertech.com;* Web site *www.helicoptertech.com.* You may review a copy of this information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6410.

Issued in Fort Worth, Texas, on April 26, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–11237 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0400; Directorate Identifier 2009–SW–48–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited (Bell) Model Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Bell

Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 helicopters. This proposed AD would require inspecting each bearing to determine if it has been properly staked and replacing the bearing or assembly if it has not been staked properly. This proposed AD is prompted by bearings not being staked as required and migrating out of their proper position, which may limit the functionality of the affected part. The proposed actions are intended to prevent failure of a bearing and the assembly in which it is installed and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by July 12, 2013.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

For service information identified in this proposed AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or at *http://www.bellcustomer.com/files/.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *sharon.y.miles@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

Transport Canada, which is the aviation authority for Canada, has issued Canadian AD No. CF–2009–32, dated July 24, 2009, to correct an unsafe condition for the specified Bell model helicopters. Transport Canada advises that some bearings may not have been staked as required, which may limit the proper functioning of the affected part. Bell, the helicopter manufacturer, received two reports stating that a bearing migrated out of a flight control lever. Investigation revealed that, although the inspection witness mark was applied to the part, the bearing had not been staked during manufacturing. Affected parts were associated with a single Bell supplier. Review of the supplier's manufacturing and quality process indicates inspection of additional parts is necessary.

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to our bilateral agreement with Canada, Transport Canada has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

Bell has issued Alert Service Bulletin (ASB) No. 206–09–122 for Model 206A/B series; No. 206L–09–156 for Model 206L series; No. 222–09–107 for Model 222 and 222B; No. 222U–09–78 for Model 222U; No. 230–09–39 for Model 230; No. 407–09–88 for Model 407; No. 427–09–25 for Model 427; and No. 430–09–42, for Model 430, all dated April 7, 2009. The ASBs specify inspecting for parts that contain bearings that have not been staked.

Proposed AD Requirements

This proposed AD would require using a 10X or higher power magnifying glass or a boroscope to inspect each bearing in each affected part to determine if each bearing has been properly staked. This proposed AD would only require parts that contain a serial number with a prefix of ''TI'' or ''TIFS,'' or parts without a serial number even if the part has a supplier marking with a circle around a ''T.M.'' over a ''1,'' to be inspected. If you cannot access the part to determine if the bearing is properly staked, this proposed AD would require removing the part from the helicopter to inspect it.

Costs of Compliance

We estimate that this proposed AD would affect about 2,601 helicopters of U.S. registry. Based on an average labor rate of $85 per work-hour, we estimate that operators may incur the following costs in order to comply with this AD. It would take about 1 to 5 work-hours per helicopter, depending on the model, to inspect for properly staked bearings. Replacing a bearing would require about 2 work-hours and would cost $3,306 for required parts. Based on an average inspection time of 2 work-hours, we estimate the cost of this proposed AD to inspect the helicopters would be $170 per helicopter and $442,170 for the U.S. operator fleet. Replacing a bearing would cost $3,476 per helicopter.

Authority for This Rulemaking

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada Limited: Docket No. FAA–2013–0400; Directorate Identifier 2009–SW–48–AD.

(a) Applicability

This AD applies to Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, 222, 222B, 222U, 230, 407, 427, and 430 helicopters as follows, certificated in any category.

(1) Model 206A, Model 206B helicopters converted from Model 206A, and Model 206B with Bellcrank Assembly, part-number (P/N) 206–001–526–001 or 206–001–538–009; Idler Link Assembly, P/N 206–010–336–109; or Link Assembly, P/N 206–031–589–001, installed.

(2) Model 206L, Model 206L–1, Model 206L–3, and Model 206L–4 with Idler Assembly, P/N 206–001–549–101; Bellcrank Assembly, P/N 206–001–552–001; or Link Assembly, P/N 206–010–336–109, installed.

(3) Model 222 and Model 222B with

(i) Cyclic Link Assembly, P/N 222–010–419–110; or

(ii) Bellcrank Assembly Directional Controls, P/N 222–001–734–001 or 222–001–736–005, installed.

(4) Model 222U with

(i) Cyclic Link Assembly, P/N 222–010–419–110; or

(ii) Bellcrank Assembly Directional Controls, P/N 222–001–734–001 or 222–001–736–005, installed.

(5) Model 230 with

(i) Fitting Assembly Engine Bipod Mount, P/N 230–060–113–101, 230–060–113–102, 230–060–114–101, or 230–060–114–102; Cyclic Link Assembly P/N 222–010–419–110; or

(ii) Bellcrank Assembly Directional Controls, P/N 222–001–734–001, or 222–001–736–005, installed.

(6) Model 407 with

(i) Bearing and Liner Assembly, P/N 406–010–417–101; Cyclic Mixer Follower Assembly, P/N 407–001–325–101; Bellcrank Assembly, P/N 407–001–524–105, 407–001–524–109, 407–001–526–105, 407–001–526–109, 407–001–528–101, or 407–001–528–105; or

(ii) Beam Assembly, P/N 407–001–723–101, installed.

(7) Model 427 with Swashplate Lateral Link Assembly (upper and lower bearing), P/N 427–001–021–101; Swashplate Longitudinal Link Assembly (upper and lower bearing), P/N 427–001–022–101; Transmission Mounted Longitudinal Bellcrank Assembly (pivot bearing), P/N 427–001–521–105/–109; Transmission Mounted Lateral Bellcrank Assembly (pivot bearing), P/N 427–001–520–109/–113; or Bearing and Liner (lower drive link bearing), P/N 406–010–417–109, installed.

(8) Model 427 with Tail Rotor Actuator Output Idler, P/N 427–001–723–101, installed.

(9) Model 430 with

(i) Fitting Assembly Engine Bipod Mount, P/N 230–060–113–101, 230–060–113–102, 230–060–114–101, or 230–060–114–102; Bearing Assembly M/R Rotating Controls, P/N 430–010–449–101; Rod End Assembly Lift link, P/N 430–010–204–101 or 430–010–204–103, or

(ii) Bellcrank Assembly Directional Controls, P/N 222–001–734–001, or 222–001–736–005, installed.

(b) Unsafe Condition

This AD defines the unsafe condition as bearings that may not have been staked as required and may migrate out of their proper position and limit the functionality of the affected part. This condition could result in failure of a bearing and the lever assembly in which it is installed and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by July 12, 2013.

(d) Compliance

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

(e) Required Actions

(1) Perform each action required by this AD within the compliance time for each part listed in the applicability paragraph of this AD as follows: (a)(1), (a)(2), (a)(6)(i), (a)(7), and (a)(8), within 10 hours time-in-service (TIS) or 30 days, whichever occurs first; (a)(3)(i), (a)(4)(i), (a)(5)(i), and (a)(9)(i), within 5 hours TIS or 30 days, whichever occurs first; (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), and (a)(9)(ii) within 150 hours TIS or 12 months, whichever occurs first; and (a)(6)(ii) within 300 hours TIS or 12 months, whichever occurs first.

(2) Using a 10X or higher power magnifying glass or using a boroscope, inspect each bearing and determine if the bearing has been properly staked for each part that contains a part serial number with a prefix of either ''TI'' or ''TIFS.''

(i) If a part does not contain a serial number, inspect the bearing of that part even if that part contains a supplier marking.

(ii) If you cannot access the bearing while the part is installed on the helicopter to make a determination as to whether the bearing in

the part is properly staked, remove the part and inspect the bearing using a 10X or higher power magnifying glass or using a boroscope.

(iii) If you find a part that is not properly staked, replace the bearing or the assembly with an airworthy bearing or assembly before further flight.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to Sharon Miles, ASW–111, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5110, email *sharon.y.miles@faa.gov*.

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

(g) Additional Information

(1) Bell Alert Service Bulletin (ASB) No. 206–09–122 for Models 206A and 206B; No. 206L–09–156 for Models 206L, 206L–1, 206L–3, and 206L–4; No. 222–09–107 for Models 222 and 222B; No. 222U–09–78 for Model 222U; No. 230–09–39 for Model 230; No. 407–09–88 for Model 407; No. 427–09–25 for Model 427; and No. 430–09–42 for Model 430, all dated April 7, 2009, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this proposed AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272, or at *http://www.bellcustomer.com/files/*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in Transport Canada AD No. CF–2009–32, dated July 24, 2009.

(h) Subject

Joint Aircraft System/Component (JASC) Code: 6700 Rotorcraft Flight Controls and 6710 Main Rotor Control.

Issued in Fort Worth, Texas, on April 26, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–11240 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1303; Airspace Docket No. 12–ANM–29]

Proposed Amendment of Class E Airspace; Salt Lake City, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace at Salt Lake City International Airport, Salt Lake City, UT. Controlled airspace is necessary to accommodate aircraft using Area Navigation (RNAV) Global Positioning System (GPS) and Instrument Landing System (ILS) or Localizer (LOC) standard instrument approach procedures at the airport. The FAA is proposing this action to enhance the safety and management of aircraft operations at Salt Lake City International Airport. This action also would adjust the geographic coordinates of the airport.

DATES: Comments must be received on or before June 27, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2012–1303; Airspace Docket No. 12–ANM–29, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

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 (FAA Docket No. FAA 2012–1303 and Airspace Docket No. 12–ANM–29) 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.*

Commenters 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 FAA Docket No. FAA–2012–1303 and Airspace Docket No. 12–ANM–29''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. 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 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 the **ADDRESSES** section for the 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 Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Salt Lake City International Airport, Salt Lake City, UT to accommodate aircraft using RNAV (GPS) and ILS or LOC standard instrument approach procedures the airport. By removing the exclusion of the Price, UT; Delta, UT; and Evanston, UT, airspace area, and the Bonneville, UT 1,200 foot Class E airspace area, this action would enhance the safety and management of aircraft operations at the airport. The geographic coordinates of the airport also would be adjusted in accordance with the FAA's 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 this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (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 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 U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Salt Lake City International Airport, Salt Lake City, UT.

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

Accordingly, pursuant to the authority delegated to me, 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 14 CFR 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 the Federal Aviation Administration 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.

* * * * *

ANM UT E5 Salt Lake City, UT [Modified]

Salt Lake City International Airport, UT
(lat. 40°47′18″ N., long. 111°58′40″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 41°00′00″ N., long. 111°45′03″ W.; to lat. 40°22′30″ N., long. 111°45′03″ W.; to lat. 40°10′20″ N., long. 111°35′03″ W.; to lat. 40°03′30″ N., long. 111°48′33″ W.; to lat. 40°03′00″ N., long. 112°05′00″ W.; to lat. 40°25′00″ N., long. 112°06′30″ W.; to lat. 40°43′00″ N., long. 112°22′03″ W.; to lat. 41°00′00″ N., long. 112°22′03″ W., thence to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 41°00′00″ N., on the east by long. 111°25′33″ W., thence south to lat. 40°11′00″ N., thence east to lat. 40°06′00″ N., long. 110°15′00″ W., thence southwest to lat. 39°33′00″ N., long. 110°55′00″ W., thence southwest to lat. 39°04′00″ N., long. 112°27′30″ W., thence northwest to lat. 39°48′00″ N., long. 112°50′00″ W., thence west via lat. 39°48′00″ N., to the east edge of Restricted Area R–6402A, and on the west by the east edge of Restricted Area R–6402A, Restricted Area R–6402B and Restricted Area R–6406A and long. 113°00′03″ W.; that airspace east of Salt Lake City extending upward from 11,000 feet MSL bounded on the northwest by the southeast edge of V–32, on the southeast by the northwest edge of V–235, on the southwest by the northeast edge of V–101 and on the west by long. 111°25′33″ W.; that airspace southeast of Salt Lake City extending upward from 13,500 feet MSL bounded on the northeast by the southwest edge of V–484, on the south by the north edge of V–200 and on the west by long. 111°25′33″ W.; excluding that portion within Restricted Area R–6403.

Issued in Seattle, Washington, on May 2, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–11183 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–126633–12]

RIN 1545–BL05

Computation of, and Rules Relating to, Medical Loss Ratio

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance to Blue Cross and Blue Shield organizations, and certain other health care organizations, on computing and applying the medical loss ratio added to the Internal Revenue Code by the Patient Protection and Affordable Care Act. This document also contains a request for comments and provides notice of a public hearing on these proposed regulations.

DATES: Comments must be received by August 12, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for Tuesday, September 17, 2013, at 10 a.m. must be received by August 12, 2013.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–126633–12), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–126633–12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically

via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–126633–12). The public hearing will be held in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Graham R. Green, (202) 622–3970; concerning the submission of comments, the public hearing, and/or to be placed on the business access list to attend the hearing, Oluwafunmilayo Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 833 of the Internal Revenue Code (Code) provides that Blue Cross and Blue Shield organizations, and certain other health care organizations, are entitled to: (1) Treatment as stock insurance companies; (2) a special deduction; and (3) computation of unearned premium reserves based on 100 percent, and not 80 percent, of unearned premiums under section 832(b)(4). This document contains proposed amendments to 26 CFR part 1 (Income Tax Regulations) under section 833(c)(5). Section 833(c)(5) was added to the Code by section 9016 of the Patient Protection and Affordable Care Act (Affordable Care Act), Public Law 111–148 (124 Stat. 119 (2010)), effective for taxable years beginning after December 31, 2009. Section 833(c)(5) provides that section 833 does not apply to any organization unless the organization's percentage of total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies during such taxable year (as reported under section 2718 of the Public Health Service Act), a ratio referred to for this purpose as the medical loss ratio (MLR), is not less than 85 percent.

Section 2718 of the Public Health Service Act (42 U.S.C. 300gg–18) (PHSA) was added by section 1001 and amended by section 10101 of the Affordable Care Act and was incorporated into the Code by section 9815(a)(1). Section 2718 of the PHSA is administered by the Department of Health and Human Services. Section 2718(a) of the PHSA requires a health insurance issuer to submit a report for each plan year to the Secretary of the Department of Health and Human Services concerning the percentage of total premium revenue, after accounting for collections or receipts for risk adjustment and risk corridors and payments of reinsurance, that the issuer expends: (1) On reimbursement for clinical services provided to enrollees under such coverage; (2) for activities that improve health care quality; and (3) on all other non-claims costs, excluding Federal and State taxes and licensing or regulatory fees.

Section 2718(b) of the PHSA requires that a health insurance issuer offering group or individual health insurance coverage, with respect to each plan year, provide an annual rebate to each enrollee under such coverage, on a pro rata basis, if the ratio of the amount of premium revenue the issuer expends on costs for reimbursement for clinical services provided to enrollees under such coverage and for activities that improve health care quality to the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance under sections 1341, 1342, and 1343 of the Affordable Care Act (42 U.S.C. 18061, 18062, and 18063)) for the plan year is less than a prescribed percentage. Section 2718(b)(1)(B)(ii) provides that beginning on January 1, 2014, the medical loss ratio computed under section 2718(b) of the PHSA shall be based on expenses and premium revenues for each of the previous three years of the plan.

The Department of Health and Human Services issued interim final regulations on December 1, 2010, effective January 1, 2011, and December 7, 2011, effective January 3, 2012, that were subject to technical corrections on December 30, 2010, and May 16, 2012, and final regulations on December 7, 2011, effective January 3, 2012, May 16, 2012, effective June 15, 2012, and March 11, 2013, effective April 30, 2013 under section 2718 of the PHSA that are codified at 45 CFR part 158 (HHS Regulations). Relevant portions of these HHS Regulations are described in this preamble.

Prior Guidance

On November 23, 2010, the Treasury Department and the IRS issued Notice 2010–79 (2010–49 IRB 809), which provided interim guidance and transitional relief to organizations under section 833(c)(5). The interim guidance applied to an organization's first taxable year beginning after December 31, 2009.

The interim guidance provided that for purposes of determining whether an organization's percentage of total premium revenue expended on reimbursement for clinical services provided to enrollees was at least 85 percent (and thus satisfied the requirement of section 833(c)(5)), organizations were required to use the definition of ''reimbursement for clinical services provided to enrollees'' set forth in the HHS Regulations. In addition, the interim guidance provided that for purposes of determining whether the 85-percent requirement of section 833(c)(5) was satisfied, the IRS would not challenge the inclusion of amounts expended for ''activities that improve health care quality'' as described in the HHS Regulations.

Notice 2010–79 also stated that the consequences for an organization with an MLR of less than 85 percent (an insufficient MLR) were as follows: (1) The organization would not be taxable as a stock insurance company by reason of section 833(a)(1) (but may have been taxable as an insurance company if it otherwise met the requirements of section 831(c)); (2) the organization would not be allowed the special deduction set forth in section 833(b); and (3) the organization would only take into account 80 percent, rather than 100 percent, of its unearned premiums for purposes of computing premiums earned on insurance contracts under section 832(b)(4). However, Notice 2010–79 provided that solely for the first taxable year beginning after December 31, 2009, the IRS would not treat an organization as losing its status as a stock insurance company by reason of section 833(c)(5) provided the following conditions were met: (1) the organization was described in section 833(c) in the immediately preceding taxable year; (2) the organization would have been taxed as a stock insurance company for the current taxable year but for the enactment of section 833(c)(5); and (3) the organization would have met the requirements of section 831(c) to be taxed as an insurance company for the current taxable year but for its activities in the administration, adjustment, or settlement of claims under cost-plus or administrative services-only contracts.

Notice 2010–79 further provided interim guidance on whether the application of section 833 in a taxable year followed by nonapplication of that provision in the subsequent taxable year (or vice versa) could result in one or more changes in accounting method.

Notice 2010–79 invited comments on: (1) What further guidance, if any, was needed under section 833(c)(5); (2) whether specific guidance was needed on accounting method issues that would arise if an organization lost its status as an insurance company; (3) whether guidance would be needed in the future on the appropriate Subchapter L treatment of rebates that are paid under section 2718 of the PHSA; and (4) how guidance could coordinate the medical loss ratio computation under section

2718 of the PHSA with the computation of MLR under section 833(c)(5).

In Notice 2011–4 (2011–2 IRB 282) and Rev. Proc. 2011–14 (2011–4 IRB 330), the Treasury Department and the IRS provided procedures for an organization to obtain automatic consent to change its method of accounting for unearned premiums by reason of the application of section 833(c)(5).

On June 12, 2011, the Treasury Department and the IRS issued Notice 2011–51 (2011–27 IRB 36) extending the interim guidance and transitional relief provided in Notice 2010–79 to an organization's first taxable year beginning after December 31, 2010. On May 26, 2012, the Treasury Department and the IRS issued Notice 2012–37 (2012–24 IRB 1014) extending the interim guidance and transitional relief provided in Notice 2010–79 and Notice 2011–51, as clarified by Notice 2011–4 and Rev. Proc. 2011–14, through an organization's first taxable year beginning after December 31, 2012. Notice 2012–37 indicated that proposed regulations would be issued and requested comments on all aspects of section 833(c)(5), including how the proposed regulations might account for the specific reporting required under section 2718 of the PHSA and coordinate the computations under section 2718 of the PHSA and section 833(c)(5).

The Treasury Department and the IRS received four comments in response to Notice 2010–79 and two comments in response to Notice 2012–37 and have considered all comments in drafting these proposed regulations. The comments are discussed in more detail in this preamble.

Explanation of Provisions

1. Determining the MLR

In describing the MLR computation under section 833(c)(5), the statute provides that the elements in the computation are to be ''as reported under section 2718 of the Public Service Health Act.'' As more specifically discussed below, commenters argued that this cross reference indicates that the MLR computation under section 833(c)(5) should be the same as the medical loss ratio computation under section 2718(b) of the PHSA. The Treasury Department and IRS have concluded that this cross reference indicates that Congress intended that, to the extent consistent with the express language in section 833(c)(5), the meaning of terms and the methodology used in the MLR computation under section 833(c)(5) should be consistent with the definition of those same terms and the methodology under section 2718 of the PHSA.

a. MLR Numerator

Commenters suggested that the term ''reimbursement for clinical services provided to enrollees'' in section 833(c)(5) has the same meaning as provided under section 2718 of the PHSA. Both section 833(c)(5) and section 2718 of the PHSA include ''reimbursement for clinical services provided to enrollees'' in the numerator. Through the phrase ''as reported under section 2718 of the Public Health Service Act,'' section 833(c)(5) suggests that the meaning of ''reimbursement for clinical services provided to enrollees'' should be the same as the meaning of that phrase for section 2718 of the PHSA and the regulations issued under that section. Accordingly, the proposed regulations adopt this suggestion.

Commenters suggested that in addition to amounts expended for reimbursement for clinical services provided to enrollees, the MLR numerator include amounts expended for ''activities that improve health care quality'' as reported under section 2718 of the PHSA. The proposed regulations do not adopt this suggestion. Unlike the phrase ''reimbursement for clinical services provided to enrollees'' that appears in the description of the numerator in both section 833(c)(5) and section 2718 of the PHSA, ''activities that improve health care quality'' appears only in the description of the numerator in section 2718 of the PHSA; it does not appear in section 833(c)(5). Accordingly, the Treasury Department and IRS have concluded that the MLR numerator in section 833(c)(5) does not include costs for ''activities that improve health care quality.''

b. MLR Denominator

Commenters suggested that term total premium revenue in the MLR denominator under section 833(c)(5) should have the same exclusions as provided for under section 2718(b) of the PHSA. The proposed regulations adopt this suggestion. Section 833(c)(5) refers to total premium revenue in describing the denominator. Section 2718(b) of the PHSA, which sets forth the rules for computing medical loss ratio for that section, also refers to total premium revenue and lists specific exclusions that should be taken from total premium revenue, including taxes and regulatory fees. These proposed regulations provide that the same exclusions that are permitted from total premium revenue under section 2718(b) of the PHSA are permitted exclusions from total premium revenue under section 833(c)(5) because, while these exclusions are not expressly included in the references to total premium revenue in section 833(c)(5) or section 2718(a) of the PHSA, both section 833(c)(5) and section 2718(b) of the PHSA use the term ''total premium revenue.'' Under the HHS Regulations, these exclusions include assessments and fees imposed by the Affordable Care Act (see 45 CFR 158.221(c) and 158.240(c)). However, an organization's operating costs or any administrative costs associated with taxes or fees are not part of a State or Federal assessment and therefore may not be deducted from total premium revenue for purposes of the MLR calculation.

Accordingly, the proposed regulations provide that the term ''total premium revenue'' for purposes of section 833(c)(5) means the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance under sections 1341, 1342, and 1343 of the Affordable Care Act (42 U.S.C. 18061, 18062, and 18063)) as those terms are used for purposes of section 2718(b) of the PHSA and the regulations issued under that section.

c. Computation of MLR

For purposes of section 2718(b) of the PHSA, section 2718(b)(1)(B)(ii) of the PHSA and the HHS Regulations use a three-year period to compute the medical loss ratio, allowing certain limited adjustments after the end of the year to determine expenses and premium revenue. (See 45 CFR 158.220(b) and 158.140.) Although section 2718(b) of the PHSA provides that the medical loss ratio is computed for each ''plan year,'' the HHS Regulations interpret the term ''plan year'' as referring to the ''MLR reporting year.'' The HHS regulations further define the MLR reporting year as the calendar year for medical loss ratio reporting and rebating purposes under section 2718(a) and (b) of the PHSA. (See 45 CFR 158.103.) Section 833(c)(5) refers to expenses and revenues for a taxable year, which is generally a calendar year for the organizations described in section 833(c). See section 843.

The Treasury Department and the IRS have concluded that, for administrative convenience and to be consistent with the medical loss ratio calculation under section 2718(b)(1)(B)(ii) of the PHSA, it is appropriate to compute the MLR for a taxable year under section 833(c)(5) using the same three-year period used

under section 2718(b) of the PHSA. Therefore, beginning with the effective date of these regulations, amounts used for purposes of section 833(c)(5) (that is, total premium revenue and total premium revenue expended on reimbursement for clinical services provided to enrollees) for each taxable year should be determined based on amounts reported under section 2718(a) of the PHSA for that taxable year and the two preceding taxable years, subject to the same adjustments that apply for purposes of section 2718 of the PHSA. Comments are requested as to whether organizations should, instead of using the three-year period used for purposes of section 2718(b)(1)(B)(ii) of the PHSA, compute their expenses and total premium revenue only for the taxable year for which the computation is being made under section 833(c)(5), and whether adoption of the proposed approach would create difficulties with respect to the computation of the MLR for the 2014 taxable year.

2. Nonapplication of Section 833 in Case of an Insufficient MLR

Commenters requested that the consequences of having an insufficient MLR under section 833(c)(5) be limited to losing certain benefits of section 833. Specifically, commenters posited that an organization that fails the MLR requirement under section 833(c)(5) should not lose its status as an insurance company under section 833(a)(1). Rather, the commenters argued that the organization should only suffer the loss of eligibility for the special deduction in section 833(b) and the less favorable computation of unearned premium reserves based on 80 percent, and not 100 percent, of its unearned premiums under section 832(b)(4).

The proposed regulations do not adopt this recommendation. Section 833(c)(5) provides that ''this section [833]'' shall not apply to any organization unless the organization satisfies the MLR requirement in section 833(c)(5). This language does not contemplate disallowance of some, but not all, of the benefits associated with treatment under section 833. Accordingly, the proposed regulations provide that for an organization described in section 833(c) that fails to satisfy the MLR requirement under section 833(c)(5): (1) The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it otherwise meets the requirements of section 831(c); (2) the organization is not allowed the special deduction set forth in section 833(b); and (3) if the organization qualifies as an insurance company under section 831(c), it must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies.

The determination of whether an organization's MLR under section 833(c)(5) is at least 85 percent is made annually. Accordingly, an organization's MLR may be sufficient in one year, but not another. For this reason, the Treasury Department and the IRS have concluded that an organization described in section 833(c) that has an insufficient MLR under section 833(c)(5) will lose the benefits of section 833 only for the taxable year or years for which the organization's MLR is insufficient. If the same organization meets the MLR standard for a later taxable year, the organization would be entitled to claim the benefits of section 833 for that taxable year and subsequent taxable years for which its MLR is sufficient. Comments are requested on whether further guidance is needed for an organization that is described in section 833 for only some taxable years because of section 833(c)(5).

Commenters requested that the Treasury Department and the IRS establish a regime under which an organization that has failed to satisfy the MLR ratio by a de minimis amount would have an opportunity to pay an amount to the IRS to prevent loss of treatment under section 833. The proposed regulations do not adopt this suggestion. The Treasury Department and the IRS understand that the consequences under section 833(c)(5) may be severe if an organization's MLR is insufficient. However, the statutory framework does not contemplate a penalty or other payment to the IRS. The Treasury Department and the IRS request comments on whether there are other possible means consistent with the statute of mitigating these consequences.

3. Other Comments

Commenters requested that the Treasury Department and the IRS permit certain nondeductible fees and taxes imposed by the Affordable Care Act to be taken into account for purposes of calculating an organization's special deduction for items attributable to the health-related business of the organization under section 833(b). Commenters also submitted comments regarding the treatment of MLR rebates as return premiums under section 832(b)(4), and the income and employment tax consequences of MLR rebates. The proposed regulations do not address these issues because they are not within the scope of the proposed regulations.

Proposed Effective Date

These proposed regulations are proposed to apply to taxable years beginning after December 31, 2013.

Availability of IRS Documents

The IRS notices and revenue procedure cited in this preamble are published in the Internal Revenue Cumulative Bulletin and are available at *http://www.irs.gov.*

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations and because the regulations do not impose an information collection on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. Comments are specifically requested on the relationship between section 833(c)(5) and section 2718 of the PHSA. All comments will be available at *www.regulations.gov* or upon request.

A public hearing has been scheduled for Tuesday, September 17, 2013, at 10 a.m., in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance more than 30 minutes before the hearing starts. For information about having your name

placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written (signed original and eight (8) copies) or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by August 12, 2013. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Graham R. Green, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.833–1 is added to read as follows:

§ 1.833–1 Medical loss ratio under section 833(c)(5).

(a) *In general.* Section 833 does not apply to an organization unless the organization's medical loss ratio (*MLR*) for a taxable year is at least 85 percent. Paragraph (b) of this section provides definitions that apply for purposes of section 833(c)(5) and this § 1.833–1. Paragraph (c) of this section provides rules for computing an organization's MLR under section 833(c)(5). Paragraph (d) of this section addresses the treatment under section 833 of an organization that has an MLR of less than 85 percent. Paragraph (e) of this section provides the effective/applicability date.

(b) *Definitions.* The following definitions apply for purposes of section 833(c)(5) and § 1.833–1.

(1) *Reimbursement for clinical services provided to enrollees.* The term *reimbursement for clinical services provided to enrollees* has the same meaning as that term has in 42 U.S.C. 300gg–18 and the regulations issued under that section (see 45 CFR 158.140).

(2) *Total premium revenue.* The term *total premium revenue* means the total amount of premium revenue (excluding Federal and State taxes and licensing or regulatory fees and after accounting for payments or receipts for risk adjustment, risk corridors, and reinsurance under sections 1341, 1342, and 1343 of the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (42 U.S.C. 18061, 18062, and 18063)) as those terms are used for purposes of 42 U.S.C. 300gg–18(b) and the regulations issued under that section (see 45 CFR part 158).

(c) *Computation of MLR under section 833(c)(5)*—(1) *In general.* An organization's MLR with respect to a taxable year is the ratio, expressed as a percentage, of the MLR numerator, as described in paragraph (c)(2) of this section, to the MLR denominator, as described in paragraph (c)(3) of this section.

(2) *MLR numerator.* The numerator of an organization's MLR is the total premium revenue expended on reimbursement for clinical services provided to enrollees under its policies for the taxable year, computed in the same manner as those expenses are computed for the plan year for purposes of 42 U.S.C. 300gg–18(b) and regulations issued under that section (see 45 CFR part 158).

(3) *MLR denominator.* The denominator of an organization's MLR is the organization's total premium revenue for the taxable year, computed in the same manner as the total premium revenue is computed for the plan year for purposes of 42 U.S.C. 300gg–18(b) and regulations issued under that section (see 45 CFR part 158).

(d) *Failure to qualify under section 833(c)(5).* If, for any taxable year, an organization's MLR is less than 85 percent, then beginning in that taxable year and for each subsequent taxable year for which the organization's MLR remains less than 85 percent, paragraphs (d)(1) through (d)(3) of this section apply.

(1) *Automatic stock insurance company status.* The organization is not taxable as a stock insurance company by reason of section 833(a)(1), but may be taxable as an insurance company if it otherwise meets the requirements of section 831(c);

(2) *Special deduction.* The organization is not allowed the special deduction set forth in section 833(b); and

(3) *Premiums earned.* The organization must take into account 80 percent, rather than 100 percent, of its unearned premiums under section 832(b)(4) as it applies to other non-life insurance companies, provided the organization qualifies as an insurance company by meeting the requirements of section 831(c).

(e) *Effective/applicability date.* This section applies to taxable years beginning after December 31, 2013.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2013–11297 Filed 5–10–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0165]

RIN 1625–AA00

Safety Zone; McAloon Wedding Fireworks, Catawba Island Club, Catawba Island, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking

SUMMARY: The Coast Guard proposes to establish a safety zone for a fireworks display located in the Captain of the Port Detroit Zone. This action is necessary to provide for the safety of life and property on navigable waters during this event. This action is intended to restrict vessel traffic in a portion of the Captain of the Port Detroit Zone.

DATES: Comments and related material must be received by the Coast Guard on or before June 12, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0165 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LTJG Benjamin Nessia, Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419)418–6040, email *Benjamin.B.Nessia@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0165), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at www.regulations.gov, or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number (USCG–2013–0165) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2013–0165) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Background and Purpose

On August 23, 2013, a fireworks display is planned on Lake Erie in the vicinity of Catawba Island, OH. This fireworks display will be launched in conjunction with a wedding. The Captain of the Port Detroit has determined that this fireworks display pose a significant risk to public safety and property on the water. Such hazards include premature detonations, dangerous projectiles, and falling or burning debris. Also, the likely combination of recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities.

With these hazards in mind, the Captain of the Port Detroit proposes to establish a temporary safety zone pursuant to the authority granted in the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.).

C. Discussion of Proposed Rule

To address the hazards mentioned in the preceding paragraph, the Coast Guard proposes to establish a temporary safety zone in the vicinity of the aforementioned fireworks display. This proposed safety zone will include all U.S. navigable waters of Lake Erie within a 250-yard radius of the fireworks launch site, which is located at position 41–34′-18.10″ N, 082–51′-18.70″ W (NAD 83).

This proposed safety zone will be enforced from 9:30 p.m. until 10:15 p.m. on August 23, 2013. The Captain of the Port Detroit may suspend enforcement of the safety zone at any time. In the event that enforcement is ended early, the Captain of the Port Detroit will notify the public via Broadcast Notice to Mariners.

Entry into, transiting, or anchoring within the proposed safety zone while it is being enforced is prohibited without the authority of the Captain of the Port Detroit or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will

not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

The safety zone established by this proposed rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Thus, restrictions on vessel movement are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the proposed safety zone when permitted by the Captain of the Port. On the whole, the Coast Guard expects insignificant adverse impact to mariners from this proposed safety zone.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the above portion of Lake Erie between 9:30 p.m. until 10:15 p.m. on August 23, 2013. This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons discussed in the *Regulatory Planning* and Review section above.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction because it involves the establishment of a safety zone. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0165 to read as follows:

§ 165.T09–0165 Safety Zone; McAloon Wedding Fireworks, Catawba Island Club, Catawba Island, OH.

(a) *Location.* All the waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41-34′-18.10″ N, 082-51′-18.70″ W (NAD 83).

(b) *Effective and Enforcement Period.* The safety zone will be effective and enforced from 9:30 p.m. until 10:15 p.m. on August 23, 2013. The Captain of the Port Detroit may suspend enforcement of the safety zone at any time. In the event that the enforcement is ended early, the Captain of the Port Detroit will notify the public via Broadcast Notice to Mariners.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contact via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: April 29, 2013.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port, Detroit.

[FR Doc. 2013–11234 Filed 5–10–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED–2012–OPE–0008]

Negotiated Rulemaking Committee; Public Hearings

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of additional hearing and extension of comment date.

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 (title IV Federal Student Aid programs).

On April 16, 2013, we announced additional topics for consideration by that committee and three public hearings at which interested parties may comment.

We now announce a fourth public hearing at which interested parties may comment on the topics suggested by the Department and may suggest additional topics for consideration for action by the negotiated rulemaking committee.

We extend the deadline date for the submission of written comments to June 4, 2013.

DATES: The dates, times, and locations of the four public hearings are listed under the **SUPPLEMENTARY INFORMATION** section of this notice.

The deadline for the receipt of written comments suggesting issues that should be considered for action by the negotiated rulemaking committee is extended to June 4, 2013.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID (listed at the beginning of this notice) at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket is available on the site under ''How to Use Regulations.gov'' in the Help section.
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed regulations, address them to Wendy Macias, U.S. Department of Education, 1990 K Street NW., Room 8017, Washington, DC 20006.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For information about the public hearings, go to *http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/index.html* or 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*.

For information about negotiated rulemaking in general, see The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions at *http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html* or 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 text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting 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*.

SUPPLEMENTARY INFORMATION: On May 1, 2012, we published a notice in the **Federal Register** (77 FR 25658) announcing our intent to establish a negotiated rulemaking committee under section 492 of the HEA to develop proposed regulations designed to prevent fraud and otherwise ensure proper use of title IV Federal Student Aid program funds, especially within the context of current technologies. In particular, we announced our intent to propose regulations to address the use of debit cards and other banking mechanisms for disbursing title IV Federal Student Aid program funds, and to improve and streamline the campus-based Federal Student Aid programs. That notice also announced two public hearings at which interested parties could comment on the topics suggested by the Department and suggest additional topics for consideration for action by the negotiated rulemaking

committee. Those hearings were held on May 23, 2012, in Phoenix, Arizona, and on May 31, 2012, in Washington, DC. We invited parties to comment and submit topics for consideration in writing as well.

On April 16, 2013, we published a notice in the **Federal Register** (78 FR 2247), as corrected at 78 FR 25235, announcing additional topics for consideration for action by the negotiated rulemaking committee. We announced three additional public hearings at which interested parties could comment on the new topics suggested by the Department and suggest additional topics for consideration for action by the negotiating committee. We also invited parties unable to attend a public hearing to submit written comments on the additional topics and to submit other topics for consideration.

We now announce a fourth public hearing.

We are also extending the deadline date for the submission of written comments from May 30, 2013, to June 4, 2013.

Public Hearings

We will hold four public hearings for interested parties to discuss the topics suggested by the Department for consideration for action by the negotiated rulemaking committee and to suggest additional topics for the rulemaking agenda. The public hearings will be held on:

- May 21, 2013, at the U.S. Department of Education, 1990 K Street NW., Eighth Floor Conference Center, Washington, DC 20006.
- May 23, 2013, at the University of Minnesota, Twin Cities, Hubert H. Humphrey School of Public Affairs, Cowles Auditorium, 301 19th Avenue S, Minneapolis, MN 55455.
- May 30, 2013, at the University of California, San Francisco, UC Hall, Toland Hall Auditorium (Room U142), 533 Parnassus Avenue, San Francisco, CA 94143.
- June 4, 2013, at Spelman College, William and Camille Cosby Auditorium, 350 Spelman Lane, Atlanta, GA 30314.

The public hearings will be held from 9:00 a.m. to 4:00 p.m., local time. Further information on the public hearing sites, including directions, is available at *http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/index.html*.

Individuals desiring to present comments at the public hearing must register by sending email to *negreghearing@ed.gov*. The email should include the name of the presenter along with a general timeframe during which the individual would like to speak (for example, a presenter could indicate morning or afternoon, or before 11 a.m. or after 3 p.m.). We will attempt to accommodate each speaker's preference but, if we are unable to do so, we will make the determination on a first-come, first-served basis (based on the time and date the email was received). It is likely that each participant will be limited to five minutes. The Department will notify registrants of the location and time slot reserved for them. An individual may make only one presentation at the public hearings. If we receive more registrations than we are able to accommodate, the Department reserves the right to reject the registration of an entity or individual that is affiliated with an entity or individual that is already scheduled to present comments and to select among registrants to ensure that a broad range of entities and individuals is allowed to present. We will accept walk-in registrations for any remaining time slots on a first-come, first-served basis beginning at 8:30 a.m. on the day of the public hearing at the Department's on-site registration table.

Speakers may also submit written comments. In addition, for anyone who does not present at a public hearing, the Department will accept written comments through June 4, 2013. (See the **ADDRESSES** sections of this notice for submission information.)

Transcripts from the hearings can be found at *http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/index.html.* Written comments may be viewed through the Federal eRulemaking Portal at *www.regulations.gov.* Instructions for finding comments are available on the site under ''How to Use Regulations.gov'' in the Help section. Individuals can enter docket ID ED–2012–OPE–0008 in the search box to locate the appropriate docket.

After a review of the public comments presented at the public hearings and in the written submissions, we will publish a notice in the **Federal Register** announcing the specific subject areas for which we intend to establish a negotiated rulemaking committee and requesting nominations for individual negotiators for the committee. This notice will also be posted on the Department's Web site at: *http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/index.html.*

We intend to select participants for the negotiated rulemaking committee from nominees of the organizations and groups that represent the interests significantly affected by the proposed regulations. To the extent possible, we will select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA.

Regulatory Issues

For the convenience of the reader, we repeat the additional topics for consideration that we published in April 2013. The topics are: cash management of funds provided under the title IV Federal Student Aid programs; State authorization for programs offered through distance education or correspondence education; State authorization for foreign locations of institutions located in a State; clock to credit hour conversion; gainful employment; changes made by the Violence Against Women Reauthorization Act of 2013, Public Law 113–4, to the campus safety and security reporting requirements in the HEA; and the definition of ''adverse credit'' for borrowers in the Federal Direct PLUS Loan Program. Descriptions of these issues are in the April 16, 2013 notice.

Schedule for Negotiations

We anticipate that any committee established after the public hearings will begin negotiations in September 2013, with the committee meeting for up to three sessions of approximately four days each at roughly monthly intervals. The committee will meet in the Washington, DC area. The dates and locations of these meetings will be published in a subsequent document in the **Federal Register**, and will be posted on the Department's Web site at: *http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/index.html.*

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 the 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.

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

Delegation of Authority: The Secretary of Education has delegated authority to Brenda Dann-Messier, Assistant Secretary for Vocational and Adult Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: May 8, 2013.

Brenda Dann-Messier,

Assistant Secretary for Vocational and Adult Education, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2013–11287 Filed 5–10–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 74

RIN 2900–AO63

VA Veteran-Owned Small Business (VOSB) Verification Guidelines

AGENCY: Department of Veterans Affairs.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Office of Small and Disadvantaged Business Utilization (OSDBU) is currently reviewing its regulations governing the Department of Veterans Affairs (VA) Veteran-Owned Small Business (VOSB) Verification Program. OSDBU intends to improve the regulations to provide greater clarity, to streamline the program, and to encourage more VOSBs to apply for verification. By issuing this notice of proposed rulemaking, OSDBU seeks comments on how best to approach this undertaking. Although OSDBU identified specific issues for discussion below, it encourages commenters to discuss any issue related to improving these specific regulations and the program.

DATES: Comments must be received on or before July 12, 2013.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to ''RIN 2900–AO63—VA Veteran-Owned Small Business (VOSB) Verification Guidelines.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Leney, Executive Director, Center for Veterans Enterprise (00VE), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington DC 20420, (202) 461–4300. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

A. The Verification Regulations

VA first published its regulations governing the VA VOSB Verification Program on February 8, 2010 (75 FR 6101), and most recently amended them on January 19, 2011 (76 FR 3022). The regulations are codified at 38 CFR part 74. These regulations were developed using the Small Business Administration's (SBA) regulations governing the Government-wide Service-Disabled Veteran-Owned Small Business (SDVOSB) program (13 CFR part 125) and the 8(a) Business Development Program (13 CFR part 124) for guidance generally with respect to Federal small business set-aside programs that involve agency verification. VA's regulations lay out the criteria for determining a firm's eligibility to participate in VA's Veterans First Contracting Program that provides set-aside and sole source authority placing SDVOSBs and VOSBs as first and second priority in VA acquisitions from commercial sources under the Federal Acquisition Regulation (FAR). VA's Veterans First Contracting Program does not apply to other Federal agencies.

B. Evaluation of Verification Regulations and Justification for the Rulemaking

VA seeks to find an appropriate balance between preventing fraud in the Veterans First Contracting Program and providing a process that would make it easier for more VOSBs to become verified. The Verification Program has been the subject of reports from both the Government Accountability Office and VA's Office of Inspector General stating that despite VA's Verification Program, fraud still exists in the Veterans First Contracting Program. Some stakeholder feedback has been that the current regulations at 38 CFR part 74 are too open to interpretation and are unnecessarily more rigorous than similar certification programs run by SBA.

In addition to regulatory improvements, VA is also committed to making the verification process more efficient and less burdensome and creating greater clarity by providing improved training tools. The Verification Assistance Program currently consists of four parts aimed at helping veterans understand the regulation and how to bring their businesses into compliance in order to be eligible for Veterans First contracting opportunities. These include Verification Assistance Briefs that address the most common causes of eligibility denial and where the issues are found; a Verification Self-Assessment Tool that walks the veteran through the regulation and how it applies to the required documentation; Verification Assistance Partners consisting of veterans service organizations and other non-profit organizations to provide individual counseling services to veterans; and the Pre-Application Workshop that outlines what a veteran needs to know and do to put together a successful verification application.

II. Questions for Comment

VA is considering ways to improve the VA VOSB Verification Guidelines. VA has already collected suggestions from a wide range of sources for changes to the regulations, and has compiled them into a single document. This compilation document and the existing regulations can both be found at *http://www.vetbiz.gov.*

VA invites comments on the ideas offered in this compilation document as well as the following questions:

1. What could be changed to improve the clarity of the regulations? Where might bright lines be drawn to more clearly indicate compliance with the regulations and reduce potential for misinterpretation? Where might the addition of bright line tests create unintended consequences?

2. It has been suggested that VA should develop a list that would clearly delineate what constitutes ownership and control and what constitutes lack of control or ownership. Should a list like this be included in the rule, and if so, what should be on the list?

3. Are there changes to VA's regulations that could be made to reduce the economic impact on VOSBs?

4. Are there changes to VA Form 0877 (application) that could streamline the process?

5. What verification process improvements could help to increase

efficiency and reduce burden for VOSBs?

6. What additional training tools or assistance might be offered to create more clarity for stakeholders and help them more efficiently and effectively navigate the verification regulations?

7. What documents, records, or other materials could the Office for the Center for Veterans Enterprise use to distinguish legitimate VOSBs/SDVOSBs from businesses that fraudulently seek contracts from the Government?

8. Would a special Hotline to report suspected ineligible VOSBs/SDVOSBs help the Government ensure that contracts are awarded to legitimate VOSBs/SDVOSBs?

Approved: May 7, 2013.

Jose D. Riojas,

Interim Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2013–11326 Filed 5–10–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0347; FRL–9813–3]

Approval and Promulgation of State Implementation Plans; State of Montana; Interstate Transport of Pollution for the 2006 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove portions of a State Implementation Plan (SIP) submission from the State of Montana that are intended to demonstrate that its SIP meets certain interstate transport requirements of the Clean Air Act (''Act'' or ''CAA'') for the 2006 fine particulate matter (''$PM_{2.5}$'') National Ambient Air Quality Standards (''NAAQS''). This submission addresses the requirement that Montana's SIP contain adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. Specifically, EPA is proposing to partially approve and partially disapprove the portion of the Montana SIP submission that addresses the CAA requirement prohibiting emissions from Montana sources from significantly contributing to nonattainment of the 2006 $PM_{2.5}$ NAAQS in any other state or interfering with maintenance of the 2006 $PM_{2.5}$ NAAQS by any other state. EPA is also proposing to partially approve and partially disapprove the portion of Montana's submission that addresses the CAA requirement that SIPs contain provisions to insure compliance with specific other CAA requirements relating to interstate and international pollution abatement. The partial disapprovals, if finalized, would not trigger an obligation for EPA to promulgate a Federal Implementation Plan (FIP) to address these interstate transport requirements as EPA is determining that the existing SIP is adequate to meet the specific CAA requirements.

DATES: Comments must be received on or before June 12, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0347, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: clark.adam@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2012–0347. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 *http://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 instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

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 Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, 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, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

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

(ii) The initials *CAIR* mean or refer to the Clean Air Interstate Rule

(iii) The initials *CSAPR* mean or refer to the Cross-State Air Pollution Rule

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

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

(vi) The initials *MDEQ* mean or refer to the Montana Department of Environmental Quality.

(vii) The words *Montana* and *State* mean the State of Montana.

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I. General Information

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

1. *Submitting CBI.* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

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

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

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

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

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

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

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

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

II. Background

A. 2006 $PM_{2.5}$ NAAQS and Interstate Transport

Section 110(a)(2)(D)(i) of the CAA identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this action for the state of Montana, EPA is addressing the first two elements of section 110(a)(2)(D)(i) with respect to the 2006 $PM_{2.5}$ NAAQS.[1] The first element of section 110(a)(2)(D)(i) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity in the state from emitting pollutants that will ''interfere with maintenance'' of the applicable NAAQS in any other state.

EPA is also addressing the requirements of section 110(a)(2)(D)(ii) with respect to the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions to insure compliance with the applicable requirements of sections 126 and 115 of the Act. Section 126 pertains to notification to nearby states and petitions from states to EPA regarding interstate transport of pollution. Section 115 pertains to international transport of pollution.

B. EPA Rules Addressing Interstate Transport for the 2006 $PM_{2.5}$ NAAQS in the Eastern United States

EPA has addressed the requirements of section 110(a)(2)(D)(i)(I) for many states in the eastern portion of the country in three regulatory actions.[2] Most recently, EPA published the final Cross State Air Pollution Rule (''CSAPR'' or ''Transport Rule'') to address the first two elements of CAA section 110(a)(2)(D)(i)(I) in the Eastern United States with respect to the 2006 $PM_{2.5}$ NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). CSAPR was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.[3] *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, a panel of the U.S. Court of Appeals for the D.C. Circuit issued a decision to vacate the CSAPR. *See EME Homer City Generation, L.P.* v. *E.P.A.,* 696 F.3d 7 (D.C. Cir. 2012). The *EME Homer City* panel also ordered EPA to continue implementing CAIR in the interim. On March 29, 2013, the United States asked the Supreme Court to review the *EME Homer City* decision. In the mean time, and unless the *EME Homer City* decision is reversed or otherwise modified, EPA intends to act in accordance with the panel opinion in *EME Homer City.*

It is important to note that Montana was not among the states covered by CAIR and CSAPR and was outside of the modeling domain used in the analysis for those rules. However, as explained in section IV of this proposal, our methodology and analysis for evaluating Montana's compliance with 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS is intended to be consistent with portions of the methodology in CSAPR that were not called into question in the D.C. Circuit's decision, in particular the methodology used to identify monitors in other states—called ''receptors''—that are appropriate for assessing interstate transport.

C. EPA Guidance for SIP Submissions To Address Interstate Transport for the 2006 $PM_{2.5}$ NAAQS

On September 25, 2009, EPA issued a guidance memorandum that provides recommendations to states for making SIP submissions to meet the requirements of CAA section

[1] This proposed action does not address the two elements of the transport SIP provision (in CAA section 110(a)(2)(D)(i)(II)) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We will act on these elements in a separate rulemaking.

[2] *See* NO_X SIP Call, 63 FR 57371 (October 27, 1998); CAIR, 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

[3] CAIR addressed the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour $PM_{2.5}$ NAAQS.

110(a)(2)(D)(i) for the 2006 $PM_{2.5}$ standards (''2006 $PM_{2.5}$ NAAQS Infrastructure Guidance'' or ''Guidance'').[4] With respect to the requirement in section 110(a)(2)(D)(i)(I) to prohibit emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by EPA in previous guidance addressing the 110(a)(2)(D)(i) requirements for the 1997 8-hour Ozone and 1997 $PM_{2.5}$ NAAQS.[5] The 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their section 110(a)(2)(D)(i)(I) SIP submissions an adequate technical analysis to support their conclusions regarding interstate pollution transport, *e.g.,* information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling.[6] With respect to the requirement in section 110(a)(2)(D)(i)(I) to prohibit emissions that would interfere with maintenance of the NAAQS by any other state, the Guidance stated that SIP submissions must address this independent and distinct requirement of the statute and provide technical information appropriate to support the State's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling.

In assessing interstate transport of emissions from Montana, EPA continues to consider relevant the types of information that were suggested in the 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$ NAAQS in other states. Modeling can be relied on when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a specific situation.

III. Montana's Submittal

On February 10, 2010, the Montana Department of Environmental Quality (MDEQ) made a submission certifying that Montana's SIP is adequate to implement the 2006 $PM_{2.5}$ NAAQS for all the ''infrastructure'' requirements of CAA section 110(a)(2). This submission included a brief transport analysis to support the conclusion that Montana's SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I) for this NAAQS.[7]

Montana's $PM_{2.5}$ transport analysis relies almost solely on EPA's decision not to model contribution from Montana to other states for the CAIR. We do not consider this adequate analysis, in large part because CAIR did not address the 2006 $PM_{2.5}$ NAAQS.[8] Moreover, as Montana was outside the modeling domains used in developing CAIR and CSAPR, EPA did not model the impact of emissions from Montana in the modeling done for either rule. EPA's decision in CAIR and CSAPR to focus on transport among states in the eastern and central portions of the U.S. did not constitute a determination that SIPs for states outside the modeling domain (*e.g.* those in the Western U.S.) were necessarily adequate to address interstate transport for the 1997 or 2006 $PM_{2.5}$ NAAQS. As a result, western states such as Montana that were not included in the modeling domains for the CAIR and CSAPR rulemakings cannot rely on that modeling to demonstrate the adequacy of their transport SIPs. Such states, if they chose to submit transport SIPs for the 2006 $PM_{2.5}$ NAAQS, must conduct a transport analysis that relies on relevant data and factors. MDEQ's submission contains no technical analysis of potential interstate transport or any other support for the State's conclusion that the existing Montana SIP satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. MDEQ's submission also failed to address how Montana's SIP is adequate to meet the requirements of CAA section 110(a)(2)(D)(ii).

IV. EPA's Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA first determines whether a state's emissions contribute significantly to nonattainment or interfere with maintenance in downwind areas. If a state is determined not to have such contribution or interference, then section 110(a)(2)(D)(i)(I) does not require any changes to that state's SIP. If, however, the evaluation reveals that emissions from sources within the state do contribute significantly to nonattainment or interfere with maintenance in other states, then the state must adopt substantive provisions to eliminate those emissions. The state could achieve any required reductions through traditional command and control programs, or at its own election, through participation in a cap and trade program.

Consistent with the first step of EPA's approach in the 1998 NO_X SIP call, the 2005 CAIR, and the 2011 CSAPR, EPA is evaluating impacts of emissions from Montana with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as ''receptors.'' To evaluate these impacts, and in the absence of relevant modeling of Montana emissions, EPA is examining factors suggested by the 2006 Guidance such as monitoring data, topography, and meteorology. EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state.

As noted above, Montana's February 10, 2010 transport analysis relies on factors irrelevant to the 2006 $PM_{2.5}$

[4] *See* Memorandum from William T. Harnett entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS),'' September 25, 2009, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.*

[5] *See* Memorandum from William T. Harnett entitled ''Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' August 15, 2006, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf.*

[6] The 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance stated that EPA was working on a new rule to replace CAIR that would address issues raised by the court in the *North Carolina* case and that would provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS. It also noted that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour $PM_{2.5}$ NAAQS because the CAIR rule did not address this NAAQS. *See* 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance at 3.

[7] MDEQ's certification letter, dated February 10, 2010 is included in the docket for this action.

[8] CAIR addressed the 1997 $PM_{2.5}$ and 1997 ozone NAAQS.

NAAQS, and lacks any technical analysis to support the State's conclusion with respect to interstate transport. For these reasons, we propose to partially disapprove the State's submission. However, we also propose to partially approve the submission based on EPA's supplemental evaluation of relevant technical information, which supports a finding that emissions from Montana do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state and that the existing Montana SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS.

Our supplemental evaluation considers several factors, including identification of the monitors in other states that are appropriate ''nonattainment receptors'' or ''maintenance receptors,'' consistent with EPA's approach in the CSAPR, and additional technical information to evaluate whether emissions from Montana contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at these receptors.

Our Technical Support Document (TSD) contains a detailed evaluation and is available in the public docket for this rulemaking, which may be accessed online at *http://www.regulations.gov*, docket number EPA–R08–OAR–2012–0347. Below, we provide a summary of our analysis.

A. Identification of Nonattainment and Maintenance Receptors

EPA evaluated data from existing monitors over three overlapping 3-year periods (*i.e.,* 2006–2008, 2007–2009, and 2008–2010) to determine which areas were violating the 2006 $PM_{2.5}$ NAAQS and which areas might have difficulty maintaining the standard. If a monitoring site measured a violation of the 2006 $PM_{2.5}$ NAAQS during the most recent 3-year period (2008–2010), then this monitor location was evaluated for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site shows attainment of the 2006 $PM_{2.5}$ NAAQS during the most recent 3-year period (2008–2010) but a violation in at least one of the previous two 3-year periods (2006–2008 or 2007–2009), then this monitor location was evaluated for purposes of the interfere with maintenance element of the statute.

This approach is similar to that used in the modeling done during the development of CSAPR to identify the areas/receptors of concern when evaluating interstate transport. Nothing in the *EME Homer City* decision disturbs or undermines the validity of this approach to identifying receptors. However, as noted above, CSAPR did not model interstate transport of emissions from Montana to these receptors, so we consider other technical information to make our evaluation.

B. Evaluation of Significant Contribution to Nonattainment

EPA reviewed technical information to evaluate the potential for Montana emissions to contribute significantly to nonattainment of the 2006 $PM_{2.5}$ NAAQS at specified monitoring sites in the Western U.S.[9] EPA first identified as ''nonattainment receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) during the years 2008–2010.[10] See Section III of our TSD for more a more detailed description of EPA's methodology for selection of nonattainment receptors.

Because geographic distance is a relevant factor in the assessment of potential pollution transport, EPA first reviewed information related to potential transport of $PM_{2.5}$ pollution from Montana to the nonattainment receptors in states bordering Montana, both of which were in Idaho. As detailed in our TSD, the following factors support a finding that emissions from Montana do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in Idaho: (1) Technical information, such as data from monitors in the vicinity of the Idaho nonattainment receptors, indicating that elevated $PM_{2.5}$ levels are predominantly caused by emissions from local sources; (2) topographical considerations such as intervening mountain ranges; and 3) meteorological considerations such as prevailing winds. While none of these factors by itself would necessarily show non-contribution, when taken together in a weight-of-evidence assessment they are sufficient for EPA to determine that emissions from Montana do not significantly contribute to nonattainment at the Idaho receptors.

EPA also evaluated potential $PM_{2.5}$ transport to nonattainment receptors in the more distant western states of Oregon, Washington, Utah, Nevada, and California. The following factors support a finding that emissions from Montana do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in any of these states: (1) The significant distance from Montana to the nonattainment receptors in these states; (2) technical information, such as data from nearby monitors, indicating that elevated $PM_{2.5}$ levels at nonattainment receptors in these states are predominantly caused by emissions from local sources; and (3) the presence of intervening mountain ranges, which tend to impede pollution transport.

Based on our evaluation, we propose to conclude that emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors from sources in the State of Montana do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ standards in any other state, that the existing SIP for the State of Montana is adequate to satisfy the ''significant contribution'' requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 2006 24-hour $PM_{2.5}$ standards, and that the State of Montana therefore does not need to adopt additional controls for purposes of implementing the ''significant contribution'' requirements of 110(a)(2)(D)(i)(I) with respect to that NAAQS at this time.

C. Evaluation of Interference With Maintenance

We also reviewed technical information to evaluate the potential for Montana emissions to interfere with maintenance of the 2006 24-hour $PM_{2.5}$ standards at specified monitoring sites in the Western U.S. EPA first identified as ''maintenance receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) during the 2006–2008 and/or 2007–2009 periods but below this standard during the 2008–2010 period. See section III of our

[9] EPA also considered potential $PM_{2.5}$ transport from Montana to the nearest nonattainment and maintenance receptors located in the eastern, midwestern and southern states covered by CSAPR and believes it is reasonable to conclude that, given the significant distance from Montana to the nearest such receptor (in Wisconsin) and the relatively insignificant amount of emissions from Montana that could potentially be transported such a distance, emissions from Montana sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at this location. These same factors also support a finding that emissions from Montana sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at any location further east. *See* TSD at Section I.B.3.

[10] Because CAIR did not cover states in the Western United States, these data are not significantly impacted by the remanded CAIR and thus could be considered in this analysis. In contrast, recent air quality data in the eastern, midwestern and southern states are significantly impacted by reductions associated with CAIR and because CSAPR was developed to replace CAIR, EPA could not consider reductions associated with the CAIR in the base case transport analysis for those states. *See* 76 FR at 48223–24.

TSD for more information regarding EPA's methodology for selection of maintenance receptors. All of the maintenance receptors in the western states are located in California, Utah and Arizona. EPA therefore evaluated the potential for transport of Montana emissions to the maintenance receptors located in these states. As detailed in our TSD, the following factors support a finding that emissions from Montana do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in those states: (1) Technical information indicating that elevated $PM_{2.5}$ levels at these maintenance receptors are predominantly caused by local emission sources; and (2) the significant distance between Montana and these maintenance receptors.

Based on this evaluation, EPA proposes to conclude that emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors from sources in the State of Montana do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ standards in any other state, that the existing SIP for the State of Montana is adequate to satisfy the ''interfere with maintenance'' requirements of CAA section 110(a)(2)(D)(i)(I), and that the State of Montana therefore does not need to adopt additional controls for purposes of implementing the ''interfere with maintenance'' requirements of section 110(a)(2)(D)(i)(I) with respect to that NAAQS at this time.

D. Evaluation of Montana's SIP With Regard to CAA Section 110(a)(2)(D)(ii)

As stated, MDEQ's February 10, 2010 submission did not address the requirements of CAA section 110(a)(2)(D)(ii), which requires that each SIP shall contain adequate provisions insuring compliance with applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement). Because the State did not address this element for the 2006 $PM_{2.5}$ NAAQS, EPA proposes to partially disapprove this portion of Montana's submission. However, we also propose to partially approve the submission based on our evaluation which finds that Montana's existing SIP is sufficient to meet the requirements of 110(a)(2)(D)(ii).

Section 126(a) requires notification to affected, nearby states of major proposed new (or modified) sources. Sections 126(b) and (c) pertain to petitions by affected states to the Administrator regarding sources violating the ''interstate transport'' provisions of section 110(a)(2)(D)(i). Section 115 similarly pertains to international transport of air pollution.

As required by 40 CFR 51.166(q)(2)(iv), Montana's SIP-approved PSD program requires notice to states whose lands may be affected by the emissions of sources subject to PSD.[11] This suffices to meet the notice requirement of section 126(a).

Montana has no pending obligations under sections 126(c) or 115(b); therefore, its SIP currently meets the requirements of those sections. In summary, the SIP meets the requirements of 110(a)(2)(D)(ii) for the 2006 $PM_{2.5}$ NAAQS.

V. Proposed Action

EPA is proposing to partially approve and partially disapprove the 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(ii) portions of Montana's February 10, 2010 submission. We propose to partially disapprove the 110(a)(2)(D)(i)(I) portion of the submission because it relies on irrelevant factors and lacks any technical analysis to support the State's conclusion with respect to interstate transport. However, we also propose to partially approve this portion of the submission based on EPA's supplemental evaluation of relevant technical information, which supports a finding that emissions from Montana do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state and that the existing Montana SIP is, therefore, adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. We propose to conclude that any FIP obligation resulting from finalization of the partial disapproval would be satisfied by our determination that there is no deficiency in the SIP to correct. Finalization of this proposed disapproval also would not require any further action on Montana's part given EPA's conclusion that the SIP is adequate to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS.

Similarly, EPA is proposing to partially disapprove the 110(a)(2)(D)(ii) portion of Montana's submission because it fails to address or discuss this CAA requirement. However, we propose to partially approve this portion of the submission based on the conclusion that the State's existing SIP is adequate to meet the requirements of CAA section 110(a)(2)(D)(ii) for the 2006 24-hour $PM_{2.5}$ NAAQS. For similar reasons, the partial disapproval of the submission for the 110(a)(2)(D)(ii) requirement does not require any further action from Montana or create any additional FIP obligation for EPA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 (Public Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is

[11] See Administrative Rule of Montana (''ARM'') 17.8.826(2)(d).

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: May 2, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2013–11292 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0348; FRL–9813–2]

Approval and Promulgation of State Implementation Plans; State of North Dakota; Interstate Transport of Pollution for the 2006 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions of a State Implementation Plan (SIP) submission from the State of North Dakota which demonstrates that its SIP meets certain interstate transport requirements of the Clean Air Act (''Act'' or ''CAA'') for the 2006 fine particulate matter (''$PM_{2.5}$'') National Ambient Air Quality Standards (''NAAQS''). This submission addresses the requirement that North Dakota's SIP contain adequate provisions to prohibit air emissions from adversely affecting another state's air quality through interstate transport. In this action, EPA is proposing to approve the portion of the North Dakota SIP submission that addresses the CAA requirement prohibiting emissions from North Dakota sources from significantly contributing to nonattainment of the 2006 $PM_{2.5}$ NAAQS in any other state or interfering with maintenance of the 2006 $PM_{2.5}$ NAAQS by any other state.

DATES: Comments must be received on or before June 12, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0348, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: clark.adam@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2012–0348. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 *http://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 instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

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 Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, 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, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act.

(ii) The initials *CAIR* mean or refer to the Clean Air Interstate Rule.

(iii) The initials *CSAPR* mean or refer to the Cross-State Air Pollution Rule.

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

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

(vi) The words *North Dakota* and *State* mean the State of North Dakota.

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I. General Information

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

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2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

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

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

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

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

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

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

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

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

II. Background

A. 2006 $PM_{2.5}$ NAAQS and Interstate Transport

Section 110(a)(2)(D)(i) of the CAA specifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants with respect to a new or revised NAAQS. In this action for the State of North Dakota, EPA is addressing the first two elements of section 110(a)(2)(D)(i) with respect to the 2006 $PM_{2.5}$ NAAQS.[1] The first element of section 110(a)(2)(D)(i) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' of the applicable NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity in the state from emitting pollutants that will ''interfere with maintenance'' of the applicable NAAQS in any other state.

B. EPA Rules Addressing Interstate Transport for the 2006 $PM_{2.5}$ NAAQS in the Eastern United States

EPA has addressed the requirements of section 110(a)(2)(D)(i)(I) for many states in the eastern portion of the country in three regulatory actions.[2] Most recently, EPA published the final Cross State Air Pollution Rule (''CSAPR'' or ''Transport Rule'') to address the first two elements of section 110(a)(2)(D)(i)(I) in the Eastern United States with respect to the 2006 $PM_{2.5}$ NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). CSAPR was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.[3] *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the DC Circuit issued a decision to vacate CSAPR. *See EME Homer City Generation, L.P.* v. *E.P.A.,* 696 F.3d 7 (DC Cir. 2012). The *EME Homer City* panel also ordered EPA to continue implementing CAIR in the interim. On March 29, 2013, the United States asked the Supreme Court to review the *EME Homer City* decision. In the mean time, and unless the *EME Homer City* decision is reversed or otherwise modified, EPA intends to act in accordance with the panel opinion in *EME Homer City.* North Dakota was entirely within the modeling domain for the air quality modeling analyses used in the development of CAIR and CSAPR.

III. North Dakota's Submittal

On August 12, 2010, the North Dakota Department of Health (NDDH) made a submission certifying that North Dakota's SIP is adequate to implement the 2006 $PM_{2.5}$ NAAQS for all the ''infrastructure'' requirements of CAA section 110(a)(2). This submission included a transport analysis to support the conclusion that North Dakota's SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I) for this NAAQS.[4]

North Dakota's $PM_{2.5}$ transport analysis contains the State's assessment of the potential for emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors from North Dakota sources to significantly contribute to nonattainment or interfere with maintenance of the 24-hour $PM_{2.5}$ standards in any other state. In its analysis, the State considered distance, wind direction, monitor values in North Dakota and other states, modeling by the Western Regional Air Partnership of contribution to Class I Areas, and anticipated future $PM_{2.5}$ emission reductions.

IV. EPA's Evaluation

A. EPA's Approach for Evaluating Interstate Transport of Air Pollution

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirement is satisfied, EPA first determines whether a state's emissions contribute significantly to nonattainment or interfere with maintenance in downwind areas. If a state is determined not to have such contribution or interference, then section 110(a)(2)(D)(i)(I) does not require any changes to a SIP. EPA is proposing to determine that the existing SIP for North Dakota is adequate to satisfy the requirements of 110(a)(2)(D)(i)(I) of the CAA to address interstate transport requirements with regard to the 2006 $PM_{2.5}$ NAAQS. This proposed conclusion is based on air quality modeling originally conducted by EPA during the rulemaking process for CSAPR. This modeling quantified, for each individual state within the modeling domain (including North Dakota), contributions to downwind nonattainment and maintenance areas.

In the CSAPR rulemaking (proposal and final) process, EPA explained how nonattainment and maintenance ''receptors'' would be identified so that

[1] This proposed action does not address the two elements of the transport SIP provision (in CAA section 110(a)(2)(D)(i)(II)) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We will act on these elements in a separate rulemaking.

[2] *See* NO_X SIP Call, 63 FR 57371 (October 27, 1998); CAIR, 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

[3] CAIR addressed the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour $PM_{2.5}$ NAAQS. For more information on CAIR, please see our July 30, 2012 proposal for Arizona regarding interstate transport for the 2006 $PM_{2.5}$ NAAQS (77 FR 44551, 44552).

[4] NDDH's submission, dated August 12, 2010 is included in the docket for this action.

contribution to nonattainment and interference with maintenance could be assessed with respect to those receptors.[5] The receptors were identified as all monitoring sites that had $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) for certain analytic years. Then EPA compiled an emissions inventory for the year 2005, the most recent year for which EPA had a complete national inventory at that time. In the CSAPR analysis, EPA also projected the inventory for a future year analysis for evaluating the interstate transport impacts in that future year.[6] The air quality modeling conducted for CSAPR then evaluated interstate contributions from emissions in upwind states to downwind nonattainment and maintenance receptors for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Please see the Air Quality Modeling Final Rule Technical Support Document, June 2011 (''Air Quality Modeling TSD'') for the CSAPR. Appendix D of this TSD details North Dakota's contribution data for the 2006 24-hour $PM_{2.5}$ NAAQS for all downwind receptors.

EPA then used air quality thresholds to indentify linkages between upwind states and downwind nonattainment and maintenance receptors. As detailed in EPA's Air Quality Modeling TSD, EPA used a threshold of 1% of the NAAQS to identify these linkages. Our analysis for CSAPR found that the 1% threshold captures a high percentage of the total pollution transport affecting downwind states for $PM_{2.5}$.[7] The air quality thresholds were therefore calculated as 1% of the NAAQS, which is 0.35 $\mu g/m^3$ for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA found states projected to exceed this air quality threshold at one or more downwind nonattainment receptors emissions to be linked to all such receptors, and therefore subject to further evaluation. EPA did not conduct further evaluation of emissions from states that were not linked to any downwind receptors.

The methodology and modeling used to analyze the impact of emissions from North Dakota and to identify potential linkages between North Dakota and downwind nonattainment and maintenance receptors with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS is described in further detail in the Air Quality Modeling TSDs. These documents can be found in the electronic docket for this action, which is available through the *www.regulations.gov* Web site.

B. EPA's Evaluation of North Dakota's Submittal

In its submittal, North Dakota relied on factors we have generally found to be relevant for assessing interstate transport for western states that were not within the modeling domain for CSAPR.[8] However, North Dakota was within the modeling domain for CSAPR. As we consider the modeling conducted during the development of CSAPR to contain the most accurate and comprehensive technical assessment of $PM_{2.5}$ interstate transport for those states within its modeling domain, including North Dakota, we examined that analysis to assess transport of $PM_{2.5}$ emissions from North Dakota to other states.

The air quality modeling performed during the development of CSAPR found that the impact from North Dakota emissions on both downwind nonattainment and maintenance receptors was less than the 1% threshold for the 2006 $PM_{2.5}$ NAAQS. EPA therefore did not find emissions from North Dakota linked to any downwind nonattainment or maintenance receptors for the 2006 24-hour $PM_{2.5}$ NAAQS.

Below is a summary of the air quality modeling results for North Dakota from Table IV–9 of EPA's Air Quality Modeling TSD regarding North Dakota's largest contribution to both downwind $PM_{2.5}$ nonattainment and maintenance areas.

NORTH DAKOTA'S LARGEST CONTRIBUTION TO DOWNWIND $PM_{2.5}$ NONATTAINMENT AND MAINTENANCE AREAS

NAAQS	Air quality threshold ($\mu g/m^3$)	Largest downwind contribution to nonattainment ($\mu g/m^3$)	Largest downwind contribution to maintenance ($\mu g/m^3$)
2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$)	0.35	0.21	0.33

Based on this analysis, we propose to approve North Dakota's submission certifying that its SIP meets the requirements of section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS. We continue to believe it is appropriate to rely on the modeling done during the development of CSAPR, even with the *EME Homer City* opinion vacating the rule. *EME Homer City Generation L.P.* v. *EPA,* 696 F.3d 7 (DC Cir. 2012). Nothing in the *EME Homer City* opinion suggests that the air quality modeling on which our proposal relies is flawed or invalid for any reason. In addition, nothing in that opinion undermines or calls into question our proposed conclusion that, because emissions from North Dakota do not contribute more than 1% of the 1997 and 2006 $PM_{2.5}$ NAAQS to any downwind area with nonattainment or maintenance problems, North Dakota does not contribute significantly to nonattainment or interfere with maintenance in another state for these NAAQS. Further, EPA is not proposing to rely on any requirements of CSAPR or emission reductions associated with that rule to support its conclusion that North Dakota has met its 110(a)(2)(D)(i)(I) obligations with respect to the 2006 $PM_{2.5}$ NAAQS.

V. Proposed Action

EPA is proposing to approve the 110(a)(2)(D)(i)(I) portion of North Dakota's August 12, 2010 SIP submission, based on conclusions drawn from the technical analysis done during the development of CSAPR that emissions from North Dakota sources do not contribute significantly to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state or interfere with maintenance of the 2006

[5] For our definition of both nonattainment and maintenance receptors, see the Technical Support Documents for the final CSAPR, including the ''Technical Support Document (TSD) for the Transport Rule—Air Quality Modeling'', (the proposal TSD) June 2010, and the ''Air Quality Modeling Final Rule Technical Support Document'', (Air Quality Modeling TSD) June 2011, in the docket for this action.

[6] *See Id.;* Emissions Inventory Final Rule TSD, June 28, 2011.

[7] See section IV.F (Analysis of Contributions Captured by Various Thresholds) of the Air Quality Modeling TSD.

[8] *See* Memorandum from William T. Harnett entitled ''Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' August 15, 2006, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf.*

24-hour $PM_{2.5}$ NAAQS by any other state. Accordingly, we propose to conclude that the existing SIP is adequate to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS, and that additional control measures in North Dakota are not necessary for this purpose.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 USC 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve some state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 USC 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 USC 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 USC 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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: May 2, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2013–11295 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–0724; FRL–9812–9]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove the State Implementation Plan (SIP) submission from the State of Montana to demonstrate that the SIP meets the infrastructure requirements for the 1997 and 2006 National Ambient Air Quality Standards (NAAQS) for particulate matter less than or equal to 2.5 micrometers (μm) in diameter ($PM_{2.5}$). The Clean Air Act (CAA) requires that each state, after a new or revised NAAQS is promulgated, review their SIP to ensure that they meet infrastructure requirements. The State of Montana submitted a certification of their infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ NAAQS, dated February 10, 2010. EPA does not propose to act in this notice on the State's submissions to meet requirements relating to interstate transport of air pollution for the 1997 and 2006 $PM_{2.5}$ NAAQS. EPA will act on those submissions in a separate action.

DATES: Written comments must be received on or before June 12, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2011–0724, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: ayala.kathy@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
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Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2011–0724. 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

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FOR FURTHER INFORMATION CONTACT: Kathy Ayala, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6142, *ayala.kathy@epa.gov*.

SUPPLEMENTARY INFORMATION:

Definitions

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

(ii) The initials *AIRS* mean or refer to national air quality database.

(iii) The initials *ARM* mean or refer to Administrative Rules of Montana.

(iv) The initials *BACT* mean or refer to best available control technology.

(v) The initials *BER* mean of refer to Board of Environmental Review.

(vi) The initials *CBI* mean or refer to confidential business information.

(vii) The words or initials *Department* or *DEQ* mean or refer to the Department of Environmental Quality.

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

(ix) The initials *EEAP* mean or refer to Emergency Episode Avoidance Plan.

(x) The initials *FIP* mean or refer to a Federal Implementation Plan.

(xi) The initials *GHG* mean or refer to greenhouse gases.

(xii) The initials *QAPPs* mean or refer to Quality Assurance Project Plans.

(xiii) The initials *QA/QC* mean or refer to quality assurance/quality control.

(xiv) The initials *LAER* mean or refer to lowest achievable emission rate.

(xv) The initials *MCA* mean or refer to Montana Code Annotated.

(xvi) The initials *MT CAA* mean or refer to the Clean Air Act of Montana.

(xvii) The initials *NAAQS* mean or refer to national ambient air quality standards.

(xviii) The initials NO_X mean or refer to nitrogen oxides.

(xix) The initials *NPRM* mean or refer to notice of proposed rulemaking.

(xx) The initials *NSR* mean or refer to new source review.

(xxi) The initials *PM* mean or refer to particulate matter.

(xxii) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers (fine particulate matter).

(xxiii) The initials *ppm* mean or refer to parts per million.

(xxiv) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

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

(xxvi) The initials *SOP* mean or refer to Standard Operating Procedures.

(xxvii) The initials *SSM* mean or refer to start-up, shutdown, or malfunction.

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I. General Information
II. Background
III. What is the scope of this rulemaking?
IV. What infrastructure elements are required under sections 110(a)(1) and (2)?
V. How did Montana address the infrastructure elements of Sections 110(a)(1) and (2)?
VI. What action is EPA taking?
VII. Statutory and Executive Order Reviews

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Suggest alternatives and substitute language for your requested changes;

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

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

Provide specific examples to illustrate your concerns, and suggest alternatives;

Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,

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

II. Background

On July 18, 1997, EPA promulgated new NAAQS for $PM_{2.5}$. Two new $PM_{2.5}$ standards were added, set at 15 $\mu g/m^3$, based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentration from single or multiple community-oriented monitors, and 65 $\mu g/m^3$, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area. In addition, the 24-hour PM_{10} standard was revised to be based on the 99th percentile of 24-hour PM_{10} concentration at each monitor within an area (62 FR 38652).

On October 17, 2006 EPA promulgated a new NAAQS for $PM_{2.5}$, revising the level of the 24-hour $PM_{2.5}$ standard to 35 $\mu g/m^3$ and retaining the level of the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$. EPA also retained the 24-hour PM_{10} and revoked the annual PM_{10} standard (71 FR 61144). By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised standard. Section 110(a)(2) provides basic requirements for SIPs, including emissions inventories, monitoring, and modeling, to assure attainment and maintenance of the standards. These requirements are set out in several ''infrastructure elements,'' listed in section 110(a)(2).

Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, and the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time

the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

III. What is the scope of this rulemaking?

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 at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (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''). Instead, EPA has indicated that it has other authority to address any such existing SIP defects in other rulemakings, as appropriate. 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, ''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?'' (*see* 76 FR 41075 at 41076–41079).

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

Section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These infrastructure elements include requirements such as modeling, monitoring, and emissions inventories, which are designed to assure attainment and maintenance of the NAAQS. The elements that are the subject of this action are listed below.

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(E)(i): Adequate resources and authority.
- 110(a)(2)(E)(ii): Compliance with CAA section 128 regarding state boards.
- 110(a)(2)(E)(iii): State responsibility for local government implementation.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency powers.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

A detailed discussion of each of these elements is contained in the next section.

Element 110(a)(2)(D), Interstate transport of pollutants from Montana, which contribute significantly to nonattainment in, or interfere with maintenance by, any other state will be acted upon in a separate action.

Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1) and are therefore not addressed in this action. These elements relate to part D of Title I of the CAA, and submissions to satisfy them are not due within 3 years after promulgation of a new or revised NAAQS, but rather are due at the same time nonattainment area plan requirements are due under section 172. The two elements are: (i) Section 110(a)(2)(C) to the extent it refers to permit programs (known as ''nonattainment new source review (NSR)''), required under part D; and (ii) section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure elements related to the nonattainment NSR portion of section 110(a)(2)(C) or related to 110(a)(2)(I).

V. How did Montana address the infrastructure elements of Sections 110(a)(1) and (2)?

1. Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this Act.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite Lincoln County Health and Environment Regulations approved by the BER on March 23, 2006 and submitted for inclusion into the SIP on June 26, 2006. The Libby control plan was effective in maintaining ambient $PM_{2.5}$ concentrations at a level below both the annual and revised 2006 24-hour $PM_{2.5}$ NAAQS. On October 8, 2006, EPA notified the State of Montana that the Libby area was in attainment with the 2006 $PM_{2.5}$ NAAQS.

In addition, to control plan implementation for the Libby area, Montana implemented a statewide program for permitting major and minor stationary sources of air pollution, including $PM_{2.5}$. Montana's permitting program(s) require affected sources to demonstrate that source emissions will not cause or contribute to a violation of the NAAQS. Affected sources are further required to utilize BACT and/or LAER, as applicable, for emissions of regulated pollutants.

Montana also regulates major and minor open burning activities and subjects those conducting open burning to BACT requirements.

Except for specific control measures adopted in BER orders, the emission limits and other air pollution control regulations are contained in the following subchapters of Title 17, Chapter 8, ARM: Subchapter 1—General Provisions (60 FR 36715); Subchapter 3—Emission Standards (44 FR 14036); Subchapter 4—Stack Heights and Dispersion Techniques (60 FR 36715); Subchapter 6—Open Burning; Subchapter (60 FR 36715); Subchapter 7—Permit, Construction and Operation of Air Contaminant Sources (60 FR 36715); Subchapter 8—Prevention of Significant Deterioration of Air Quality (60 FR 36715); Subchapter 9—Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas (60 FR 36715); Subchapter 10—Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas (60 FR 36715); and Subchapter 16—Emission Control Requirements for Oil and Gas Well Facilities Operating Prior to Issuance of a Montana Air Quality Permit.

b. EPA analysis: Montana's SIP meets the requirements of CAA section 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$

NAAQS, subject to the following clarifications. First, this infrastructure element does not require the submittal of regulations or emission limitations developed specifically for attaining the 1997 and 2006 $PM_{2.5}$ NAAQS. In Montana's case, we have approved an attainment plan for Lincoln County, which was designated nonattainment for the annual $PM_{2.5}$ standard. Outside of the Lincoln County $PM_{2.5}$ attainment plan, Montana regulates emissions of $PM_{2.5}$ in two ways: (1) Through its SIP approved open burning program; and (2) through its SIP approved major and minor source permitting programs. This suffices to meet the requirements of 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Second, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. A number of states have such provisions that are contrary to the CAA and existing EPA guidance (52 FR 45109, November 24, 1987), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

Finally, in this action, EPA is also not proposing to approve or disapprove any existing SIP provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. A number of states have SSM provisions which are contrary to the CAA and existing EPA guidance [1] and the Agency is addressing such state regulations separately (78 FR 12460).

2. Ambient air quality monitoring/data system*:* Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to ''(i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.''

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite a statewide air quality monitoring network operated by the Department, including numerous monitoring activities dedicated specifically to $PM_{2.5}$.

On an annual basis, the Department evaluates trends in industrial and economic development, meteorology, and population growth and makes other scientific, social, and geographic observations regarding areas of the State which may be adversely affected by emissions of air pollutants, including $PM_{2.5}$. The Department, with participation and input by local county air pollution control agencies and other interested parties, makes informed decisions regarding the type, location, and schedules for monitoring various air quality parameters, including $PM_{2.5}$. The product of this decision-making process, the Air Monitoring Network Plan, is made available for public inspection and the Department annually submits the final document to EPA.

All of the Department's ambient air monitoring operations and resultant data is subject to strict QA/QC processes. The Department employs a variety of QAPPs, and SOPs to maintain the highest level of data quality. The Department's air monitoring and data handling QAPPs and SOPs are routinely submitted to EPA for review and approval. The air monitoring data resulting from these rigorous QA/QC processes is uploaded and stored in EPA's AIRS for further review and analysis.

The provisions in State law for the collection and analysis of ambient air quality data is contained in the MT CAA, 75–2–101 *et seq.,* MCA, Powers and Responsibilities of Department.

b. EPA analysis: Montana's air monitoring programs and data systems meet the requirements of CAA section 110(a)(2)(B) for the 1997 and 2006 $PM_{2.5}$ NAAQS. The 2012 Montana Annual Monitoring Network Plan (AMNP), dated July 10, 2012, was approved by EPA Region 8 on April 8, 2013.

3. Program for enforcement of control measures: Section 110(a)(2)(C) requires SIPs to include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite Montana's administrative rules which authorize enforcement activities sufficient to ensure enforceable emission control measures are implemented to protect the NAAQs.

Congress directed states to develop and implement measures to prevent significant deterioration. Pursuant to ARM 17.8.130 (71 FR 3770), sources subject to the provisions of Title 17, Chapter 8, subchapters 8 (60 FR 36715), 9 (60 FR 36715), and 10 (60 FR 36715), ARM (regulating construction of new or modified major stationary sources consistent with PSD and NSR requirements) shall be subject to enforcement. The Department is authorized to issue a notice of violation, complaint regarding the source violation, and an order to take corrective action.

The provisions in state law for the enforcement of emission limitations and other control measures, means, or techniques are contained in the MT CAA, 75–2–101 et seq., MCA, and specifically, 75–2–111, MCA, Powers of the Board and 75–2–112, MCA, Powers and Responsibilities of Department.

b. EPA analysis: To generally meet the requirements of section 110(a)(2)(C), the State is required to have SIP-approved PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 1997 and 2006 $PM_{2.5}$ NAAQS. As explained above, in this action EPA is not evaluating nonattainment related provisions, such as the nonattainment NSR program required by part D of the Act. In this action, EPA is evaluating the State's PSD program as required by part C of the Act, and the State's minor NSR program as required by 110(a)(2)(C).

Montana has a SIP-approved PSD program that generally meets the requirements of part C of the Act. However, in order for the State's SIP approved PSD program to satisfy the requirements of section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS, the program must meet all requirements of part C of Title I of the Act, including proper regulation of ozone precursors. On November 29, 2005, EPA promulgated the phase 2 implementation rule for the 1997 ozone NAAQS, which includes requirements for PSD programs to treat nitrogen oxides as a precursor for ozone (70 FR 71612). The State's approved PSD program does not satisfy the requirements of the phase 2 implementation rule. Furthermore, the State has not submitted a revision to the program to address this deficiency.[2] As

[1] Steven Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation. Memorandum to EPA Air Division Directors, ''State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown.'' (September 20, 1999).

[2] The State did submit a SIP revision to address the requirements of the phase 2 ozone implementation rule for the State's nonattainment NSR program. As discussed above, the nonattainment NSR program is outside the scope of this infrastructure SIP action. We understand that

a result, the SIP does not satisfy, for the 1997 and 2006 $PM_{2.5}$ NAAQS, the requirement of element 110(a)(2)(C) for the SIP to include a permit program as required in part C of Title I of the Act. EPA therefore proposes to disapprove the Montana infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ NAAQS for this requirement.

Turning to minor NSR, EPA is proposing to approve Montana's infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved, specifically the $PM_{2.5}$ NAAQS. (See ARM Chapter 17.8, Subchapter 7.) The SIP approved minor NSR program addresses $PM_{2.5}$, as any facility required to obtain a permit must demonstrate that it will not cause or contribute to a violation of any NAAQS. (See ARM 17.8.749(3).) EPA is not proposing to approve or disapprove the State's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. A number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

4. Adequate resources and local and regional government: Section 110(a)(2)(E) requires states to provide:

(i) necessary assurances that the State * * * 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) * * *

(iii) necessary assurances that, where the state has relied upon a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.

a. Montana's response to this requirement: According to the State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements, no state or federal provisions prohibit the implementation of any provision of the Montana SIP. Montana devotes adequate resources to SIP development and maintenance sufficient to ensure attainment and maintenance of the NAAQS.

The Department receives grant monies from EPA intended to fund programs to protect the NAAQS. The Department allocates a portion of the EPA grant money to fund SIP activities for attainment and maintenance of the NAAQS. In addition, Montana imposes and collects fees from permitted sources. Montana allocates a portion of the permit fee revenue to activities associated with permitting and compliance for sources of regulated air pollutants, including $PM_{2.5}$ emissions. Montana also receives state general funds to conduct state air quality program activities. Montana allocates a portion of state general funding to non-permit air program activities, including SIP programs for attainment and maintenance of the NAAQS.

The Air Resources Management Bureau has 50 fulltime equivalent positions with an annual budget of $6.3 million for fiscal year 2010. The program funding is broken down as follows: $163,536 from state general funds, $1,643,940 from Federal grants, and $4,546,047 from stationary source fees.

The provisions in state law which describe adequate implementation of local or regional implementation of any plan provision are provided in MCA 75–2–112, Power and Responsibilities of Department.

The provisions in state law providing for adequate resources are contained in the MT CAA, 75–2–101 *et seq.,* MCA. More specifically, those provisions are contained in 75–2–102, MCA, Intent—Policy and Purpose; 75–2–111, MCA, Powers of the Board and 75–2–112, MCA, Powers and Responsibilities of Department.

b. EPA Analysis: The provisions contained in 75–2–102, MCA, 75–2–111, MCA, and 75–2–112, MCA, provide adequate authority for the State of Montana and the DEQ to carry out its SIP obligations with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS. The State receives sections 103 and 105 grant funds through its Performance Partnership Grant along with required state matching funds to provide funding necessary to carry out Montana's SIP requirements. EPA therefore proposes to approve the Montana infrastructure SIP with regard to the requirements of section 110(a)(2)(E)(i) and (iii) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

5. State boards: Section 110(a)(2)(E)(ii) requires that ''the State comply with the requirements respecting State boards under section 128.''

a. Montana's response to this requirement: The Montana BER adopts regulations and the Montana DEQ implements and enforces those regulations, including those of the state air program. The composition and requirements of the BER are detailed in 2–15–3502, MCA, 2–15–121, MCA, and 2–15–124, MCA. Laws related to conflict of interest in Montana state government are found in 2–2–201, MCA, and 2–2–202, MCA. None of these Montana statutes are subject to approval by the federal government.

b. EPA Analysis: The Montana SIP does not contain provisions that meet the requirements of CAA section 128. Section 128 must be implemented through SIP-approved, federally enforceable provisions. In particular, subsection 128(a)(2) requires that all SIPs must contain provisions for the adequate disclosure of potential conflicts of interest. The Montana SIP does not currently contain any such provisions and is deficient with respect to the requirements of subsection 128(a)(2).

Furthermore, section 2–15–3502 of the Montana Code creates a Board of Environmental Review (''Board''). The Board consists of seven members appointed by the Governor and meeting certain statutory criteria. Under 75–2–211(10), MCA, a person who is directly and adversely affected by the Montana DEQ's approval or denial of a permit to construct an air pollution source may (with certain exceptions) request a hearing before the Board. Similarly, under section 75–2–218(5) of the Montana Code, a person who participated in the comment period on DEQ's issuance, renewal, amendment or modification of a title V operating permit may request a hearing before the Board. Finally, under 75–2–201(1), MCA, a person who receives an enforcement order from DEQ under Chapter 2 of Title 75, Air Quality, may request a hearing before the Board.

Based on these State statutory provisions and our discussion above of the text of section 128(a)(1), we propose to conclude that the Board falls within the terms of subsection 128(a)(1). The Board is a multi-member body that has authority to approve permits and enforcement orders under the Act. The

the state has promulgated a rule that may satisfy this requirement and we will propose action on that SIP revision when it is submitted.

term ''permits under the Act'' includes PSD, nonattainment NSR, and minor NSR permits. These are all permits required to construct a new or modified stationary source, and, under 75–2–211(1), MCA, are potentially subject to a hearing before the Board. Permits under the Act also includes title V operating permits, which, under 75–2–218(5), MCA, are potentially subject to a hearing before the Board. Similarly, enforcement orders under the Act are, under Montana Code section 75–2–201(1), potentially subject to a hearing before the Board. In short, the Board has authority to hear appeals of permits and enforcement orders under the Act.

The Board's authority to hear appeals is ''authority to approve'' within the meaning of section 128, for two reasons. First, the Board's authority falls within the plain meaning of the word ''approve.'' To approve means, among other things, ''to give formal sanction to.'' This is precisely what, for example, an order from the Board upholding a permit does: It formally sanctions the permit. Second, the contrary interpretation, that ''authority to approve'' does not include the Board's authority to hear appeals, would be inconsistent with the structure and purpose of section 128. It would limit the applicability of subsection 128(a)(1) to multi-member boards that issue permits in the first instance. As the purpose of section 128 is to promote disinterested decision-making on permits and enforcement orders, it is paramount that section 128 should apply to the entity with authority to make the final decision, and not merely to the initial decision maker. In addition, due to the language ''with similar powers'' in subsection 128(a)(2), the contrary interpretation would lead to the illogical result that a state director who issues permits and enforcement orders that are subject to administrative appeal would fall under the disclosure requirement, but a director that was the final decision maker on permits and enforcement orders would not.

As the Board has authority to approve permits and enforcement orders under the Act, it is subject to subsection 128(a)(1). However, the Montana SIP does not currently contain any provisions to meet the requirements of subsection 128(a)(1) and is therefore deficient for this requirement.

Based on these deficiencies in the Montana SIP, we propose to disapprove Montana's infrastructure SIP for this element. We do not consider it necessary to identify any particular instances in which the Board's actual composition in practice has failed to meet the compositional requirements of subsection 128(a)(1) or in which Board members in practice have failed to meet the disclosure requirements of subsection 128(a)(2). The deficiency is in the Montana SIP itself, which simply fails to contain any provisions meeting the explicit legal requirements of these subsections. As a result, we propose to disapprove this element of the State's infrastructure SIP.

6. Stationary source monitoring system: Section 110(a)(2)(F) requires:

> (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources;
>
> (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources; and
>
> (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to [the Act], which reports shall be available at reasonable times for public inspection.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite three State Rules: ARM 17.8.105 (66 FR 42427); ARM 17.8.106 (66 FR 42427); and ARM 17.8.505 (State only rule).

Montana's administrative rules authorize the Department to require monitoring of emissions from stationary sources and annual submissions of all information necessary to complete a source emissions inventory. Affected permits require emissions monitoring from stationary sources of air pollution, including PM emissions. Further, on an annual basis, the Department compiles a state emissions inventory of all regulated sources for the evaluation of compliance with applicable standards and inclusion in EPA databases.

b. EPA Analysis: The provisions cited by Montana (ARM 17.8.105 and 17.8.106) pertain to testing requirements and protocols. Montana also incorporates by reference 40 CFR part 51, appendix P, regarding minimum monitoring requirements. (See ARM 17.8.103(1)(D)). In addition, Montana provides for monitoring, recordkeeping, and reporting requirements for sources subject to minor and major source permitting. EPA therefore proposes to approve Montana's infrastructure SIP with regard to the requirements of section 110(a)(2)(F) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

7. Emergency powers: 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.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite EPA approved Montana's Emergency Episode Avoidance Plan (EEAP) in 71 FR 19, January 3, 2006. Montana's EEAP made provision for emergency control of all criteria pollutants. Under authority granted by the 75–2–402, MCA, and the Montana EEAP, the Department may order sources of pollution to limit or cease emissions. The MT CAA is not subject to approval by EPA.

b. EPA analysis: Section 75–2–402 of the MCA provides the Department with general emergency authority comparable to that in section 303 of the Act. EPA last approved revisions to the EEAP on January 3, 2006 (71 FR 19). The SIP therefore meets the requirements of 110(a)(2)(G) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

8. Future SIP revisions: Section 110(a)(2)(H) requires that SIPs provide for revision of such plan:

> (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard; and
>
> (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the [SIP] is substantially inadequate to attain the [NAAQS] which it implements or to otherwise comply with any additional requirements established under this [Act].

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite provisions in state law providing for adoption of rules and regulations contained in the MT CAA, 75–2–101 *et seq.,* MCA. More specifically, those provisions are contained in 75–2–102, MCA, Intent—Policy and Purpose; 75–2–111, MCA, Powers of the Board, and 75–2–112, MCA, Powers and Responsibilities of Department.

The MT CAA invests in the BER the authority to adopt, amend, and repeal rules for administering, implementing, and enforcing rules promulgated to regulate emissions of air pollutants, including rules necessary to establish measures to attain and maintain the NAAQS. The Governor submits for inclusion into the SIP rules determined to be necessary to attain and maintain the NAAQS.

b. EPA analysis: Montana's statutory provisions in the Montana CAA at 75–2–101 *et seq.,* give the BER sufficient

authority to meet the requirements of 110(a)(2)(H).

9. Consultation with government officials, public notification, PSD and visibility protection: Section 110(a)(2)(J) requires that each SIP ''meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to [PSD] of air quality and visibility protection).''

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite the State Implementation Plan for Columbia Falls PM_{10} Nonattainment Area which was approved by EPA on April 14, 1994 (59 FR 17700). Montana has not changed or revoked consultation processes since that time. Montana holds public meetings and hearings on all SIP revisions in accordance with 40 CFR 51, appendix V and Montana's open meeting laws 2–2–203, MCA.

On January 3, 2006, EPA approved Montana's EEAP at 71 FR 19. Montana's EEAP provides for all criteria pollutants, including PM. The EEAP contains provisions for disseminating information regarding an exceedance of the NAAQS to appropriate news media, health officials, law enforcement, and others. The Department notice includes recommendations for actions citizens may take to reduce the impact of their activities. Montana also complies with 40 CFR 51.930 during exceptional events.

Congress directed states to develop and implement measures to prevent significant deterioration of air quality pursuant to 42 U.S.C. 7471. Montana adopted permitting requirements for major sources proposing to modify or construct, PSD rules in subchapter 8 (60 FR 36715), and nonattainment NSR rules in subchapter 9 (60 FR 36715) and 10 (60 FR 36715) of Title 17, Chapter 8, ARM. Montana continues to implement and enforce these rules. Montana consults with Federal Land Managers as needed and/or required.

The EPA promulgated a Federal Implementation Plan (FIP), which became final on September 18, 2012 (77 FR 57864), to address regional haze requirements for the State of Montana.

b. EPA Analysis: The State has demonstrated that it has the authority and rules in place to provide a process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal Land Manager having authority over federal land to which the SIP applies, consistent with the requirements of CAA section 121. Furthermore, Montana's EEAP, approved into the SIP, meets the general requirements of CAA section 127.

Turning to the requirement in section 110(a)(2)(J) that the SIP meet the applicable requirements of part C of title I of the Act, EPA has evaluated this requirement in the context of infrastructure element (C) in section IV.3 above. As discussed there, EPA proposes to disapprove Montana's infrastructure SIP for the requirement in 110(a)(2)(C) that the SIP include a permit program as required in part C, on the basis that Montana's SIP-approved PSD program does not properly regulate nitrogen oxides as an ozone precursor. For the same reason, EPA proposes to disapprove Montana's infrastructure SIP with regard to the requirement in section 110(a)(2)(J) that the SIP meet the applicable requirements of part C of title I the Act.

Finally, with regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the Act. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective.

We propose to find that the Montana SIP meets the requirements of section 110(a)(2)(J) for the 1997 and 2006 $PM_{2.5}$ NAAQS with regard to sections 121 and 127 of the Act, and does not meet the requirements of section 110(a)(2)(J) for the 1997 and 2006 $PM_{2.5}$ NAAQS with regard to meeting the applicable requirements of part C relating to PSD.

10. Air quality and modeling/data: Section 110(a)(2)(K) requires that each SIP provide for:

> (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a [NAAQS]; and
>
> (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite Title 17, Chapter 8, subchapters 7 (60 FR 3615), 8 (60 FR 36715), 9 (60 FR 36715), and 10 (60 FR 36715), ARM (regulating construction of new or modified major stationary sources consistent with PSD and NSR requirements). Sources subject to these provisions shall demonstrate the facility can be expected to operate in compliance with applicable law and that it will not cause or contribute to a violation of any NAAQS.

Absent any privacy restrictions regarding the release of proprietary business information, all preconstruction data and analysis regarding the results of source predictive modeling for purposes of NAAQS compliance is public information available for anyone, including EPA, to review upon request.

b. EPA Analysis: Montana's SIP meets the requirements of CAA section 110(a)(2)(K) for the 1997 and 2006 $PM_{2.5}$ NAAQS. In particular, Montana's approved PSD program (see ARM 17.8.821(1)) requires estimates of ambient air concentrations to be based on the applicable air quality models, databases, and other requirements specified in appendix W of 40 CFR part 51, pertaining to the Guidelines on Air Quality Models. As a result, the SIP provides for such air quality modeling as the Administrator has prescribed with respect to the SIP outside of the nonattainment context.

11. Permitting fees: Section 110(a)(2)(L) directs SIPs to:

> Require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this act, a fee sufficient to cover—
>
> (i) the reasonable costs of reviewing and acting upon any application for such a permit, and
>
> (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under [title] V * * *

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite an approved Title V permitting program. Montana requires an applicant proposing to construct or modify an air pollution source to pay an application fee, ARM 17.8.504 (State rule only). Sources must also pay an annual operation fee, ARM 17.8.505 (State rule only).

b. EPA Analysis: Montana's approved title V operating permit program meets the requirements of CAA section 110(a)(2)(L) for the 1997 and 2006 $PM_{2.5}$ NAAQS. As discussed in the Direct Final Rule approving the State's title V program (65 FR 37049, June 13, 2000), the State demonstrated that the fees collected were sufficient to administer the program.

12. 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.

a. Montana's response to this requirement: The State's submissions for the 1997 and 2006 $PM_{2.5}$ infrastructure requirements cite Section 75–2–112(2)(j) of the MT CAA which requires the Department to ''. . . advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate and interlocal agencies, the United States, and any interested persons or groups; . . .''

As a matter of practice, the Department consults with the local agencies when nec . . . essary to implement a control plan for a nonattainment area. The Department also meets with county/local air pollution control program staff and discusses monitoring issues, including monitoring for $PM_{2.5}$, prior to making decisions regarding monitoring needs, monitor type, locations, and monitoring schedules.

Parties affected by Department actions, including local political subdivisions, may petition the BER for a hearing and address of their grievances, see ARM 17.8.140 (66 FR 42427), 17.8.141 (66 FR 42427), and 17.8.142 (66 FR 42427).

b. EPA Analysis: Montana's submittal meets the requirements of CAA section 110(a)(2)(M) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

VI. What action is EPA taking?

In this action, EPA is proposing to approve the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$ NAAQS: (A), (C) with respect to the requirement to have a minor NSR program that addresses $PM_{2.5}$; (E)(i), (E)(iii), (F), (G), (H), (J) with respect to the requirements of sections 121 and 127, (K), (L), and (M). EPA is proposing to disapprove the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$ NAAQS: (E)(ii) concerning requirements for state boards under section 128; and elements (C) and (J) with respect to the requirement to have a PSD program that meets the requirements of part C of Title I of the Act. Finally, in this action, EPA is taking no action on infrastructure element (D) for the 1997 and 2006 $PM_{2.5}$ NAAQS as that element will be acted on separately.

VII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: May 2, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2013–11293 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2011–0726; FRL–9813–1]

Approval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards; Prevention of Significant Deterioration Requirements for $PM_{2.5}$ Increments and Major and Minor Source Baseline Dates; State Board Requirements; North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP) submission from the State of North Dakota to demonstrate that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for particulate matter less than or equal to 2.5 micrometers (μm) in diameter ($PM_{2.5}$) on July 18, 1997 and on October 17, 2006. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIP to ensure that it meets the requirements of the ''infrastructure elements'' necessary to implement the new or revised NAAQS. On May 25, 2012, North Dakota submitted a certification of their infrastructure SIP for the 1997 $PM_{2.5}$ NAAQS. On August 12, 2010 and May 22, 2012, North Dakota submitted certifications of their infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS. We are also proposing to approve two submissions from North Dakota that revise the SIP to address particular infrastructure elements. First, the State submitted revisions to the North Dakota Air Pollution Control Rules (NDAC) on

January 24, 2013 that will update the Prevention of Significant Deterioration (PSD) program by adopting by reference federal provisions as they exist as of January 1, 2012, which reflect the requirements of the 2010 $PM_{2.5}$ Increment Rule. Second, on April 2, 2013, the State submitted revisions to the section of the SIP concerning state boards. EPA will act separately on certain requirements of the CAA relating to interstate transport of air pollution for the 2006 $PM_{2.5}$ NAAQS.

DATES: Written comments must be received on or before June 12, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2011–1726, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: ayala.kathy@epa.gov*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2011–0726. 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.* For additional instructions on submitting comments, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

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 Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in 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, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kathy Ayala, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6142, *ayala.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

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

(ii) The initials *CBI* mean or refer to confidential business information.

(iii) The word *Department* means or refers to the North Dakota Department of Health.

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

(v) The initials *FIP* mean or refer to a Federal Implementation Plan.

(vi) The initials *GHG* mean or refer to greenhouse gases.

(vii) The initials *NAAQS* mean or refer to national ambient air quality standards.

(viii) The initials *NDAC* mean or refer to the North Dakota Air Pollution Control Rules.

(ix) The initials *NDCC* mean or refer to the North Dakota Century Code.

(x) The initials NO_X mean or refer to nitrogen oxides.

(xi) The initials *NSR* mean or refer to new source review.

(xii) The initials *PM* mean or refer to particulate matter.

(xiii) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers (fine particulate matter).

(xiv) The initials *ppm* mean or refer to parts per million.

(xv) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

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

(xvii) The initials *SSM* mean or refer to start-up, shutdown, or malfunction.

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I. General Information

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

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Background

On July 18, 1997, EPA promulgated new NAAQS for particulate matter less than or equal to 2.5 micrometers (μm) in diameter ($PM_{2.5}$). Two new $PM_{2.5}$ standards were added, set at 15 μg/m^3, based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentration from single or multiple community-oriented monitors, and 65 μg/m^3, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area. In addition, the 24-hour PM_{10} standard was revised to be based on the 99th percentile of 24-hour PM_{10} concentration at each monitor within an area (62 FR 38652).

On October 17, 2006 EPA promulgated a revised NAAQS for $PM_{2.5}$, tightening the level of the 24-hour $PM_{2.5}$ standard to 35 μg/m^3 and retaining the level of the annual $PM_{2.5}$ standard at 15 μg/m^3. EPA also retained the 24-hour PM_{10} standard and revoked the annual PM_{10} standard (71 FR 61144).

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised standard. Section 110(a)(2) provides basic requirements for SIPs, including emissions inventories, monitoring, and modeling, to assure attainment and maintenance of the standards. These requirements are set out in several ''infrastructure elements,'' listed in section 110(a)(2).

Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, and the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 and 2006 $PM_{2.5}$ NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous NAAQS.

III. What is the scope of this rulemaking?

This rulemaking will not cover four substantive issues that are not integral to acting on a state's infrastructure SIP submission: (1) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (2) 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''); (3) 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, (4) 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''). Instead, EPA has indicated that it has other authority to address any such existing SIP defects in other rulemakings, as appropriate. 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, ''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?'' (*see* 76 FR 41075 at 41076—41079).

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

Section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These infrastructure elements include requirements such as modeling, monitoring, and emissions inventories, which are designed to assure attainment and maintenance of the NAAQS. The elements that are the subject of this action are listed below.

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate authority, conflict of interest, and oversight of local governments and regional agencies.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency powers.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

A detailed discussion of each of these elements is contained in the next section. Element 110(a)(2)(D)(i)(I), Interstate transport of pollutants which contribute significantly to nonattainment in, or interfere with maintenance by, any other state will be acted upon in a separate action.

Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) and are therefore not addressed in this action. These elements relate to part D of Title I of the CAA, and submissions to satisfy them are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the same time nonattainment area plan requirements are due under section 172. The two elements are: (1) Section 110(a)(2)(C) to the extent it refers to permit programs (known as ''nonattainment new source review (NSR)'') required under part D, and (2) section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address infrastructure elements related

to the nonattainment NSR portion of section 110(a)(2)(C) or related to 110(a)(2)(I).

V. How did North Dakota address the infrastructure elements of sections 110(a)(1) and (2)?

1. Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of the Act.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite provisions of the North Dakota Air Pollution Control Rules (NDAC), Chapter 33–15, which establishes control requirements for particulate matter and $PM_{2.5}$ precursors. In addition, the State cites the North Dakota Century Code (NDCC), Chapter 23–25, Air Pollution Control, in Section 23–25–03 which provides the general authority to regulate sources of $PM_{2.5}$.

b. EPA analysis: First, this infrastructure element does not require the submittal of regulations or emission limitations developed specifically for attaining the 1997 and 2006 $PM_{2.5}$ NAAQS, and North Dakota has no areas designated as nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS. Nonetheless, the North Dakota SIP contains provisions for control of particulate matter (NDAC 33–15–05). The State also regulates emissions of $PM_{2.5}$ and its precursors through the SIP-approved PSD and minor NSR programs. This suffices, in the case of North Dakota, to meet the requirements of section 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

2. Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to ''(i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.''

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDCC 23–25–03 which provides the authority for the North Dakota Department of Health (Department) to conduct ambient air monitoring. In addition, the State cites the Annual Network Monitoring Plans for 2009 and 2011 which provide for an ambient air quality monitoring system in the State.

b. EPA analysis: North Dakota's air monitoring program and data systems meet the requirements of CAA section 110(a)(2)(B) for the 1997 and 2006 $PM_{2.5}$ NAAQS. The North Dakota Division of Air Quality's (DAQ) 2012 Ambient Air Annual Monitoring Network Plan was received by EPA on February 14, 2013 and approved on April 4, 2013. The plan meets current requirements for monitoring of $PM_{2.5}$.

3. Program for enforcement of control measures: Section 110(a)(2)(C) requires SIPs to include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDAC, chapters 33–15–14–02 (Permit to Construct), 33–15–15 (PSD), 33–15–14–03 (Minor Source Permit to Operation), and 33–15–14–06 (Title V Permit to Operate). In addition the State cites NDCC 23–25–03.6 and 23–25–04.1, which authorizes the State permitting programs.

b. EPA analysis: To generally meet the requirements of section 110(a)(2)(C), the State is required to have SIP-approved PSD, nonattainment NSR, and minor NSR permitting programs adequate to implement the 1997 and 2006 $PM_{2.5}$ NAAQS. As explained above, in this action EPA is not evaluating nonattainment related provisions, such as the nonattainment NSR program required by part D of the Act. EPA is evaluating the State's PSD program as required by part C of the Act, and the State's minor NSR program as required by 110(a)(2)(C).

PSD Requirements

North Dakota has a SIP-approved PSD program that meets the general requirements of part C of the Act (51 FR 31125). To satisfy the particular requirements of section 110(a)(2)(C), states should have a PSD program that applies to all regulated NSR pollutants, including greenhouse gases (GHGs). See 40 CFR 51.166(b)(48) and (b)(49). The PSD program should reflect current requirements for these pollutants. In particular, for three pollutants—ozone, $PM_{2.5}$, and GHGs—there are additional regulatory requirements (set out in portions of 40 CFR 51.166) that we consider in evaluating North Dakota's PSD program. In the rulemakings in which EPA revised the requirements in 40 CFR 51.166 for these pollutants, EPA also updated the federal PSD program at 40 CFR 52.21 accordingly. North Dakota implements the PSD program by, for the most part, incorporating by reference the federal PSD program as it existed on a specific date. The State periodically updates the PSD program by revising the date of incorporation by reference and submitting the change as a SIP revision. As a result, the SIP revisions generally reflect changes to PSD requirements that EPA has promulgated prior to the revised date of incorporation by reference.

In particular, on June 3, 2010 (75 FR 31291), we approved a North Dakota SIP revision that revised the date of incorporation by reference of the federal PSD program to August 1, 2007. That revision addressed the PSD requirements of the Phase 2 Ozone Implementation Rule promulgated in 2005 (70 FR 71612). As a result, the approved North Dakota PSD program meets current requirements for ozone.

Similarly, on October 23, 2012 (77 FR 64736), we approved a North Dakota SIP revision that revised the date of incorporation by reference of the federal PSD program to July 2, 2010. As explained in the notice for that action, that revision addressed the PSD requirements related to GHGs provided in EPA's June 3, 2010 ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (75 FR 31514). The approved North Dakota PSD program thus also meets current requirements for GHGs.

For $PM_{2.5}$, EPA has promulgated two relevant rules. The first, promulgated in 2008, addresses (among other things) treatment of $PM_{2.5}$ precursors in PSD programs. The second, promulgated in 2010, establishes (among other things) increments for $PM_{2.5}$. As we discuss next, both rules have been the subject of recent litigation.

On January 4, 2013, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013), issued a judgment that remanded EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. The court ordered EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' *Id.* at 437. Subpart 4 of Part D, Title 1 of the CAA establishes additional provisions for particulate matter nonattainment areas.

The 2008 implementation rule addressed by the court decision, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' (May 16, 2008, 73 FR 28321), promulgated NSR requirements for implementation of $PM_{2.5}$ in nonattainment areas (nonattainment

NSR) and attainment/unclassifiable areas (PSD). As the requirements of Subpart 4 only pertain to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 rule in order to comply with the court's decision. Accordingly, EPA's approval of North Dakota's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

The court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the Act to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due 3 years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

As mentioned above, EPA previously approved a North Dakota SIP revision that revised the date of incorporation by reference of the federal PSD program to July 2, 2010. This SIP revision also addressed the requirements of the 2008 $PM_{2.5}$ NSR implementation rule. See 77 FR 64736. The remaining PSD requirement for $PM_{2.5}$ is contained in EPA's October 20, 2010 rule, ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (75 FR 64864). EPA regards adoption of the $PM_{2.5}$ increments as a necessary requirement when assessing a PSD program for the purposes of element (C).

The $PM_{2.5}$ increments have not been approved into North Dakota's SIP, as the last approved date of incorporation by reference of the federal PSD program is July 2, 2010, prior to promulgation of the $PM_{2.5}$ increments. The State of North Dakota submitted revisions to chapter 33–15–15–01.2, Scope, of the NDAC on January 24, 2013 that adopt the $PM_{2.5}$ increments by incorporating by reference the federal PSD program at 40 CFR part 52, section 21, as it existed on January 1, 2012.

We propose to approve portions of the January 24, 2013 submittal that are necessary to incorporate the increments into the SIP. Specifically, we propose to approve the incorporation by reference of 40 CFR part 52, section 21, paragraphs (b)(14)(i), (ii), (iii), (b)(15)(i), (ii), and paragraph (c) as those paragraphs existed on January 1, 2012. These paragraphs provide the major source baseline date, the minor source baseline date, and the increments for $PM_{2.5}$. At this time we are not proposing to act on any other portions of the January 24, 2013 submittal, including the incorporation by reference of SILs and SMCs for $PM_{2.5}$.

With the partial approval of the January 24, 2013 submittal, the North Dakota PSD program will meet current requirements for all regulated NSR pollutants. As a result, we also propose to approve the North Dakota infrastructure SIP for element (C) for the 1997 and 2006 $PM_{2.5}$ NAAQS with respect to PSD requirements.

Minor NSR

The State has a SIP-approved minor NSR program, adopted under section 110(a)(2)(C) of the Act. The State and EPA have relied on the State's existing minor NSR program to assure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS.

In this action, EPA is proposing to approve North Dakota's infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the State's existing minor NSR program itself to the extent that it may be inconsistent with EPA's regulations governing this program. A number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

4. Interstate Transport: Section 110(a)(2)(D)(i) is subdivided into four ''prongs,'' two under 110(a)(2)(D)(i)(I) and two under 110(a)(2)(D)(i)(II). The two prongs under 110(a)(2)(D)(i)(I) require SIPs to contain adequate provisions to prohibit emissions that (prong 1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, or (prong 2) interfere with maintenance by any other state with respect to the same NAAQS. The two prongs under 110(a)(2)(D)(i)(II) require SIPs to contain adequate provisions to prohibit emissions that 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. As noted, we are not acting on the requirements of section 110(a)(2)(D)(i)(I) (prongs 1 and 2), or the visibility requirement (prong 4) of section 110(a)(2)(D)(i)(II) in this proposed rulemaking.

a. North Dakota's response to this requirement: The State's 2006 $PM_{2.5}$ submission [1] addressing interstate transport cites NDAC chapters 33–15–15 (PSD), 33–15–19 (Visibility Protection), 33–15–25 (Regional Haze Requirements), SIP Section 7.8 (Interstate Transport of Air Pollution), and the North Dakota SIP for Regional Haze (February 24, 2010). In addition, the State cites NDCC 23–25–03 which provides the authority for the Department to conduct an air quality control program.

b. EPA Analysis: With regard to the PSD portion of section 110(a)(2)(D)(i)(II), this requirement may be met by the State's confirmation in an infrastructure SIP submission that new major sources and major modifications in the State are subject to a PSD program meeting all the relevant requirements of part C of title I of the CAA or (if the state contains a nonattainment area for the relevant pollutant) to a NNSR program that implements the 2006 $PM_{2.5}$ NAAQS. As discussed in more detail with respect to section 110(a)(2)(C), with approval of the $PM_{2.5}$ increments, North Dakota's SIP will contain a PSD program that reflects the relevant PSD requirements. Accordingly, in this action EPA is proposing to approve the infrastructure SIP submission as meeting the

[1] EPA has already taken final action on prong 3 of section 110(a)(2)(D)(i) for the 1997 $PM_{2.5}$ NAAQS. See 75 FR 31290.

applicable requirements of prong 3 of section 110(a)(2)(D)(i).

5. Interstate and International transport provisions: Section 110(a)(2)(D)(ii) requires that each SIP shall contain adequate provisions insuring compliance with applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).

a. North Dakota's response to this requirement: The North Dakota PSD rules provide for notifying neighboring states whose land may be significantly affected by emissions from a new or modified source. NDAC 33–15–15–01.2(q)(2)(d) states:

> NDAC–33–15–15–01.2(q)(2)(d)—Send a copy of the notice required in subparagraph c to the applicant, the United States environmental protection agency administrator, and to officials and agencies having cognizance over the location where the source or modification will be situated as follows: The chief executive of the city and county where the source or modification would be located; any comprehensive regional land use planning agency; and any state, federal land manager, or Indian governing body whose lands may be significantly affected by emissions from the source or modification.

Similar notification requirements are provided for minor sources under NDAC 33–15–14–02.6.b(4).

All PSD permit applications are provided to EPA within thirty days of receipt. This includes sources that could affect air quality in Canada. The draft PSD permits, the Air Quality Effects Analyses and the final permits are also submitted to EPA.

b. EPA Analysis: Section 126(a) of the CAA requires notification to affected, nearby states of major proposed new (or modified) sources. Sections 126(b) and (c) pertain to petitions by affected states to the Administrator regarding sources violating the ''interstate transport'' provisions of section 110(a)(2)(D)(i). Section 115 of the CAA similarly pertains to international transport of air pollution.

With regard to section 126(a), North Dakota's SIP-approved PSD program requires notice of proposed new sources or modifications to states whose lands may be significantly affected by emissions from the source or modification (see NDAC 33–15–15–01.2(q)(2)(d)). This provision satisfies the notice requirement of section 126(a).

North Dakota has no pending obligations under sections 126(c) or 115(b); therefore, its SIP currently meets the requirements of those sections. The SIP therefore meets the requirements of 110(a)(2)(D)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

6. Adequate resources and authority*:* Section 110(a)(2)(E) requires states to provide ''(i) necessary assurances that the state 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)'' and ''(iii) necessary assurances that, 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.''

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDAC 33–15–23 (regulatory mechanism for paying fees), the NDCC 23–25–04.2 (statutory for collecting fees), and the NDCC 23–25–03 (authority to carry out the requirements of the SIP). Resources for the operation of the air pollution control program are addressed in Section 9 of the SIP (updated April 2009) and the State references section 2.11 of the SIP which addresses legal authority by the Department to collect fees necessary to implement the program.

b. EPA Analysis: North Dakota's SIP meets the requirements of section 110(a)(2)(E)(i) for the 1997 and 2006 $PM_{2.5}$ NAAQS. The NDCC 23–25–04 provides adequate authority for the State of North Dakota to carry out its SIP obligations with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS. The State receives sections 103 and 105 grant funds through its Performance Partnership Grant along with required state matching funds to provide funding necessary to carry out North Dakota's SIP requirements.

Finally, with respect to section 110(a)(2)(E)(iii), North Dakota has not assigned responsibility for carrying out portions of the SIP to any local government, agency, or other instrumentality. North Dakota's SIP therefore meets the requirements for this element.

7. State boards: Section 110(a)(2)(E)(ii) requires that the state comply with the requirements respecting state boards under section 128.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDCC 23–01–05 (statutory duties of the State Health Officer). In North Dakota there are no boards or bodies that approve permits or enforcement orders.

b. EPA Analysis:

On September 17, 2012, EPA conditionally approved North Dakota's infrastructure SIP for 110(a)(2)(E)(ii) for the 1997 ozone NAAQS (77 FR 57029). North Dakota committed to submit within one year a SIP revision to address the requirements of section 128 of the Act. On April 8, 2013, EPA received a submittal from the State that revises language in SIP chapter 2, section 15, *Respecting Boards* to include provisions for addressing conflict of interest requirements. We propose to approve that submittal and we correspondingly propose to approve the infrastructure SIP for 110(a)(2)(E)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Section 128 of the Act 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.

As explained in detail in our April 16, 2012 proposal (77 FR 22547) for North Dakota's infrastructure SIP for the 1997 ozone NAAQS, EPA interprets subsection 128(a)(1) to apply only to states that have a board or body with multiple members that, among its duties, approves permits or enforcement orders under the Act. In North Dakota, there is no such multi-member board or body. As a result, North Dakota did not need to submit any provisions to address the requirements of section 128(a)(1).

However, EPA interprets subsection 128(a)(2) to apply to all states, regardless of whether the state has a multi-member board that approves permits or enforcement orders. As a result, 128(a)(2) applies to North Dakota, and, as also explained in the April 16, 2012 proposal, must be met through SIP-approved, federally enforceable provisions.

North Dakota's April 8, 2013 submittal fulfills the commitment made as part of our previous conditional approval for the 1997 ozone NAAQS. The submittal provides disclosure requirements that apply to any person that approves permits or enforcement orders under North Dakota's implementation of the CAA. Any such person must disclose potential conflicts of interest, including the cause of the conflict, in writing to a superior. Conflicts of interest are defined broadly to include any divided loyalty, any conflict between the duties of the

person and the person's self or other interest, and any interest, influence, or relationship that might conflict or even appear to conflict with the best interests of the Department of Health or the State, or that might affect the person's working judgment or loyalty. For the same reasons discussed in detail in our September 17, 2012 notice, we propose to find that these procedures provide adequate disclosure of potential conflicts of interest within the meaning of subsection 128(a)(2).

In summary, EPA proposes to approve North Dakota's April 8, 2013 submittal into the SIP to meet the requirements of section 128 of the Act. We also propose to approve North Dakota's infrastructure SIP with respect to the requirements of Section 110(a)(2)(E)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

8. Stationary source monitoring system*:* Section 110(a)(2)(F) requires ''(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to the Act, which reports shall be available at reasonable times for public inspection.''

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDAC 33–15–14–02.9, NDAC 33–15–14–03.6, and NDAC 33–15–14–06.5 which require monitoring of emissions from stationary sources. In addition, the State cites NDCC 23–25–03 which provides the statutory authority for monitoring.

b. EPA Analysis: NDCC section 23–25–03.10 generally requires monitoring, recordkeeping, and reporting for owners and operators of regulated sources. North Dakota's SIP-approved minor source and PSD programs provide for monitoring, recordkeeping, and reporting requirements for sources subject to minor and major source permitting. North Dakota's SIP therefore meets the requirements of section 110(a)(2)(F) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

9. Emergency powers*:* 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.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite NDAC 33–15–11 (Prevention of Air Pollution Emergency Episodes), which provides the means to implement emergency air pollution episode measures and is authorized by NDCC 23–25–03. In addition, the State cites NDCC 28–32–32 and NDCC 28–25–08, which grant the Department authority to take action in an emergency.

b. EPA analysis: NDAC 33–15–11 and SIP Chapter 5 provide the State with general emergency authority comparable to that in section 303 of the Act. In our 2009 guidance for infrastructure requirements for the 2006 $PM_{2.5}$ NAAQS, we suggested that states that had monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140.4 $\mu g/m^3$, using the most recent three years of data, should develop emergency episode plans for the areas with the monitored values. We also suggested that, if these levels had not been exceeded, states could certify that they had adequate general emergency authority to address $PM_{2.5}$ episodes. In this rulemaking, we view these suggestions as still appropriate in assessing North Dakota's SIP for this element. North Dakota has not monitored any values above the 140.4 $\mu g/m^3$ level for $PM_{2.5}$ for the past three years (e.g., 2009, 2010, and 2011). Since this level was not exceeded in any area of the state and the State has demonstrated that it has appropriate general emergency powers to address $PM_{2.5}$ related episodes, no specific emergency episode plans are necessary at this time. The SIP therefore meets the requirements of 110(a)(2)(G) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

10. Future SIP revisions*:* Section 110(a)(2)(H) requires that SIPs provide for revision of such plan:

> (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and
>
> (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the [SIP] is substantially inadequate to attain the [NAAQS] which it implements or to otherwise comply with any additional requirements under this [Act].

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the NDCC 23–25–03.8 which formulates and promulgates emission control requirements for the prevention, abatement and control of air pollution in the state. In addition, the State also cites Section 3.5 of the SIP which commits the Department to a revision of the control strategy as needed.

b. EPA analysis: EPA approved relevant sections of the North Dakota SIP submitted to EPA April 6, 2009 on September 17, 2012 (77 FR 57029). NDCC section 23–25–03 provides adequate authority for the Department of Health to carry out such revisions. EPA therefore finds that the State has sufficient authority to meet the requirements of 110(a)(2)(H).

11. Consultation with government officials, public notification, PSD and visibility protection: Section 110(a)(2)(J) requires that each SIP ''meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to PSD of air quality and visibility protection).''

a. North Dakota's response to this requirement: *Consultation with government officials:* The State's 1997 and 2006 $PM_{2.5}$ submissions cite the public participation procedures in the NDAC 33–15–14–02.6 for preconstruction review for minor sources. In addition, the State cites paragraph (q) of NDAC 33–15–15–01.2 for sources subject to PSD review. Consultation with Federal Land Managers (FLMs) for PSD projects is accomplished in accordance with 40 CFR 52.21 (p) which is incorporated by reference into NDAC 33–15–15–01.2. For enforcement orders, the requirements of NDCC 23–25–08 and NDCC 28–32 are followed. Consultation with other government agencies is addressed in Chapter 10 of the SIP.

Public notification: The State cites the ND SIP Section 6.9 which commits the Department to notification of the public during ambient air quality standard exceedances. The authority for this notification is found in NDCC 23–25–06. In addition, NDAC 33–15–11–03.1 requires the Department to notify the public during air pollution emergencies.

PSD and visibility protection: The State cites adoption of the Federal PSD rule by reference as they exist on August 1, 2007 and July 2, 2012. The Department is in the process of adopting the PSD rules as they exist on July 1, 2012. This will incorporate all existing requirements for $PM_{2.5}$. The ''Tailoring Rule'' for greenhouse gases has been adopted into North Dakota PSD rules (April 2011) and PSD applicants must address applicable requirements for greenhouse gases.

Additionally, the State has a SIP in place to address visibility for major source (PSD) permitting (NDAC 33–15–15), specific visibility impairment (RAVI), and plume blight (NDAC 33–15–19).

b. EPA Analysis:

The State has demonstrated that it has the authority and rules in place to provide a process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal Land Manager having authority over federal land to which the SIP applies, consistent with the requirements of CAA section 121. EPA previously approved portions of the North Dakota SIP as meeting the requirements of CAA section 127 (45 FR 53475, Aug. 12, 1980).

As discussed above, the State has a SIP-approved PSD program that (for the most part) incorporates by reference the federal program at 40 CFR 52.21. These revisions are located in chapter 33–15–15–01.2 of the NDAC. EPA has further evaluated North Dakota's SIP-approved PSD program in this proposed action under IV.3, element 110(a)(2)(C). As stated there, with the approval of the $PM_{2.5}$ increments into the North Dakota SIP, the SIP-approved PSD program meets all relevant requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS.

Finally, with regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the Act. In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there are no applicable visibility requirements under section 110(a)(2)(J) when a new NAAQS becomes effective. In conclusion, the North Dakota SIP meets the requirements of section 110(a)(2)(J) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

12. Air quality and modeling/data: Section 110(a)(2)(K) requires that each SIP provide for:

> (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a [NAAQS], and
>
> (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite Section 7.7 of the ND SIP which addresses air quality modeling. Modeling for minor sources is addressed in NDAC 33–15–14–02.4 and modeling for major PSD sources in 40 CFR 52.21(k), (l), (m), (n) and (o) as incorporated into NDAC 33–15–15–01.2. NDCC 23–25–03 provides authority for requiring modeling.

b. EPA Analysis: North Dakota's SIP meets the requirements of CAA section 110(a)(2)(K) for the 1997 and 2006 $PM_{2.5}$ NAAQS. In particular, North Dakota's PSD program requires estimates of ambient air concentrations be based on applicable air quality models specified in Appendix W of 40 CFR part 51, and incorporates by reference the provision at 40 CFR 52.21(l)(2) requiring that modification or substitution of a model specified in Appendix W must be approved by the Administrator. As a result, the SIP provides for such air quality modeling as the Administrator has prescribed.

13. Permitting fees: Section 110(a)(2)(L) requires SIPs to:

> require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this act, a fee sufficient to cover—
>
> (i) the reasonable costs of reviewing and acting upon any application for such a permit, and
>
> (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),
>
> until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under [title] V.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite NDAC 33–15–23 which establishes fees for processing Permit to Construct applications, annual operating fees for minor sources, and fees for major sources under the Title V Permit to Operate program. NDCC 23–25–04.2 provides authority for the fees.

b. EPA Analysis: North Dakota's submittal meets the requirements of CAA section 110(a)(2)(L) for the 1997 and 2006 $PM_{2.5}$ NAAQS. Final approval of the title V operating permit program became effective June 17, 1999 (64 FR 32433). As discussed in that approval, the State demonstrated that the fees collected were sufficient to administer the program. In addition, the SIP contains fee provisions for construction permits (NDAC 33–15–23–02), including costs of processing not covered by the application fee.

14. 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.

a. North Dakota's response to this requirement: The State's 1997 and 2006 $PM_{2.5}$ submissions cite the ND SIP, Chapter 10 which addresses the consultation process the Department will use to coordinate with local political subdivisions that are affected by any SIP revisions, and NDCC 23–25–03 which also requires consultation. The State also cites NDCC 23–25–02.6 (public notice).

b. EPA Analysis: North Dakota's submittal meets the requirements of CAA section 10(a)(2)(M) for the 1997 and 2006 $PM_{2.5}$ NAAQS.

VI. What action is EPA taking?

In this action, EPA is proposing to approve the following infrastructure elements for the 1997 and 2006 $PM_{2.5}$ NAAQS: (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are proposing to approve (D)(i)(II) with respect to PSD requirements for the 2006 $PM_{2.5}$ NAAQS. EPA is also proposing to approve a portion of the State's January 24, 2013 submittal revising the State's PSD program: specifically, the incorporation by reference of 40 CFR part 52, section 21, paragraphs (b)(14)(i),(ii),(iii), (b)(15)(i),(ii), and paragraph (c) as those paragraphs existed on January 1, 2012. Additionally, EPA is proposing to approve the April 8, 2013 submittal of revisions to Chapter 2, Section 2.15 into the North Dakota SIP. Finally, EPA will act separately on infrastructure element (D)(i)(I) for the 2006 $PM_{2.5}$ NAAQS.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 USC 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 USC 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 USC 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 (Public Law 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 USC 272 note) because application of those requirements would be inconsistent with the CAA; and,

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

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

List of Subjects in 40 CFR Part 52

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

Dated: May 2, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

[FR Doc. 2013–11289 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2010–0173; FRL–9385–6]

RIN 2070–AJ56

Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Notice of Public Meeting and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting and reopening of comment period.

SUMMARY: In 2010, EPA issued an advance notice of proposed rulemaking (ANPRM) concerning renovation, repair, and painting activities in public and commercial buildings. EPA is in the process of determining whether these activities create lead-based paint hazards, and, for those that do, developing certification, training, and work practice requirements as directed by the Toxic Substances Control Act (TSCA). This document announces a public meeting on June 26, 2013, and reopens the comment period for the December 31, 2012 **Federal Register** document to allow for additional data and other information to be submitted by the public and interested stakeholders.

DATES: The public meeting will be held on June 26, 2013, from 8:30 a.m. to 12:30 p.m. Requests to participate in the meeting must be received on or before June 3, 2013.

To request accommodation of a disability, please contact the technical person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Comments must be received on or before July 12, 2013. For additional information on timeframes for submission of comments, see Unit II. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Room 1153, EPA East Bldg., 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Requests to participate in the meeting, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0173, must be submitted to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Submit your comments, identified by docket ID number EPA–HQ–OPPT–2010–0173, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Hans Scheifele, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3122; email address: *scheifele.hans@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This document is directed to the public in general. However, you may be potentially affected by this action if you manage or perform renovations, repairs, or painting activities on the exterior or interior of public buildings or commercial buildings. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Other types of entities not listed may also be affected. Potentially affected entities may include:

• Building construction (NAICS code 236), e.g., commercial building construction, industrial building construction, commercial and institutional building construction, building finishing contractors, drywall and insulation contractors, painting and wall covering contractors, finish carpentry contractors, other building finishing contractors.

• Specialty trade contractors (NAICS code 238), e.g., plumbing, heating, and air-conditioning contractors; painting and wall covering contractors; electrical contractors; finish carpentry contractors; drywall and insulation contractors; siding contractors; tile and terrazzo contractors; glass and glazing contractors.

• Real estate (NAICS code 531), e.g., lessors of non-residential buildings and dwellings, non-residential property managers.

• Other general government support (NAICS code 921), e.g., general services

departments, public property management services, government.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket ID number EPA–HQ–OPPT–2010–0173, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

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

ii. Follow directions. Follow the detailed instructions as provided under **ADDRESSES**.

iii. Respond to specific questions posed by the Agency.

iv. Describe any assumptions and provide any technical information and/or data that you used or that would substantiate your concern.

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

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

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

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

II. Background

Title IV of TSCA, 15 U.S.C. 2681 *et seq.,* was enacted to assist the Federal Government in reducing lead exposures, particularly those resulting from lead-based paint. Section 402(c)(3) of TSCA specifically requires EPA to revise its Lead-based Paint Activities Regulations (Ref. 1), promulgated under TSCA section 402(a), to apply to those renovation and remodeling activities in target housing, public buildings constructed before 1978, or commercial buildings that create lead-based paint hazards. In April 2008, EPA issued the final Lead Renovation, Repair, and Painting (RRP) Rule under TSCA section 402(c)(3) (Ref. 2). The RRP Rule covers renovation, repair, and painting activities in target housing, which is most pre-1978 housing, and child-occupied facilities, defined in the rule as a subset of public and commercial buildings in which young children spend a significant amount of time.

Shortly after the RRP Rule was published, several lawsuits were filed challenging the rule, asserting, among other things, that EPA violated TSCA section 402(c)(3) by failing to address renovation activities in public and commercial buildings. These lawsuits (brought by environmental and children's health advocacy groups as well as a homebuilders association) were consolidated in the Circuit Court of Appeals for the District of Columbia Circuit. EPA engaged in collective settlement negotiations with all the parties and on August 24, 2009, EPA entered into an agreement with environmental and children's health advocacy groups in settlement of their lawsuits (Ref. 3). Shortly thereafter, the homebuilders association voluntarily dismissed its challenge to the rule. As part of this settlement agreement, EPA agreed to commence rulemaking to address renovations in public and commercial buildings, other than child-occupied facilities, to the extent such renovations create lead-based paint hazards. As an initial step, EPA issued an ANPRM in the **Federal Register** on renovations in public and commercial buildings on May 6, 2010 (Ref. 4).

The settlement agreement has been amended and modified several times primarily to extend deadlines in the agreement, with the most recent amendment having been entered into by the parties on September 7, 2012. Under the terms of the amended settlement agreement, the date by which EPA has agreed to either sign a proposed rule covering renovation, repair, and painting activities in public and commercial buildings, or determine that these activities do not create lead-based paint hazards, is July 1, 2015. If EPA publishes a proposed rule in the **Federal Register**, EPA agrees to take final action on or before the date 18 months after the proposed rule has published.

In addition, EPA agreed to hold a public meeting on or before July 31, 2013, and offer an opportunity for stakeholders and other interested members of the public to provide data and other information that EPA may use in making its regulatory determinations. On December 31, 2012, EPA announced its intention to hold a public meeting on public and commercial building renovations and opened a comment period to offer interested stakeholders another opportunity to provide information and data that EPA could use to make regulatory decisions in this area (Ref. 5). EPA specifically requested information on the following:

1. The manufacture, sale, and uses of lead-based paint after 1978.

2. The use of lead-based paint on public and commercial buildings.

3. The frequency and extent of renovations of public and commercial buildings.

4. Work practices used to renovate public and commercial buildings.

5. Dust generation and transportation from exterior and interior renovations of public and commercial buildings.

With this document, EPA is announcing that the public meeting will be held on June 26, 2013, from 8:30 a.m. to 12:30 p.m. at the location provided under **ADDRESSES**. EPA has developed a discussion guide for the meeting that includes a description of the information received during the comment period earlier this year. The discussion guide has been placed in the docket for this action, docket ID number EPA–HQ–OPPT–2010–0173, and is available on EPA's Web site at *http://www.epa.gov/lead/rrp/index.html.* The discussion guide can also be obtained from the National Lead Information Center by calling 1–800–424–LEAD (5323) or from the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

EPA is also reopening the comment period for the December 31, 2012 **Federal Register** document (Ref. 5) to allow interested parties to submit additional relevant information and data before the public meeting, although EPA is not planning to update the discussion guide to reflect any information submitted at this time. The reopened comment period will stay open through the public meeting on June 26, 2013, and continue to remain open until July 12, 2013 to accommodate written follow-up comments that participants or the general public wish to submit after the public meeting. Comments will be accepted regardless of whether the submitter participates in the public meeting.

III. References

As indicated under **ADDRESSES**, a docket has been established for this document under docket ID number EPA–HQ–OPPT–2010–0173. The following is a list of the documents that are specifically referenced in this document. The docket includes these documents and other information including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL–5389–9).

2. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (73 FR 21692, April 22, 2008) (FRL–8355–7).

3. EPA. Sierra Club, etc. Settlement, as amended and modified (2009, 2011, and 2012).

4. EPA. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Advance Notice of Proposed Rulemaking. **Federal Register** (75 FR 24848, May 6, 2010) (FRL–8823–6).

5. EPA. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Request for Information and Advance Notice of Public Meeting. **Federal Register** (77 FR 76996, December 31, 2012) (FRL–9373–7).

List of Subjects in 40 CFR Part 745

Environmental protection, Buildings and facilities, Business and industry, Lead-based paint, Hazardous substances, Public and commercial buildings, Occupational safety and health, Renovation, Repair, and Painting Program (RRP), Safety.

Dated: May 6, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–11316 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–192

[FMR Case 2008–102–4; Docket 2008–0001; Sequence 1]

RIN 3090–AI79

Federal Management Regulation (FMR); Mail Management; Financial Requirements for All Agencies

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to amend the Federal Management Regulation (FMR) by revising its mail management policy. A major part of the proposed revision involves the removal of the agency requirement to pay the United States Postal Service (USPS) using commercial payment processes. This proposed rule also revises the term ''commercial payment process'', removes the definition ''large agency'', requires all agencies to provide an annual mail management report, changes the date of the annual report, removes the description of facility and program mail manager responsibilities, recommends all agencies implement the process of consolidation of mail and requires all agencies to expand existing mail security policy to include guidance for employees receiving incoming and sending outgoing official mail at an alternative worksite. Finally, this proposed rule encourages agencies to increase sustainable activities in their mail programs, and makes editorial and technical corrections. This case is included in GSA's retrospective review of existing regulations under Executive Order 13563. Additional information is available at *www.gsa.gov/improvingregulations.*

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before July 12, 2013 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FMR Case 2008–102–4 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FMR Case 2008–102–4''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FMR Case 2008–102–4'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FMR Case 2008–102–4, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Derrick Miliner, Office of Governmentwide Policy, Mail Management Program, at 202–273–3564, or email him at *derrick.miliner@gsa.gov*. Please cite FMR case 2008–102–4. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, 202–501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

On June 6, 2002, GSA published an interim rule in the **Federal Register** (67 FR 38899) that required all payments to the United States Postal Service (USPS) be made using commercial payment processes, not the Official Mail Accounting System (OMAS). The initial conversion date of October 1, 2003, was subsequently changed to December 31, 2003 by an amendment published in the **Federal Register** on September 29, 2003 (68 FR 56112). Many agencies unfortunately were not able to meet this goal.

If agencies did not convert to the commercial payment process by that date, they were required to submit a deviation request for an extension. If granted, the deviation could last for no longer than a two-year period (per internal GSA policy), at which time agencies would have to request another deviation. FMR Bulletin G–01, published in the **Federal Register** on May 13, 2008 (73 FR 27540), granted a 12 month deviation from April 11, 2008 through April 13, 2009 for conversion to the commercial payment process. FMR Bulletin G–02 extended the period granted in FMR Bulletin G–01 to April 13, 2010. GSA granted agencies another automatic 12-month deviation and

advised agencies that had unexpired deviations that they did not need to take any additional action because GSA was reassessing the policy. This proposed rule reflects agency comments and GSA's proposed change in policy, namely that agencies would not be required to switch payment systems with the USPS.

A proposed rule was published in the **Federal Register** on January 9, 2009 (74 FR 870), to allow agencies a choice of methods to best show their accountability for mail management. GSA received the following two comments:

1. The Department of State commented that agencies should be allowed to continue using OMAS as long as they can demonstrate savings and detailed accountability as described in 41 CFR part 102–192. For these reasons, the Department of State believes that deviations should still be accepted and granted on a case by case basis.

2. The Social Security Administration proposed that GSA amend subpart B of 41 CFR part 102–192 to include the following language: ''Agencies with locations in areas where post offices cannot support the use of a commercial payment system shall be exempt from part 102–92 subpart B. Additionally, agencies whose mission critical operations would be comprised [*sic*] by converting to a commercial payment process shall be exempt from part 102–192 subpart B.''

The proposed rule published today reflects a new direction that would remove the requirement to pay the USPS using only commercial payment processes. If adopted as a final rule, agencies could continue to pay the USPS using their existing OMAS account. This approach would be consistent with both comments received on the proposed rule published in the **Federal Register** on January 9, 2009 (74 FR 870).

Additionally, publishing this proposed rule allows the opportunity to vet with all agencies several changes that GSA drafted in conjunction with the Federal Mail Executive Council. This new proposed rule allows those impacted, such as small agencies, as well as other interested parties, a period to comment and for GSA to respond to those comments prior to issuing a final rule.

Proposed Changes to 41 CFR Part 102–192

Accordingly, this proposed rule, if adopted as a final rule, would:

1. Remove the agency requirement to pay the USPS using commercial payment processes and redefine the term ''commercial payment process.''

2. Remove the definition of ''large agency,'' which is defined as an agency whose total payments to all mail service providers exceed $1 million per fiscal year.

3. With regard to the annual mail management report:

a. Require all agencies, regardless of size, to provide an annual mail management report. For agencies previously exempt from the reporting requirement (those below the ''large agency'' threshold) that are newly required to report, annual reporting beginning with FY 2013 data will begin in FY 2014.

b. Amend the annual reporting date. The report would be due on October 31 for information covering the previous fiscal year rather than on January 15 for the previous fiscal year.

c. Require agencies to submit an annual mail management report to the Office of Governmentwide Policy, Mail Management Policy, through the Simplified Mail Accountability Reporting Tool (SMART).

d. Point to an FMR bulletin that details the reporting requirements at *www.gsa.gov/fmrbulletin*.

4. Remove the description of facility and program mail manager responsibilities and assign those responsibilities to the agency mail manager, who may choose to delegate part or all of these responsibilities.

5. Recommend all agencies implement the process of consolidation for internal and external mail.

6. Require all agencies to expand existing mail security policy to include guidance for employees receiving incoming and sending outgoing official mail at an alternative worksite.

7. Encourage agencies to increase sustainable activities in their mail programs.

8. Make editorial and technical corrections.

B. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 of September 30, 1993 (''Regulatory Planning and Review'') and E.O. 13563 of January 18, 2011 (''Improving Regulation and Regulatory Review'') direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits including potential economic, environmental, public health and safety effects, distributive impacts, and equity. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action and, therefore, is not subject to review under Section 6(b) of E.O. 12866. This proposed rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management or personnel.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management or personnel.

List of Subjects in 41 CFR Part 102–192

Government contracts, Mail, Performance measurement, Records management, Reporting recordkeeping requirements, and Security.

Dated: May 1, 2013.

Kathleen M. Turco,

Associate Administrator, Office of Governmentwide Policy.

For the reasons set forth in the preamble, GSA proposes to revise 41 CFR part 102–192 to read as follows:

PART 102–192—MAIL MANAGEMENT

Subpart A—Introduction to This Part

Sec.

102–192.5 What does this part cover?
102–192.10 What authority governs this part?
102–192.15 How are ''I'', ''you'', ''me'', ''we'', and ''us'' used in this part?
102–192.20 How are ''must'' and ''should'' used in this part?
102–192.25 Does this part apply to me?
102–192.30 To what types of mail and materials does this part apply?
102–192.35 What definitions apply to this part?
102–192.40 Where can we obtain more information about the classes of mail?
102–192.45 How can we request a deviation from these requirements, and who can approve it?

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102–192.55 Why must we use these payment processes?
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102–192.95 Why does GSA require annual mail management reports?
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102–192.105 When must we submit our annual mail management report to GSA?

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Agency Mail Manager Requirements

102–192.120 Must we have an agency mail manager?
102–192.125 What is the appropriate managerial level for an agency mail manager?
102–192.130 What are your general responsibilities as an agency mail manager?

Subpart C—GSA's Responsibilities and Services

102–192.135 What are GSA's responsibilities in mail management?
102–192.140 What types of support does GSA offer to Federal agency mail management programs?

Authority: 44 U.S.C. 2901–2904.

Subpart A—Introduction to This Part

§ 102–192.5 What does this part cover?

This part prescribes policy and requirements for the effective, economical, and secure management of incoming, internal and outgoing mail and materials in Federal agencies.

§ 102–192.10 What authority governs this part?

This part is governed by Section 2 of Public Law 94–575, the Federal Records Management Amendments of 1976 (44 U.S.C. 2901–2904, as amended, that requires the Administrator of General Services to provide guidance and assistance to Federal agencies to ensure economical and effective records management and defines the processing of mail by Federal agencies as a records management activity.

§ 102–192.15 How are ''I'', ''you'', ''me'', ''we'', and ''us'' used in this part?

In this part, ''I,'' ''me,'' and ''you'' in the singular refer to agency mail managers. The context makes it clear which usage is intended in each case. ''We,'' ''us,'' and ''you'' in the plural refer to your Federal agency.

§ 102–192.20 How are ''must'' and ''should'' used in this part?

In this part—

(a) ''Must'' identifies steps that Federal agencies are required to take; and

(b) ''Should'' identifies steps that the GSA recommends.

Note to § 102–192.20: In their internal policy statements, agencies may require steps that GSA recommends.

§ 102–192.25 Does this part apply to me?

Yes, this part applies to you if you work in mail management in a Federal agency, as defined in § 102–192.35.

§ 102–192.30 To what types of mail and materials does this part apply?

(a) This part applies to all materials that pass through a Federal mail center, including all incoming and outgoing materials, regardless of whether or not they currently pass through a mail center. This includes:

(1) First Class Mail;
(2) Standard Mail;
(3) Periodicals;
(4) Package Services; and
(5) Express Mail.

(b) This part does not apply to shipments of parts or supplies from a material distribution center. A material distribution center is a warehouse that maintains and distributes an inventory of parts and supplies.

§ 102–192.35 What definitions apply to this part?

The following definitions apply to this part:

Accountable mail means any piece of mail for which a service provider and the mail center must maintain a record that shows where the mail piece is at any given time, and when and where it was delivered; examples include United States Postal Service (USPS) registered mail and all expedited mail.

Agency mail manager means the person who manages the overall mail management program of a Federal agency.

Class of mail means one of the five categories of domestic mail as defined by the Mailing Standards of the USPS in the Domestic Mail Manual (DMM) located at *http://pe.usps.gov/.*

(1) Express mail;
(2) First class (includes priority mail);
(3) Periodicals;
(4) Standard mail, bulk marketing mail; and
(5) Package services.

Commercial payment process means paying for postage using the United States Postal Service's Centralized Account Processing System.

Commingling means combining outgoing mail from one facility or agency with outgoing mail from at least one other source.

Consolidation means the process of combining into a container two or more pieces of mail directed to the same addressee or installation on the same day.

Consolidation of facilities means the process of combining more than one mail center into a central location. The decision to consolidate should be based on a cost analysis comparing the projected cost savings to the costs of implementation.

Expedited mail means mail designated for overnight and two or three day delivery by service providers. Examples of *expedited mail* include Dalsey, Hillblom, Lynn (DHL); Federal Express (FedEx); United Parcel Service (UPS); and United States Postal Service (USPS) express mail.

Federal agency or agency, as defined in 44 U.S.C. 2901(14), means—

(1) Any executive department as defined in 5 U.S.C. 101;

(2) Any wholly owned Government corporation as defined in 31 U.S.C. 9101;

(3) Any independent establishment in the executive branch as defined in 5 U.S.C. 104; and

(4) Any establishment in the legislative or judicial branch, except the Supreme Court, the Senate, the House of Representatives, the Architect of the Capitol, and all activities under the direction of the Architect of the Capitol.

Federal facility or facility means any office building, installation, base, etc., where Federal agency employees work. This includes any facility where the Federal Government pays postage expenses even though few or no Federal employees are involved in processing the mail.

Incoming mail means any mail that comes into a facility delivered by any service provider, such as DHL, FedEx, UPS, and USPS.

Internal mail means mail generated within a Federal facility that is

delivered within that facility or to a nearby facility of the same agency, so long as it is delivered by agency personnel or an agency contractor.

Mail means the types of mail described in § 102–192.30.

Mail center means an organization and/or place, within or associated with a Federal facility, where incoming and/or outgoing Federal mail and materials are processed.

Mail expenditures means direct expenses for postage, fees and services and all other mail costs, meter fees, permit fees, etc. (*e.g.,* payments to service providers, mail center personnel costs, mail center overhead, etc.).

Mail piece design means creating and printing items to be mailed so that they can be processed efficiently and effectively by automated mail processing equipment.

Official Mail means incoming or outgoing mail that is related to official business of the Federal Government.

Official Mail Accounting System (OMAS) means the USPS government specific system used to track postage.

Outgoing mail means mail generated within a Federal facility that is going outside that facility.

Personal mail means incoming or outgoing mail that is not related to official business of the Federal Government.

Postage means payment for delivery service that is affixed or imprinted to a mail piece usually in the form of a postage stamp, permit, imprint, or meter impression.

Presort means a mail preparation process used to receive a discounted mail rate by sorting mail according to USPS standards.

Program level means a component, bureau, regional office and/or a facility that generates outgoing mail.

Service provider means any agency or company that delivers materials and mail. Some examples of *service providers* are DHL, FedEx, UPS, USPS, courier services, the Department of Defense, the Department of State's Diplomatic Pouch and Mail Division, and other Federal agencies providing mail services.

Sustainability and Sustainable mean to create and maintain conditions under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations.

Telework means a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.

Unauthorized use of agency postage means the use of penalty or commercial mail stamps, meter impressions, or other postage indicia for personal or unofficial use.

Worksharing is one way of processing outgoing mail so that the mail qualifies for reduced postage rates. Examples of *worksharing* include presorting, bar coding, consolidating, and commingling.

§ 102–192.40 Where can we obtain more information about the classes of mail?

You can learn more about mail classes in the Domestic Mail Manual (DMM). The DMM is available online at *http://pe.usps.gov* or you can order a copy from: Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197–9000.

§ 102–192.45 How can we request a deviation from these requirements, and who can approve it?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part. The Administrator of General Services and those to whom the Administrator has delegated such authority have the power to approve or deny a deviation.

Subpart B—Agency Requirements

Financial Requirements for All Agencies

§ 102–192.50 What payment processes are we required to use?

(a) All payments to the USPS must be made using either—

(1) The U.S. Treasury Intergovernmental Payment and Collection Payment (IPAC) process associated with the Official Mail Accounting System (OMAS), or

(2) The USPS Centralized Account Processing System (CAPS) associated with commercial payments.

(b) Payments made to service providers other than USPS must be made by U.S. Treasury payment methods such as automated clearing house-electronic funds transfer or a Personal Identification Number (PIN) based debit card.

§ 102–192.55 Why must we use these payment processes?

In accordance with 44 U.S.C. 2904, GSA is required to standardize and improve accountability with respect to records management, including Federal mail management.

§ 102–192.60 How do we implement these payment processes?

Guidance on implementing payment processes can be found at *http://www.fms.treas.gov/index.html.*

§ 102–192.65 What features must our finance systems have to keep track of mail expenditures?

All agencies must have an accountable system for making postage payments; that is, a system that allocates postage expenses at the program level within the agency and makes program level managers accountable for obligating and tracking those expenses. The agency will have to determine the appropriate program level for this requirement because the level at which it is cost beneficial differs widely. The agency's finance systems should track all mail expenditures separately to the program level or below, and should—

(a) Show expenses for postage and all other mail expenditures, payments to service providers, etc., separate from all other administrative expenses;

(b) Allow mail centers to establish systems to charge their customers for mail expenditures; and

(c) Identify and charge the mail expenditures that are part of printing contracts down to the program level.

Security Requirements for All Agencies

§ 102–192.70 What security policies and plans must we have?

(a) Agencies must have a written mail security policy that applies throughout your agency.

(b) Agencies also must have a written mail security plan for each facility that processes mail, regardless of the facility's mail volume.

(c) Agencies must have a security policy for employees receiving incoming and sending outgoing mail at an alternative worksite, such as a telework center.

(d) The scope and level of detail of each facility mail security plan should be commensurate with the size and responsibilities of each facility. For small facilities, agencies may use a general plan for similar locations. For larger locations, agencies must develop a plan that is specifically tailored to the threats and risks at your location. Agencies should determine which facilities they consider are small and large for the purposes of this section, so long as the basic requirements for a security plan are met at every facility.

(e) All mail managers are required to report annually the status of their mail security plans to agency headquarters. At a minimum, this report should assure that all mail security plans complies with the requirements of this part,

including annual review by a subject matter expert and regular rehearsal of responses to various emergency situations by facility personnel.

(f) A security professional who has expertise in mail center security should review the agency's mail security plan and policies annually to include identification of any deficiencies. Review of facility mail security plans can be accomplished by subject matter experts such as agency security personnel. If these experts are not available within your agency, seek assistance from the U.S. Postal Inspection Service or the Federal Protective Service (FPS).

§ 102–192.75 Why must we have written security policies and plans?

All Federal mail programs must identify, prioritize, and coordinate the protection of all mail processing facilities in order to prevent, deter, and mitigate the effects of deliberate efforts to destroy, incapacitate, or exploit the mail center or the national mail infrastructure. Homeland Security Presidential Directive (HSPD 7) at *http://www.fas.org/irp/offdocs/nspd/hspd-7.html* requires all agencies to protect key resources from terrorist attacks. All Federal mail centers are identified as key resources under the Postal and Shipping Sector Plan. Further details on the plan can be found at the Department of Homeland Security's (DHS) Web site.

§ 102–192.80 How do we develop written security policies and plans?

Agency mail managers must coordinate with their agency security service and/or the FPS or the U.S. Postal Inspection Service to develop agency mail security policies and plans. The FPS has developed standards for building construction and management, including standards for mail centers. At a minimum, the agency mail security plan must address the following topics:

(a) Risk assessment;

(b) A plan to protect staff and all other occupants of agency facilities from hazards that might be delivered in the mail;

(c) Operating procedures;

(d) A plan to provide a visible mail screening operation;

(e) Training mail center personnel;

(f) Testing and rehearsing responses to various emergency situations by agency personnel;

(g) Managing threats;

(h) Communications plan;

(i) Occupant Emergency Plan;

(j) Continuity of Operations Plan; and

(k) Annual reviews of the agency's security plan.

Reporting Requirements for All Agencies

§ 102–192.85 Who must report to GSA annually?

All agencies regardless of size must provide an annual Mail Management Report to GSA. If your agency is a cabinet level or independent agency, the agency mail manager must compile all offices or components and submit one report for the department or agency as a whole, for example, the Department of Defense or the Department of Health and Human Services.

§ 102–192.90 What must we include in our annual mail management report to GSA?

Your agency must provide an agency-wide response to the GSA requested data elements. GSA will provide the list of data elements in a Federal Management Regulation (FMR) Bulletin. GSA coordinates all mail management related FMR Bulletins with the Federal Mail Executive Council and updates them as necessary. FMR Bulletins are available at: *http://www.gsa.gov/bulletins.*

§ 102–192.95 Why does GSA require annual mail management reports?

GSA requires annual agency mail management reports to—

(a) Ensure that Federal agencies have the policies, procedures, and data to manage their mail operations efficiently and effectively;

(b) Ensure that appropriate security measures are in place; and

(c) Allow GSA to fulfill its responsibilities under the Federal Records Act, especially with regards to sharing best practices, information on training, and promulgating standards, procedures, and guidelines.

§ 102–192.100 How do we submit our annual mail management report to GSA?

You must submit annual reports using the GSA web based Simplified Mail Accountability Reporting Tool (*SMART*). Training is available from GSA to agency mail managers and other authorized users on how to use the SMART data reporting system. Contact the Mail Management Program office for access and training at 202–501–1777.

§ 102–192.105 When must we submit our annual mail management report to GSA?

Your annual report is due on October 31 of each year for the previous fiscal year.

Performance Measurement Requirements for All Agencies

§ 102–192.110 At what levels in our agency must we have performance measures?

You must have performance measures for mail operations at the agency level and in all facilities and for all program levels.

§ 102–192.115 Why must we use performance measures?

Performance measures gauge the success of your mail management plans and processes by comparing performance over time and among organizations. Performance measures—

(a) Define goals and objectives;

(b) Enhance resource allocation; and

(c) Provide accountability.

Agency Mail Manager Requirements

§ 102–192.120 Must we have an agency mail manager?

Yes, every Federal agency as defined in § 102–192.35, must have an agency mail manager.

§ 102–192.125 What is the appropriate managerial level for an agency mail manager?

The agency mail manager should be at a managerial level that enables him or her to speak for the agency on mail management as outlined in this part.

§ 102–192.130 What are your general responsibilities as an agency mail manager?

In addition to carrying out the responsibilities mentioned above, an agency mail manager should—

(a) Establish written policies and procedures to provide timely and cost effective dispatch and delivery of mail and materials;

(b) Ensure agency-wide awareness and compliance with standards and operational procedures established by all service providers used by the agency;

(c) Set policies for expedited mail, mass mailings, mailing lists, and couriers;

(d) Implement cost savings through:

(1) Consolidating and presorting wherever practical, *e.g.,* internal and external mail, and consolidation of agency-wide mail operations and official mail facilities; and

(2) Reducing the volume of Federal-agency to Federal-agency mail whenever possible.

(e) Develop and direct agency programs and plans for proper and cost effective use of transportation, equipment, and supplies used for mail;

(f) Ensure that all facility and program level mail personnel receive appropriate training and certifications to successfully perform their assigned duties;

(g) Promote professional certification for mail managers and mail center employees;

(h) Ensure that expedited mail service providers are used only when authorized by the Private Express Statutes, 39 U.S.C. 601–606;

(i) Establish written policies and procedures to minimize incoming and outgoing personal mail;

(j) Provide guidance to agency representatives who develop correspondence or design mailing materials including Business Reply Mail, letterhead, and mail piece design;

(k) Represent the agency in its relations with service providers, other agency mail managers, and the GSA Office of Governmentwide Policy;

(l) Ensure agency policy incorporates Federal hazardous materials requirements set forth in 49 CFR parts 100–180; and

(m) Ensure agency sustainable activities become part of the mail program by incorporating strategies in accordance with *Executive Order 13514* of October 5, 2009 (''Federal Leadership in Environmental, Energy, and Economic Performance''), specifically Sec. 8 that describes the Agency Strategic Sustainability Performance Plan.

Subpart C—GSA's Responsibilities and Services

§ 102–192.135 What are GSA's responsibilities in mail management?

44 U.S.C 2904(b) directs the Administrator of General Services to provide guidance and assistance to Federal agencies to ensure economical and efficient records management. 44 U.S.C. 2901(2) and (4)(C) define the processing of mail by Federal agencies as part of records management. In carrying out its responsibilities under the Act, GSA is required to—

(a) Develop standards, procedures, and guidelines;

(b) Conduct research to improve practices and programs;

(c) Collect and disseminate information on training programs, technological developments, etc;

(d) Establish one or more interagency committees (*e.g.,* the Federal Mail Executive Council, and the Interagency Mail Policy Council) as necessary to provide an exchange of information among Federal agencies;

(e) Conduct studies, inspections, or surveys;

(f) Promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies; and

(g) In the event of an emergency, at the request of DHS, cooperate with DHS in communicating with agencies about mail related issues.

§ 102–192.140 What types of support does GSA offer to Federal agency mail management programs?

(a) GSA supports Federal agency mail management programs by—

(1) Assisting in the development of agency policy and guidance in mail management and mail operations;

(2) Identifying best business practices and sharing them with Federal agencies;

(3) Developing and providing access to a Governmentwide management information system for mail;

(4) Helping agencies develop performance measures and management information systems for mail;

(5) Maintaining a current list of agency mail managers;

(6) Establishing, developing, and maintaining interagency mail committees;

(7) Maintaining liaison with the USPS and other service providers at the national level;

(8) Maintaining a publically accessible Web site for mail communications policy; and

(9) Serving as a point of contact for all Federal agencies on mail issues.

(b) For further information contact: U.S. General Services Administration, Office of Governmentwide Policy (MA), 1275 First Street NE., Washington, DC 20417; telephone 202–501–1777, or email: *Federal.mail@gsa.gov*.

[FR Doc. 2013–11139 Filed 5–10–13; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 107, 108, and 109

[Docket No. USCG–2011–0992]

RIN 1625–AB78

Revision of Crane Regulation Standards for Mobile Offshore Drilling Units (MODUs), Offshore Supply Vessels (OSVs), and Floating Outer Continental Shelf (OCS) Facilities

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise regulations related to the design, certification, inspection, and testing of cranes. These regulations apply to cranes installed on Mobile Offshore Drilling Units (MODUs), Offshore Supply Vessels (OSVs), and floating Outer Continental Shelf (OCS) facilities. This revision would update industry standards incorporated by reference with more recent versions, which are used by industry and incorporated in Bureau of Safety and Environmental Enforcement regulations. Additionally, the Coast Guard proposes to revise regulations regarding certification, inspection, and testing of cranes by allowing use of additional organizations to act in lieu of Coast Guard marine inspectors.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before August 12, 2013 or reach the Docket Management Facility by that date. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before August 12, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0992 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Collection of Information Comments: If you have comments on the collection of information discussed in section VI.D. of this notice of proposed rulemaking (NPRM), you must also send comments to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by email to *oira_submission@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for Coast Guard, DHS'' in the subject line of the email) or fax at 202–395–6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1437. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Ken Smith, CG–OES–2, U.S. Coast Guard; telephone 202–372–1413 or email *Ken.A.Smith@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0992), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comments online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2011–0992'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0992'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

D. Public Meeting

We do not plan to hold a public meeting at this time. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Abbreviations

ABS American Bureau of Shipping
ANSI American National Standards Institute
API American Petroleum Institute
ICGB International Cargo Gear Bureau
IMO International Maritime Organization
MODU Mobile offshore drilling unit
NFPA National Fire Protection Association
NPRM Notice of proposed rulemaking
OCS Outer continental shelf
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
OSV Offshore supply vessel
SBA Small Business Administration
§ Section symbol
UL Underwriters Laboratories
U.S.C. United States Code

III. Background

The legal basis for the proposed rule is 43 U.S.C. 1333; 46 U.S.C. 3103, 3306, 3307, 3316; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish standards for the design, installation, operation, and inspection of vessels and to regulate floating Outer Continental Shelf (OCS) facilities as they relate to the safety of life.

This proposed rule is necessary to enhance the safety of offshore cranes by ensuring that industry uses the best available and safest technologies for the operation, maintenance, design, and construction of cranes used on Mobile Offshore Drilling Units (MODUs), Offshore Supply Vessels (OSVs), and floating OCS facilities. The proposed rule would also align Coast Guard regulations with Bureau of Safety and Environmental Enforcement requirements for cranes used on offshore fixed platforms. Additionally, the proposed rule would provide owners and operators of vessels the option and flexibility of using additional organizations and associations for the certification of cranes.

The Coast Guard currently regulates cranes by requiring owners and operators of MODUs, OSVs, and floating OCS facilities to comply with Coast Guard regulations in 46 CFR subchapter I–A, Mobile Offshore Drilling Units parts 107, 108, and 109.

These regulations apply to cranes installed on MODUs, OSVs, and floating OCS facilities because the crane

regulations for OSVs (46 CFR 126.130) and floating OCS facilities (33 CFR 143.120) refer back to the requirements for cranes found in 46 CFR parts 107, 108, and 109. The existing regulations make reference to American Petroleum Institute (API) standards that are outdated and generally are no longer used by industry. The current regulations specifically reference the First Edition (October 1972) of the API's ''Recommended Practice for Operation and Maintenance of Offshore Cranes'' (API RP 2D), and the Second Edition (February 1972) of API's ''Specification for Offshore Pedestal Mounted Cranes'' (API Spec. 2C). These standards outline the specifications for designing pedestal mounted cranes (API Spec. 2C) and the recommended practices for their operation and maintenance (API RP 2D) once the cranes are installed on MODUs, OSVs, and floating OCS facilities.

This proposed rule would update our existing regulations by adopting the most recent editions of API Spec. 2C and RP 2D standards. By updating these API standards in our regulations, we would ensure that industry uses the best available and safest technologies for the operation, maintenance, design, and construction of cranes used on MODUs, OSVs, and floating OCS facilities.

Compliance with the most recent edition of API RP 2D, currently the Sixth Edition (May 2007), would be effective for cranes installed on all existing and newly built MODUs, OSVs, and floating OCS facilities after the effective date of the final rule. API RP 2D can be applied to existing MODUs, OSVs, and floating OCS facilities because it outlines recommendations for operations and maintenance, as opposed to specifying requirements for design and construction.

Compliance with the most recent edition of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' currently the Seventh Edition (March 2012), would be effective for new cranes installed on MODUs, OSVs, and floating OCS facilities after the effective date of the final rule. Offshore cranes installed on or before the effective date of the final rule may be designed to the API Spec. 2C edition and regulations that were current at the time of construction.

The most recent edition of API RP 2D, currently the Sixth Edition (May 2007), provides for improved safety conditions by enhancing personnel qualifications and improving practices associated with operations and maintenance. In addition to expanding on the content of information existing in API RP 2D, First Edition (October 1972), the sixth edition improves on the first edition by adding new sections that address rigger qualifications and personnel operating practices, signaling, load testing, and pull tests. The inspection, testing, and maintenance requirements have been expanded and sorted into categories that are based on crane usage (i.e., infrequent, moderate, and heavy). Inspection categories have also been added that detail the inspection requirements to be conducted at periodic intervals including initial certification, pre-use, monthly, quarterly, and annually. Also, new sections have been added that address rerating of cranes, crane operations, wire rope testing, pendant lines, and slings. Finally, the sixth edition includes eight appendixes, which expand on details contained in the body of the standard and provide clearer understanding of the subject matter. Additional information on the differences between the two editions can be reviewed by examining the document titled, ''API RP 2D Table of Comparison 1st Ed to 6th Ed'', which is provided as supplemental information in the public docket.

The most recent edition of API Spec. 2C, currently the Seventh Edition (March 2012), improves upon API Spec. 2C, Second Edition (February 1972) by more accurately defining the scope of cranes covered and not covered and expanding the list of components identified to be critical, including components of rigging gear. New recordkeeping requirements are imposed on manufacturers that require them to keep test and inspection records for 20 years and to provide certain pieces of documentation to the purchaser, including load and information charts, crane foundation design forces and moments, a listing of all critical components, an operations, parts, and maintenance manual, and a failure mode assessment for gross unintended overloads, if requested by the purchaser. The revised specification expands the method for establishing crane rated loads and establishes methods for determining the rated loads for cranes handling personnel. New requirements for calculating in-service loads based on specific crane usage (e.g., onboard or offboard lifts) have been added, as were calculations to determine dynamic forces and forces in the horizontal and vertical directions. Requirements have been added to address environmental loads (i.e., wind, ice, and snow) and seismic design. The revised specification also outlines new requirements for strength factors associated with wire rope for standing, guy ropes, and personnel hoist systems. Finally, U-bolts, grip clips, eye splices, wedge sockets, and wire rope end terminations that were not included in the second edition have been addressed. Additional information on the differences between these editions can be reviewed by examining the document titled, ''Change Matrix for API Spec. 2C Comparison of Editions 2 and 6 and Change Matrix for API Spec. 2C Comparison of Editions 6 and 7,'' provided as supplemental information in the public docket for this proposed rule.

API Spec. 2C and API RP 2D do not have a threshold limiting the size of cranes to which they apply. However, the Coast Guard believes that small cranes and other lifting appliances are satisfactory for operation, as long as they are maintained and operated in accordance with the manufacturer's recommendations. The Coast Guard does not intend in this rulemaking to capture small cranes or other lifting appliances that have a lifting capacity below 5 tons (10,000 lbs) that are used only for special purposes, such as lifting fuel transfer hoses or transferring supplies or provisions. The Coast Guard has incorporated provisions in the proposed rule to address this matter, and seeks comments concerning the lifting capacity threshold and exemption of smaller cranes from the requirements of API Spec. 2C and API RP 2D.

Currently, the regulations provide for extensive plan review and inspections and tests by Coast Guard personnel, the American Bureau of Shipping (ABS), or the International Cargo Gear Bureau (ICGB). The ABS is a classification society that can also act as a crane certifying authority. Classification societies perform many functions and conduct or witness various tests in the survey of a vessel. The ICGB is a membership corporation which primarily provides registration, inspection, certification, and documentation services for materials handling appliances and devices that are afloat, shore-based, and offshore. The ICGB is limited in that it is primarily concerned with cranes and cargo handling machinery and gear, whereas an approved classification society can perform those functions, tests, and inspections that lead to the complete certification of a vessel.

The current regulations only allow ABS and ICGB to conduct crane inspections and certifications on behalf of the Coast Guard.

Until the passage of the 1996 Coast Guard Authorization Act (Pub. L. 104–324, 110 Stat. 3901), the Coast Guard could only delegate marine safety

functions related to vessel plan review and inspection to ABS. Section 607 of Pub. L. 104–324 amended 46 U.S.C. 3316 to allow delegation of these functions to a classification society based in a foreign country. This authority provides that additional classification societies may be authorized to review and approve plans and to conduct vessel inspections and examinations on behalf of the Coast Guard. This also means that other classification societies may be utilized in a manner similar to the ABS. The Coast Guard proposes to allow organizations, other than just ABS and ICGB, to perform these tasks. The proposed rule would expand the list of organizations, beyond ABS and ICGB, that can inspect and certify cranes.

The Coast Guard expects that, due to the additional classification societies that may review and approve crane plans and conduct crane inspections and examinations, vessel owners and operators would have reduced crane operational down time, greater flexibility in scheduling crane inspections, and greater flexibility in meeting required standards. But before any classification society can be delegated authority under this amendment to act on behalf of the Coast Guard for any purpose, the statute requires that the classification society be recognized by the Coast Guard.

The option to use other organizations for crane approvals and inspections has proven successful on other Coast Guard inspected vessels.[1] These organizations have personnel who are specifically trained and qualified to witness tests of cranes and conduct crane inspections, and these inspections can often be scheduled more conveniently than inspections by the Coast Guard. It is common marine industry practice to rely on other organizations for surveys and certification of cranes. In fact, actual crane inspections by Coast Guard marine inspectors have become rare.

The proposed rule would expand the current list of crane-certifying authorities in the regulations by allowing all classification societies recognized under 46 CFR part 8 to inspect, test, and certify cranes. Therefore, recognized classification societies would be able to conduct inspections and tests on behalf of the Coast Guard, issue certificates under international treaties and conventions, and certify cranes on these vessels. This will eliminate the complication of one classification society issuing vessel certificates and another certifying authority (ABS or ICGB) issuing crane certifications. This will increase efficiency and reduce costs for owners or operators of MODUs, OSVs, and floating OCS facilities. The owners or operators of MODUs, OSVs, and floating OCS facilities would present certificates and test documents from these recognized classification societies to the Coast Guard during initial installation or during the regular inspection for certification as proof that the cranes were certified and inspected in a satisfactory manner.

The proposed rule would also allow crane manufacturers who have a license from API to affix API monograms to their cranes to be recognized as crane-certifying authorities. As outlined in Annex C of API Spec. 2C, by affixing an API monogram to a crane nameplate, a crane manufacturer certifies that construction of the crane complies in all details to API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes.''

There is duplication of effort involving safety of cranes among the Coast Guard, ABS, ICGB, and crane manufacturers that results in extra costs to U.S. vessel owners. Under 46 U.S.C. 3316, the Coast Guard has the authority to delegate to classification societies the ability to conduct inspections and plan review on behalf of the United States. Title 46, U.S.C. 3103 allows the Coast Guard to rely on reports, documents, and records to establish compliance with statutory and regulatory requirements. To address the additional costs associated with the duplicative effort, the Coast Guard proposes to implement the monogram program that is already provided for in the standard proposed for incorporation.

Accordingly, cranes affixed with an API monogram on the nameplate would be accepted as being designed and constructed in accordance with API Spec. 2C. However, such cranes would not be considered satisfactory for use on inspected vessels without a continued program of tests and inspections witnessed or conducted annually by a crane-certifying authority. The Coast Guard would have the option to conduct, at any time, an audit of the crane certification and inspection process to ensure satisfactory performance of an organization or API monogram license holder.

This approach is consistent with the Coast Guard's efforts to implement alternative compliance methods that are provided for in 46 CFR 107.205. This proposed rule would not undermine the authority of the Officer in Charge, Marine Inspection, to visually inspect and examine cranes as part of their periodic inspections and take action as needed to ensure that installed cranes and their associated equipment are suitable for their intended service as outlined in 46 CFR 107.270.

IV. Discussion of Proposed Rule

A description of the changes we propose to make to 46 CFR part 107 are as follows:

46 CFR 107.111: We propose to modify § 107.111 by adding a definition for ''crane'' that clarifies the type of crane (pedestal), its use (offshore operations), and a minimum lifting capacity of 5 tons (10,000 lbs) that is to be certified and inspected under the subchapter.

46 CFR 107.115: We propose to update and combine the incorporation by reference language in paragraphs (a) and (b) into a new paragraph (a), and to add new paragraphs (b), (c), and (d) to update the reference standards for API and to note the currently referenced standards for ABS and ASTM. We propose to delete references to standards of the American National Standards Institute (ANSI), the International Cargo Gear Bureau (ICGB), the National Fire Protection Association (NFPA), and Underwriters Laboratories (UL).

46 CFR 107.231: We propose to modify § 107.231(m) by providing the correct cross-reference to the requirements for inspection and testing of cranes found in § 107.259 and deleting the current cross-reference pointing to the requirements for certification of cranes found in § 107.258.

46 CFR 107.258: We propose to add a new § 107.258(a) containing language requiring that cranes and crane foundations be certified as being designed and constructed to the latest edition of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' or other equivalent standard identified by the Coast Guard. The term ''other equivalent standard'' may refer to the standards of a classification society recognized by the Coast Guard or other national or international organization specifically recognized by the Coast Guard. We recognize that cranes designed, constructed, and maintained in class to the classification standards of a recognized classification society may offer an equivalent level of safety to cranes designed, constructed, and maintained in accordance with API Spec. 2C. Accordingly, we propose to include language to allow for Coast Guard review of these and other equivalencies.

[1] See 46 CFR 91.25–25 and 31.10–16 for acceptance of other organizations or associations for certification of cranes and cargo handling machinery and gear on cargo and miscellaneous vessels and tank vessels, respectively.

We propose to redesignate existing paragraph (a) as paragraph (b), and the list of crane-certifying authorities in existing paragraphs (a)(1) and (a)(2) as paragraphs (b)(1) and (b)(2), respectively. We propose to modify redesignated paragraph (b)(1) by deleting a reference to ABS and replacing it with ''recognized classification societies as outlined in 46 CFR part 8,'' a group that includes ABS. We also propose adding a new paragraph (b)(3) to allow recognition of crane manufacturers, as specified in Annex C of API Spec. 2C, who are licensed by API to affix the API monogram to their cranes, thereby certifying that their cranes are designed and constructed in compliance with API Spec. 2C.

We propose to redesignate existing paragraphs (b), (b)(1), and (b)(2) as paragraphs (c), (c)(1), and (c)(2), respectively, which list the revised conditions under which all crane-certifying authorities would be required to base their certification. We propose to modify the text in redesignated paragraph (c)(2) to distinguish between inspection and testing requirements needed for initial crane certification and the requirements for periodic inspections and tests. Periodic inspections and tests are meant to provide evidence that a crane is suitable for continued service after it has been initially tested and inspected in accordance with the most recent edition of APR RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' currently the Sixth Edition (May 2007) and certified as being designed in accordance with the most recent edition of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' currently the Seventh Edition (March 2012).

Finally, we propose to add a new paragraph (e) to allow the Coast Guard to, at any time, conduct oversight audits on crane-certification authorities to ensure that cranes are designed, constructed, inspected, tested, and maintained in accordance with recognized standards as modified by the regulations.

46 CFR 107.259: We propose to modify § 107.259(a) by updating crane inspections and tests to refer to the latest edition of API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' or other equivalent standard identified by the Coast Guard. For the same reasons discussed under the section explaining proposed changes to 46 CFR 107.258, we propose to include language to allow for Coast Guard review of these and other equivalencies.

In § 107.259(b), we propose to revise the sentence to clarify that our intention is to require certifying authorities only for the annual inspections and tests required by revised API RP 2D, Chapter 4, including the periodic load tests required by § 107.260. API RP 2D outlines a number of routine tests and inspections that must be performed periodically on cranes, and it is not our intention to require that all these tests and inspections be carried out by crane-certifying authorities. Routine tests and inspections should be carried out at intervals and conducted by persons as outlined in Chapter 4 of API RP 2D. We also propose to remove a direct listing of the persons or organizations who may witness tests and conduct inspections identified in existing paragraph (b)(1) and (2). Coast Guard marine inspectors listed in existing paragraph (b)(1) are no longer used for such purposes and have been removed from the list of persons who may be called to witness tests or conduct inspections of cranes. ABS and ICGB, listed in existing paragraph (b)(2) are proposed to be included as ''qualified inspectors'' as defined in API RP 2D, Sixth Edition (May 2007), of an approved crane-certifying authority listed under proposed § 107.258. We propose this change to clarify the level of personnel training and experience necessary to accurately conduct inspections and witness tests of cranes in accordance with API RP 2D. Inspectors of a crane-certifying authority receive a high level of training and formal qualification for inspecting and testing specific types of cranes. As such, the Coast Guard believes they provide the level of expertise that is necessary to ensure cranes are designed, installed, and maintained to high safety standards. Coast Guard marine inspectors may continue to conduct visual examinations of cranes and crane foundations during the course of routine vessel inspections for certification, annual, periodic, and other inspections and examinations, and can take action as outlined in 46 CFR 107.270 to correct problems or suspend crane operations if a crane is found in an unsafe condition.

We propose to modify § 107.259(c) to reflect that tests and inspections must be conducted and certified by a qualified inspector of an approved crane-certifying authority, rather than just ABS or the ICGB. We propose to modify § 107.259(c) to reflect that the qualified inspector must certify that the tests and inspections were conducted in accordance with the API specifications, or other equivalent standard.

46 CFR 107.260: We propose to modify this section by deleting the table in existing paragraph (a) and the information in existing paragraph (b) because these items have been incorporated into the updated reference of API RP 2D, and, therefore, do not need to be specified in regulatory text. Accordingly, we propose to revise paragraph (a) by adding reference to the section of API Spec. 2C that outlines load testing requirements for cranes.

46 CFR 107.309: We propose to modify this section by requiring that certain plans and information for cranes and crane foundations be reviewed and approved by approved certification authorities. We propose to update § 107.309(a)(1) to reference the latest edition of API Spec. 2C, and to specify the location in API Spec. 2C where critical components are listed. We propose to relocate existing § 107.309(a)(2) to a new § 107.309 (b)(3) as these items are reviewed by the Coast Guard Marine Safety Center. We propose to redesignate existing paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively. In redesignated paragraph (a)(3), we propose to replace the existing text with information referencing section 4.1 of API Spec. 2C. This section contains information not previously specified that was added to API Spec. 2C over the course of its revision that the Coast Guard believes should be reviewed and approved by approved certification authorities to allow better overall assessment of crane designs. Such information includes load and information charts, crane foundation design forces and moments, certification of critical components, an operations, parts, and maintenance manual, and a failure mode assessment for gross unintended overloads. As discussed earlier, we propose to modify the text in § 107.309(b) to clarify that certain plans and information must be reviewed and approved by the Coast Guard Marine Safety Center, and to add § 107.309(b)(3).

A description of the changes we propose to make to 46 CFR part 108 are as follows:

46 CFR 108.101: We propose to modify § 108.101 by updating it to conform with general formatting requirements for incorporated by reference sections. Specifically, we propose to combine the incorporation by reference language in paragraphs (a) and (b) into a new paragraph (a), and to remove the table format associated with existing paragraph (b). We propose adding a new paragraph (b) to reflect the updated reference to ANSI standard Z–89.1–1969, which is now ANSI standard A–A–2269A NOT 1 identified in existing § 108.497(f) but not currently listed as being incorporated by

reference. We also propose adding a new paragraph (c) to reflect the reference to API Spec. 2C identified in existing § 108.601 but not currently listed as being incorporated by reference. Information concerning the referenced standards of ASTM, IMO, and NFPA would be organized into new paragraphs (d), (e), and (f), respectively.

46 CFR 108.105: We propose to modify this section by making a minor editorial change and by stating that the specified standard is incorporated by reference in § 108.101.

46 CFR 108.427; 108.430; 108.497; 108.503; 108.645; 108.646; 108.647; 108.649; and 108.655: We propose to modify these sections by stating that the specified standard is incorporated by reference in § 108.101.

46 CFR 108.601: We propose to update the reference in § 108.601 to refer to the latest edition of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' and include a provision that allows the Coast Guard to recognize other standards as an equivalency. Such standards may include cranes designed, installed, and maintained in class to the classification standards of a recognized classification society. We also propose to remove § 108.601(b) in its entirety because the items were incorporated into the revised API Spec. 2C standard and are no longer required to be listed separately in regulatory text.

A description of the changes we propose to make to 46 CFR part 109 are as follows:

46 CFR 109.105: We propose to modify § 109.105 by updating it to conform with general formatting requirements for incorporation by reference sections. Specifically, we propose to combine the incorporation by reference language in paragraphs (a) and (b) into a new paragraph (a) and remove the table format associated with existing paragraph (b). We propose adding a new paragraph (b) to reflect the reference to API Spec. 2C and API RP 2D identified in existing § 109.437(a) and (b), § 109.521, and § 109.527(c), but not currently listed as being incorporated by reference. Information concerning the referenced standards of ASTM and IMO would be organized into new paragraphs (c) and (d).

46 CFR 109.437: We propose to modify § 109.437(a)(1) by updating the reference for API nameplate data to reflect its location in the latest edition of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes.'' We propose to modify the text in § 109.437(a)(2) to use the term ''load rating chart'' instead of ''rates load chart'' as used in the latest edition of API Spec. 2C. We propose to modify § 109.437(b) by updating the reference for recording information on inspections, tests, and maintenance to reflect its location in the latest edition of API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes.'' We propose to replace existing § 109.437(d) and to modify § 109.437(c) to incorporate the requirements from existing paragraph (d). Finally, we propose to redesignate existing § 109.437(e) through (h) as § 109.437(d) through (g), respectively, based on our modifications.

46 CFR 109.439: We propose to make minor editorial changes to this section. In the opening sentence we propose to replace the words, ''shall insure'' with ''must ensure''. In paragraph (b) we propose to delete ''or'' before the word ''manufacturers'' and replace it with ''issued by'' to provide clarification.

46 CFR 109.521: We propose to add a sentence to clarify that cranes and other lifting appliances that do not meet the definition in § 107.111 must be operated and maintained in accordance with the manufacturer's recommendations.

46 CFR 109.525: We propose a minor editorial change to this section by replacing the word ''shall'' with the word ''must.''

46 CFR 109.527: We propose minor editorial changes. In paragraphs (a) and (b), we propose to change the word ''shall'' to ''must.'' In paragraph (c), we propose changing the word ''shall'' to ''must'' and also updating and clarifying information relative to the specified standard (API RP 2D).

46 CFR 109.529: We propose to add a new section covering lifting operations, which specifies that lifting operations must be conducted in accordance with the requirements in 33 CFR chapter I, subchapter N. Subchapter N is already applicable to vessels and floating facilities, and our intent with this new section is to point out that information in 33 CFR subchapter N concerning lifting operations is relevant and applicable to vessels with cranes that are inspected under this part of 46 CFR. Among other things, subchapter N specifies requirements for workplace safety and health, including requirements for personnel protective equipment.

46 CFR 109.563: We propose minor editorial changes to this section. In paragraph (a)(6) we propose to replace the word ''which'' with the word ''that'' and identify the location where IMO Assembly resolution A.654(16) is incorporated by reference.

V. Incorporation by Reference

Material proposed for incorporation by reference appears in §§ 107.258, 107.259, 107.260, 107.309, 108.601, 109.437, 109.521, 109.527, and 109.563. The references to the incorporation by reference standards in existing §§ 107.115, 108.101, and 109.105 would be updated to conform with general formatting requirements for incorporated by reference sections. In addition, ''incorporated by reference, see § 108.101'' has been added to §§ 108.105(c)(1), 108.427(a), 108.497(f), 108.503, 108.645(a)(4), 108.646(a), 108.647, 108.649(a)(2) and (b), and 108.655(e). Additional editorial and conforming language is included in this NPRM to update references to the proposed regulatory modifications addressing incorporation by reference. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in §§ 107.115, 108.101, and 109.105.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

A draft Regulatory Analysis is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. A summary of the Regulatory Analysis follows:

The proposed rule would amend the existing regulations for cranes on offshore supply vessels, MODUs, and floating OCS facilities to allow additional organizations to issue crane certificates and to incorporate the latest editions of industry standards.

The proposed rule is necessary because the current regulations do not reflect the safest available practices and technologies used by industry, and the regulated public needs additional options for obtaining crane certifications and conducting crane inspections. Parts of the industry have adopted the newer standards but there are gaps across the industry in adopting the standards in full or in part. The Coast Guard believes that the risk associated with public safety could increase without broader use of the latest editions of industry standards.

The Regulatory Analysis provides an evaluation of the economic impacts associated with this proposed rule. Table 1 provides a summary of the proposed rule's costs and benefits.

TABLE 1—SUMMARY OF THE IMPACTS OF THE PROPOSED RULE

Category	*Summary*
Applicability	All U.S.-flagged OSV, MODUs, and floating OCS facilities with cranes of a lifting capacity of 5 tons (10,000 lbs) or more; crane manufacturers that service the offshore industry; and class societies.
Affected Population	52 marine employers with crane-equipped offshore vessels; 9 marine employers with 18 floating OCS facilities; 24 marine employers with crane-equipped MODUs; 19 crane manufacturers; 2 cargo gear organizations, and 7 classification societies.
Costs ($ million, 7% discount rate).	$0.445 (annualized) $3.13 (10-year).
Quantified Benefits and Cost Savings ($ million, 7% discount rate).	$1.481 (annualized) $10.41(10-year).
Unquantified Benefits	* Update industry practices. * Aid to quality control. * maintain safety.

These costs include industry costs plus the Government's costs.

Affected Population

Based on Coast Guard data, we estimate this proposed rule would affect 52 businesses that own OSVs with cranes having 5 tons (10,000 lbs) or more lifting capacity, 24 businesses that own MODUs with cranes, 9 businesses that own 18 floating OCS facilities, 2 cargo gear organizations, 19 crane manufacturers, and approximately 7 classification societies.

Costs

The proposed rule would require several actions by affected parties. These actions include training, purchasing API standards, and inspecting or reviewing operations. We estimate the costs of the proposed rule to be the highest the first year of compliance, at approximately $0.886 million (undiscounted 2011 dollars), with additional annually recurring costs as shown in table 2 and described further in the Regulatory Analysis. For the 10-year period of this analysis, we estimate the annualized discounted cost of this proposed rule to be $0.445 million at a 7 percent discount rate, for a total of $3.12 million over 10 years, and $0.435 million at a 3 percent discount rate, for a total of $3.71 million over 10 years. The following table presents, by year, the costs of the proposed rule.

TABLE 2—ESTIMATED COSTS OF THE PROPOSED RULE

Year	*Discounted 7%*	*Discounted 3%*	*Undiscounted*
1	$828,183	$860,345	$886,156
2	329,385	355,465	377,112
3	307,836	345,111	377,112
4	287,697	335,060	377,112
5	268,876	325,301	377,112
6	251,286	315,826	377,112
7	234,847	306,627	377,112
8	219,483	297,696	377,112
9	205,124	289,025	377,112
10	191,705	280,607	377,112
Total	3,124,421	3,711,062	4,280,167
Annualized	444,847	435,050	428,017

We estimate the requirement for the master or person in charge to ensure that each crane is operated and maintained in accordance with API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' Sixth Edition (§ 109.521 Cranes: General) as the primary cost driver throughout the 10-year period of analysis. The requirement, in turn, would initiate training requirements for crane operators, inspectors, and riggers. See Table 3 for a summary of annualized costs by requirement category.

TABLE 3—SUMMARY OF THE ANNUALIZED COSTS OF THE PROPOSED RULE ($)

Category	Annualized*	
	7%	3%
109.521 Cranes: General (Operational Costs)	$19,645	$16,803
109.521 Cranes: General (Training Costs)	294,203	287,345
107.259 Crane Inspection and Testing	128,514	128,514
Other (including Government Costs)	2,485	2,387
Total	444,847	435,050

* Rounded to the nearest one.

The proposed changes that would require the regulated public to have the master or person in charge ensure that each crane is operated and maintained in accordance with API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' Sixth Edition (§ 109.521 Cranes: General) comprise approximately 70 percent of the costs throughout the 10-year period of analysis. Of this, 66 percent is due to the set of requirements dealing with training. The proposed changes to § 107.259, Crane inspection and testing, amount to 29 percent of the total costs. Table 4 presents a summary of the costs by requirement as a percentage of the total annualized costs of the proposed rule.

TABLE 4—SUMMARY OF COSTS BY REQUIREMENT OF THE PROPOSED RULE

[As a percentage of annualized cost]

Requirements	Annualized cost (Percent)
§ 109.521 Cranes: General (Operational Costs)	4
§ 109.521 Cranes: General (Training costs)	66
§ 107.259 Crane Inspection and Testing	29
Other (including Government costs)	1
Total (rounded to the nearest one)	100

Benefits

The proposed rule would amend existing regulations regarding cranes in OCS activities, and is expected to have several positive direct and indirect effects for the regulated public.

The Coast Guard is pursuing this amendment to existing standards to reflect technological improvements and to expand protection of offshore workers. The proposed rule contains provisions that would enhance safety. Similarly, the proposed rule would initiate requirements that would offer business opportunities for the issuance of crane certificates and would offer the regulated public flexibility for the acquisition of crane certificates.

The proposed rule would promote maritime safety by offering provisions for more practicable and efficient management of risk associated with offshore cranes. The proposed rule contains additional provisions that would either offer greater flexibility for compliance or offer an opportunity for a potential cost savings. Table 5 presents data on the hazards that have been caused by accidents involving cranes.

TABLE 5—BASELINE OF FATALITIES, INJURIES, OIL SPILLS, AND PROPERTY DAMAGE

[2006–2010]

Impact	Count
Fatalities	3.
Injuries	11.
Oil Spills	30.
Amount of Oil Spilled (gallons)	205.43.
Property Damage (This figure is likely an underestimate. Some property damage was not assessed a damage figure in the MISLE file.).	$2,566,415.
Congestion and Delays	Not quantified.

See the preliminary Regulatory Analysis available in the docket for a detailed analysis of the costs and benefits of this rulemaking.

The Coast Guard considered the following alternatives when developing the proposed rule:

1. Take no action.

2. Allow industry to develop its own standard.

3. Issue a new policy letter or Navigation and Vessel Inspection Circular.

4. The API standards contain both mandatory and non-mandatory provisions; an alternative is to make the mandatory and non-mandatory provisions requirements under the proposed rule.

5. Retain the existing editions of the API standards but promulgate the other proposed changes.

6. Do not include the exemption for small cranes.

7. Develop a different timetable for small entities.

8. Provide an exemption for small entities (from the rule or any part thereof).

Alternatives 1 and 2 are not preferred because they do not offer solutions to updating the CFR. Alternative 1 would result in the continuation of a situation in which the outdated guidance of the older editions creates a safety hazard potential and an enforcement issue, as well as increases the difficulty of complying with standards that are no longer available. Alternative 2 is not ideal because the industry could develop its own standard that may not be acceptable to the Coast Guard. They also do not allow for cost savings opportunities that would arise by amending the regulations to permit an increased number of organizations eligible to issue crane certifications. Alternative 3 would communicate information to the regulated public and, although it would potentially increase public safety, it would not allow for cost savings opportunities outlined in the proposed rule or update the CFR. Likewise, it offers no assurance of compliance and no enforcement mechanism. Alternative 4 would offer all the benefits of the proposed rule and we anticipate it would create a situation of increased safety as predicted by the proposed rule. However, not all API recommendations (e.g., non-mandatory provisions of the API standards) are suitable for Coast Guard-regulated industries; to make all API recommendations regulatory requirements in the CFR may result in required activities that have no increased benefit compared to the proposed alternative. Alternative 5 is feasible; however, the API standards currently referenced in the CFR are outdated and, therefore, there is no benefit in retaining them. Alternative 6 is feasible but would create a situation in which members of the regulated public would be required to engage in activities that offered no benefit and possibly a disbenefit. Alternative 7 would offer a different timetable for small entities; although this is feasible, it has little added benefit to small entities. The proposed rule's increased costs for small entities are low, and some small entities may experience no additional cost because many proposed requirements are now being followed by the regulated public, and such an exemption would not offer cost savings opportunities. This alternative could lower the level of safety to small entities as compared to the rest of the population. Alternative 8, which would allow for an exemption for small entities, is feasible. The Coast Guard notes that many proposed provisions would not fully impact materially or result in a behavioral change to some small entities since some are already in compliance with parts of the proposed regulation. The proposed changes are low in cost on the individual level and have a low implementation burden.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

We determined that the proposed rule would not have a significant economic impact on a substantial number of small entities. We found that small entities affected by this proposed rule were small businesses consisting of the owners and operators of OSVs, MODUs, and floating OCS facilities, crane manufacturers, classification societies, and cargo gear organizations (see table 6).

TABLE 6—ESTIMATED AFFECTED POPULATION OF THE PROPOSED RULE

Group	Estimated population
Cargo Gear Organization	2
Classification Societies	7
Businesses that own OSVs with Cranes	52
Businesses that own MODUs with Cranes	24
Businesses that own Floating OCS Facilities	9
Crane Manufacturers	19
Total	113

The results of our small business impact analysis show that, among the groups of affected entities, the proposed rule would have little impact on revenues (e.g., less than 1 percent cost to revenue impact). For owners and operators of MODUs with cranes that meet the Small Business Administration (SBA) small business size standards, the proposed rule's cost would be between 0 and 1 percent of total revenues for 100 percent of small businesses. For owners and operators of vessels with cranes, the proposed rule's cost would be between 0 and 1 percent of total revenue for 100 percent of small businesses. Among the class societies, none met the SBA small business size standard and 100 percent had a cost-to-revenue impact of 0 to 1 percent. None of the businesses that own floating OCS facilities met the SBA small business size standard and none were anticipated to have cost-to-revenue impacts greater than 1 percent of revenue. For crane manufacturers, an estimated 63 percent were small entities, but these entities are in compliance with the proposed changes and would not have additional costs unless they applied for acceptance to issue crane certificates. For those, all would have a cost-to-revenue impact of 0 to 1 percent.

In summary, the Coast Guard certifies that the proposed rule would not have a significant economic impact on a substantial number of owners and operators of offshore vessels, MODUs, and floating OCS facilities and crane manufacturers. We also certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of classification societies or cargo gear organizations.

We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment,

explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Ken Smith, CG–OES–2, U.S. Coast Guard; telephone 202–372–1413 or email Ken.A.Smith@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would amend an existing collection of information as defined by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520); the proposal adds requirements for recording and recordkeeping. For example, the proposal adds requirements for training materials, training documentation and performing inspections and maintaining records of the results. As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Plan Approval & Records for Tank, Passenger, Cargo & Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels.

OMB Control Number: 1625–0038.

Summary of the Collection Of Information: The existing collection of information requires written responses such as submitted plans. The proposed rule would require responses ranging from the review of documentation and the procurement of written materials to the preparation of written information. Some examples of the proposed rule's collections of information include training documentation, procurement of industry standards and applications for acceptance. The collection of information would aid the regulated public in assuring safe practices associated with cranes.

Need For Information: The Coast Guard needs this information to determine whether an entity meets the regulatory requirements.

Proposed Use of Information: The Coast Guard would use this information to determine whether an entity meets the regulatory requirements.

Description of the Respondents: The respondents are owners and operators of U.S.-flagged vessels, MODUs and floating OCS facilities with offshore pedestal cranes with a lifting capacity equal to or greater than 5 tons (10,000 lbs), classification societies, and crane manufacturers.

Number of Respondents: The burden of this proposed rule for this collection of information includes certifications, approval requests, procurement of written materials, preparation of records and records of inspections. This collection of information applies to owners/operators of crane-equipped offshore vessels, MODUs and floating OCS facilities; crane manufacturers; classification societies; and cargo gear organizations. We estimate the maximum number of respondents is 112.

Frequency of Responses: This proposed rule will vary the number of responses each year by requirement. Details are shown in the preliminary Regulatory Analysis.

Burden of Response: The burden of response for each regulatory requirement varies. Details are shown in the preliminary Regulatory Analysis.

Estimate of Total Annual Burden: This proposed rule will increase burden hours by 21,823.65 hours from the previously approved burden estimate.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This proposed rule concerns the design, construction, alteration, repair, maintenance, operation, and equipping of cranes on MODUs, OSVs and floating OCS facilities. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

Additionally, Congress specifically granted the authority to regulate floating OCS facilities as it relates to the safety of life to the Secretary of the Department in which the Coast Guard is operating.

Section 1333(d)(1) of 43 U.S.C. states that the Secretary ''shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices . . . as he may deem necessary.'' As this rule would regulate the operation, maintenance, design, and construction of cranes on MODUs, OSVs, and floating OCS facilities, it falls within the scope of authority Congress granted exclusively to the Secretary. Therefore, since the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses the following voluntary consensus standards: API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' and API RP 2D, ''Recommended Practice for the Operation and Maintenance of Offshore Cranes.'' The proposed sections that reference these standards and the locations where these standards are available are listed in proposed 46 CFR 107.115, 108.101, and 109.105.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule revises existing regulations to update industry standards and allows the use of additional organizations to act in lieu of Coast Guard marine inspectors. These changes fall under section 2.B.2, figure 2–1, paragraphs (34)(a), (b), (d), and (e) of the Instruction concerning the updating of regulations for editorial reasons, internal agency functions, vessel inspections, and equipment approval. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 107

Cranes, Incorporation by reference, Inspection and certification, Marine safety, Mobile offshore drilling units, Oil and gas exploration, Plan approval, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Cranes, Design and equipment, Fire prevention, Incorporation by reference, Marine safety, Mobile offshore drilling units, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 109

Cranes, Incorporation by reference, Marine safety, Occupational safety and health, Mobile offshore drilling units, Oil and gas exploration, Operations, Reporting and recordkeeping requirements, Reports, notifications, and records, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 107, 108, and 109 as follows:

PART 107—INSPECTION AND CERTIFICATION

■ 1. The authority citation for part 107 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3103, 3306, 3307; 46 U.S.C. 3316; Department of Homeland Security Delegation No. 0170.1; § 107.05 also issued under the authority of 44 U.S.C. 3507.

■ 2. Amend § 107.111 to add the definition, in alphabetical order, for ''Crane'' to read as follows:

* * * * *

Crane means a crane used in offshore lifting operations that is pedestal

mounted and has a lifting capacity of 5 tons (10,000 lbs) or more.

* * * * *

■ 3. Revise § 107.115 to read as follows:

§ 107.115 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–977–5800, *http://www.eagle.org*.

(1) ABS Rules for Building and Classing Mobile Offshore Drilling Units (2008), IBR approved for § 107.305(hh).

(2) [Reserved]

(c) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005–4070, 202–682–8000, *http://www.api.org*.

(1) API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes'', Seventh Edition (March 2012), IBR approved for §§ 107.258(a), 107.260(b), and 107.309(a).

(2) API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes'', Sixth Edition (May 2007), IBR approved for §§ 107.258(c), 107.259(a), (b), (c), and 107.260(a).

(d) ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) 2011/2012 ''Annual Book of ASTM Standards,'' Section 1—Iron and Steel Products, IBR approved for § 107.305(hh).

(2) [Reserved]

■ 4. Revise § 107.231 paragraph (m) to read as follows:

§ 107.231 Inspection for certification.

* * * * *

(m) Each crane is inspected and tested in accordance with § 107.259 of this part.

* * * * *

■ 5. Revise § 107.258 to read as follows:

§ 107.258 Crane certification.

(a) Each crane and crane foundation installed after [insert effective date of the final rule] must be certified as being designed and constructed in accordance with the American Petroleum Institute's (API) ''Specification for Offshore Pedestal Mounted Cranes,'' API Spec. 2C, Seventh Edition (March 2012) (incorporated by reference, see § 107.115) or other equivalent standard identified by Commandant (CG–ENG). Cranes installed prior to [insert effective date of the final rule] must comply with the regulations in effect at the time of installation.

(b) The Coast Guard may accept current certificates issued by Coast Guard approved organizations as evidence of condition and suitability of cranes. The following organizations are approved by the Coast Guard as crane-certifying authorities:

(1) Recognized classification societies as outlined in 46 CFR part 8.

(2) International Cargo Gear Bureau, Inc., 321 West 44th Street, New York, NY 10036, on the Internet at *http://www.icgb.com*.

(3) Crane manufacturers holding a license from API to apply the API monogram to crane nameplates.

(c) Crane certification must be based on—

(1) A review of plans submitted under § 107.309; and

(2) Satisfactory completion of the initial tests and inspections outlined by the API's ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007), Section 4.1.2.1 (incorporated by reference, see § 107.115).

(d) Each load test and inspection, witnessed or conducted by the certifying authority must be recorded in the unit's Crane Record Book required in § 109.437.

(e) The Coast Guard may, at any time, conduct an audit of the crane inspection, testing, or certification process to ensure satisfactory performance of crane-certifying authorities.

■ 6. Revise § 107.259 to read as follows:

§ 107.259 Crane inspection and testing.

(a) Each crane must be inspected and tested in accordance with Section 4 of the American Petroleum Institute's (API) ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 107.115) or other equivalent standard identified by Commandant (CG–ENG), except that the rated load tests must be performed in accordance with § 107.260.

(b) Annual tests and inspections must be witnessed or conducted by qualified inspectors, as defined in API's ''Recommended Practice for Operation and Maintenance of Offshore Cranes'', API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 107.115), of an approved crane-certifying authority listed under § 107.258.

(c) The qualified inspector must certify that the tests and inspections were conducted in accordance with API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' Sixth Edition (May 2007) (incorporated by reference, see § 107.115), or other equivalent standard identified by Commandant (CG–ENG), as modified by § 107.260.

■ 7. Amend § 107.260 as follows:

■ a. Revise paragraph (a);

■ b. Remove paragraph (b);

■ c. Redesignate paragraphs (c), (c)(1), (c)(2), and (c)(3) as paragraphs (b), (b)(1), (b)(2), and (b)(3), respectively; and

■ d. Revise redesignated paragraph (b)(3) to read as follows:

§ 107.260 Rated load test for cranes.

(a) To meet the requirements in § 107.231(l), each crane must be load tested in accordance with the recommended procedures outlined in the American Petroleum Institute's (API) ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 107.115) Appendix E, at both the maximum and minimum boom angles usually employed in material transfers over the side of the unit.

(b) * * *

(3) After repairs or alterations to any critical component of the crane as defined in Section 5.2 of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' Seventh Edition (March 2012) (incorporated by reference, see § 107.115).

■ 8. Amend § 107.309 as follows:

■ a. Revise paragraphs (a) introductory text and (a)(1);

■ b. Remove paragraph (a)(2) and redesignate paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively;

■ c. Remove the note to redesignated paragraph (a)(3);

■ d. Revise paragraph (b) introductory text; and

■ e. Add paragraph (b)(3) to read as follows:

§ 107.309 Crane plans and information.

(a) The following plans and information must be reviewed and approved by an approved crane-certifying authority listed under § 107.258(b) of this part:

(1) Stress and arrangement diagrams, bill of materials, and supporting calculations for all structural critical components listed in Annex A of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' Seventh Edition (March 2012) (incorporated by reference, see § 107.115) or as otherwise identified by the manufacturer.

(2) * * *

(3) Manufacturer supplied documentation listed in Section 4.1 of API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' Seventh Edition (March 2012) (incorporated by reference, see § 107.115), or equivalent documentation identified by Commandant (CG–ENG).

(b) The following plans and information must be reviewed and approved by the Coast Guard Marine Safety Center:

(1) * * *

(3) Drawings and material specifications of foundations and substructures with supporting calculations for support and stability of each crane under its rated load.

PART 108—DESIGN AND EQUIPMENT

■ 9. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; Department of Homeland Security Delegation No. 0170.1.

■ 10. Revise § 108.101 to read as follows:

§ 108.101 Incorporation by Reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) *American National Standards Institute (ANSI),* 25 West 43rd Street, 4th Floor, New York, NY 10036, 212–642–4980, *http://www.ansi.org*.

(1) ANSI standard, Z–89.1–1969, Helmet Safety, IBR approved for § 108.497(f).

(2) [Reserved]

(c) *American Petroleum Institute (API),* 1220 L Street NW., Washington, DC 20005–4070, 202–682–8000, *http://www.api.org*.

(1) API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes'', Seventh Edition (March 2012), IBR approved for § 108.601.

(2) [Reserved]

(d) *ASTM International,* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for § 108.500(b).

(2) ASTM F 1014–92, Standard Specification for Flashlights on Vessels, IBR approved for § 108.497(b).

(3) ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications, IBR approved for § 108.427(a).

(e) *International Maritime Organization (IMO),* Publications Section, 4 Albert Embankment, London, SE1 7SR United Kingdom, +44 (0)20 7735 7611, *http://www.imo.org*.

(1) Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, 17 November 1983, IBR approved for § 108.105(c).

(2) Resolution A.649(16), Code for the Construction and Equipment of Mobile Offshore Drilling Units (MODU Code), 19 October 1989 with amendments of June 1991, IBR approved for § 108.503.

(3) Resolution A.658(16), Use and Fitting of Retro-reflective Materials on Life-saving Appliances, 20 November 1989, IBR approved for §§ 108.645(a) and 108.649(a) and (e).

(4) Resolution A.760(18), Symbols Related to Life-saving Appliances and Arrangements, 17 November 1993, IBR approved for §§ 108.646(a), 108.647, 108.649(b), (d), (f), and (g), and 108.655(e).

(f) *National Fire Protection Association (NFPA),* 1 Batterymarch Park, Quincy, MA 02269–9101, 800–344–3555, *http://www.nfpa.org*.

(1) NFPA 13–1996, Standard for the Installation of Sprinkler Systems, IBR approved for § 108.430.

(2) [Reserved]

■ 11. Amend § 108.105 as follows:

■ a. In paragraph (b), after the words ''upon such condition as will'', remove the word ''insure'' and add, in its place, the word ''ensure'';

■ b. In paragraph (c), replace the numbers ''521'' with the letters ''ENG''; and

■ c. Revise paragraph (c)(1) to read as follows:

§ 108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, calculations, and tests.

* * * * *

(c) * * *

(1) Is evaluated and tested in accordance with IMO Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements (incorporated by reference, see § 108.101); or

* * * * *

■ 12. Revise § 108.427 paragraph (a) to read as follows:

§ 108.427 International shore connection.

* * * * *

(a) At least one international shore connection that meets ASTM F 1121 (incorporated by reference, see § 108.101).

* * * * *

■ 13. Revise § 108.430 to read as follows:

§ 108.430 General.

Automatic Sprinkler Systems must comply with NFPA 13–1996 (incorporated by reference, see § 108.101).

■ 14. Revise § 108.497 paragraph (f) to read as follows:

§ 108.497 Fireman's outfits.

* * * * *

(f) A helmet that meets the requirements in ANSI standard Z–89.1–1969 (incorporated by reference, see § 108.101); and

* * * * *

■ 15. Revise § 108.503 introductory text to read as follows:

§ 108.503 Relationship to international standards.

For the purposes of this part, any unit carrying a valid IMO MODU Safety Certificate, including a listing of lifesaving equipment as required by the 1989 IMO MODU Code (incorporated by reference, see § 108.101), is considered to have met the requirements of this subpart if, in addition to the requirements of the 1989 MODU Code, it meets the following requirements:

* * * * *

■ 16. Revise § 108.601 to read as follows:

§ 108.601 Crane design.

Each crane and crane foundation on a unit installed after [insert effective date of the final rule] must be designed in accordance with the American Petroleum Institute's API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes,'' Seventh Edition (March 2012) (incorporated by reference, see § 108.101) or other equivalent standard identified by Commandant (CG–ENG). Cranes installed prior to [insert effective date of the final rule] must comply with the regulations in effect at the time of installation.

■ 17. Revise § 108.645 paragraph (a)(4) to read as follows:

§ 108.645 Markings on lifesaving appliances.

(a) * * *

(4) Type II retro-reflective material approved under approval series 164.018 must be placed on the boat and meet the arrangement requirements in IMO Resolution A.658(16) (incorporated by reference, see § 108.101).

* * * * *

■ 18. Revise § 108.646 paragraph (a) to read as follows:

§ 108.646 Markings of stowage locations.

(a) Containers, brackets, racks, and other similar stowage locations for lifesaving equipment, must be marked in accordance with IMO Resolution A.760(18) (incorporated by reference, see § 108.101), indicating the devices stowed in that location for that purpose.

* * * * *

■ 19. Revise § 108.647 to read as follows:

§ 108.647 Inflatable liferafts.

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in block capital letters and numbers. The word ''LIFERAFT'' or the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 108.101) must be used to identify the stowage location. Liferafts stowed on the sides of the unit must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

■ 20. Revise § 108.649 paragraphs (a)(2), (b), (d), (e)(2), (f), and (g) to read as follows:

§ 108.649 Lifejackets, immersion suits, and lifebuoys.

(a) * * *

(2) With type I retro-reflective material approved under approval series 164.018. The arrangement of the retro-reflective material must meet IMO Resolution A.658(16) (incorporated by reference, see § 108.101).

(b) The stowage positions for lifejackets, other than lifejackets stowed in staterooms, must be marked with either the word ''LIFEJACKET'' or with the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 108.101).

* * * * *

(d) Immersion suits or anti-exposure suits must be stowed so they are readily accessible, and the stowage positions must be marked with either the words ''IMMERSION SUITS'' or ''ANTI–EXPOSURE SUITS'', or with the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 108.101).

(e) Each lifebuoy must be marked—

(1) * * *

(2) With type II retro-reflective material approved under part 164, subpart 164.018 of this chapter. The arrangement of the retro-reflective material must meet IMO Resolution A.658(16) (incorporated by reference, see § 108.101).

(f) Each lifebuoy stowage position must be marked with either the words ''LIFEBUOY'' or ''LIFE BUOY'', or with the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 108.101).

(g) Each lifejacket, immersion suit, and anti-exposure suit container must be marked in block capital letters and numbers with the minimum quantity, identity, and if sizes other than adult or universal sizes are used on the unit, the size of the equipment stowed inside the container. The equipment may be identified in words or with the appropriate symbol from IMO Resolution A.760(18) (incorporated by reference, see § 108.101).

■ 21. Revise § 108.655 paragraph (e) to read as follows:

§ 108.655 Operating instructions.

* * * * *

(e) Display symbols in accordance with IMO Resolution A.760(18) (incorporated by reference, see § 108.101).

PART 109—OPERATIONS

■ 22. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; Department of Homeland Security Delegation No. 0170.1.

■ 23. Revise § 109.105 to read as follows:

§ 109.105 Incorporation by Reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) *American Petroleum Institute (API),* 1220 L Street NW., Washington, DC 20005–4070, 202–682–8000, *http://www.api.org.*

(1) API Spec. 2C, ''Specification for Offshore Pedestal Mounted Cranes'', Seventh Edition (March 2012), IBR approved for § 109.437(a).

(2) API RP 2D, ''Recommended Practice for Operation and Maintenance of Offshore Cranes'', Sixth Edition (May 2007), IBR approved for §§ 109.437(b), 109.521, and 109.527(c).

(c) *ASTM International,* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org.*

(1) ASTM Adjunct F 1626, Symbols for Use in Accordance with Regulation II–2/20 of the 1974 SOLAS Convention as amended PCN: 12–616260–01 (1996), IBR approved for § 109.563(a).

(2) [Reserved]

(d) *International Maritime Organization (IMO),* Publications Section, 4 Albert Embankment, London, SE1 7SR United Kingdom, +44 (0) 20 7735 7611, *http://www.imo.org.*

(1) Resolution A.654 (16), Graphical Symbols for Fire Control Plans, IBR approved for § 109.563(a).

(2) [Reserved]

■ 24. Amend § 109.437 as follows:

■ a. Remove paragraph (d);

■ b. Redesignate paragraphs (e), (f), (g), and (h) as paragraphs (d), (e), (f), and (g), respectively; and

■ c. Revise paragraphs (a)(1), (a)(2), (b), and (c) to read as follows:

§ 109.437 Crane record book.

* * * * *

(a) * * *

(1) The API name plate data required by Section 13 of the American

Petroleum Institute's (API), ''Specification for Offshore Pedestal Mounted Cranes,'' API Spec. 2C, Seventh Edition (March 2012) (incorporated by reference, see § 109.105), or similar data provided by the manufacturer of a crane that has a lifting capacity less than 5 tons (10,000 lbs) that is not designed to API specifications; and

(2) The load rating chart for each line reeving and boom length that may be used.

(b) Information required by Section 4 of the API's ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 109.105) or similar information provided by the manufacturer of a crane that has a lifting capacity less than 5 tons (10,000 lbs) that is not designed to API specifications.

(c) Dates and results of inspections and tests required by paragraph (b) of this section.

* * * * *

■ 25. In § 109.439, revise the introductory text and paragraph (b) to read as follows:

§ 109.439 Crane certificates.

The master or person in charge must ensure that the following certificates and records for each crane are maintained on the unit:

* * * * *

(b) Each record and original certificate, or certified copy of a certificate issued by manufacturers, testing laboratories, companies, or organizations for—

* * * * *

■ 26. Revise § 109.521 to read as follows:

§ 109.521 Cranes: General.

The master or person in charge must ensure that each crane is operated and maintained in accordance with the American Petroleum Institute's ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 109.105). Cranes and other lifting appliances that do not meet the definition of a crane specified in § 107.111 must be operated and maintained in accordance with the manufacturer's recommendations.

§ 109.525 [Amended]

■ 27. In § 109.525, after the word ''charge'', remove the word ''shall'' and add, in its place, the word ''must''.

■ 28. Revise § 109.527, to read as follows:

§ 109.527 Cranes: Operator designation.

(a) The master or person in charge must designate, in writing, each crane operator.

(b) The master or person in charge must ensure that only designated operators operate cranes.

(c) The master or person in charge must ensure that each designated operator is familiar with the provisions of the American Petroleum Institute's ''Recommended Practice for Operation and Maintenance of Offshore Cranes,'' API RP 2D, Sixth Edition (May 2007) (incorporated by reference, see § 109.105).

■ 29. Add § 109.529 to subpart F to read as follows:

§ 109.529 Cranes: Lifting operations.

All crane lifting operations must be conducted in accordance with the applicable sections of 33 CFR subchapter N, Outer Continental Shelf Activities.

■ 30. Revise *§ 109.563* paragraph (a)(6) to read as follows:

§ 109.563 Posting of documents.

* * * * *

(a) * * *

(6) For units constructed on or after September 30, 1997, and for existing units which have their plans redrawn, the symbols used to identify the aforementioned details must be in accordance with IMO Assembly resolution A.654(16) (incorporated by reference, see § 109.105). The identical symbols can be found in ASTM Adjunct F 1626 (incorporated by reference, see § 109.105).

* * * * *

Dated: April 10, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–11132 Filed 5–10–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–HQ–MB–2012–0037; FF09M21200–234–FXMB1232099BPP0]

RIN 1018–AY65

Migratory Bird Permits; Depredation Order for Migratory Birds in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We propose to revise the regulations that allow control of depredating birds in some counties in California. We propose to specify the counties in which this order is effective, to better identify which species may be taken under the order, to add a requirement that landowners attempt nonlethal control, to add a requirement for use of nontoxic ammunition, and to revise the reporting required. These changes would update and clarify the current regulations and enhance our ability to carry out our responsibility to conserve migratory birds.

DATES: Electronic comments on this proposal via *http://www.regulations.gov* must be submitted by 11.59 p.m. Eastern time on August 12, 2013. Comments submitted by mail must be postmarked no later than August 12, 2013.

ADDRESSES: You may submit comments by either of the following two methods:

- *Federal eRulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket FWS–R9–MB–2012–0037.
- *U.S. mail or hand delivery:* Public Comments Processing, Attention: FWS–R9–MB–2012–0037; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, MS 2042–PDM; Arlington, VA 22203–1610.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information that you provide. See the Public Comments section below for more information.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen at 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is authorized by the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). We implement the provisions of the MBTA through regulations in parts 10, 13, 20, 21, and 22 of title 50 of the Code of Federal Regulations (CFR). Regulations pertaining to migratory bird permits are at 50 CFR part 21; subpart D of part 21 contains regulations for the control of depredating birds.

A depredation order allows the take of specific species of migratory birds for specific purposes without need for a depredation permit. The depredation order at 50 CFR 21.44 allows county commissioners of agriculture to authorize take of designated species of

depredating birds in California ''as may be necessary to safeguard any agricultural or horticultural crop in the county.''

Current Depredation Order

Take of depredating birds has been reported under the depredation order at 50 CFR 21.44 in Fresno, Merced, Napa, and Sonoma counties in California in recent years, and some counties have reported take of species not authorized under the regulation. Because these are the only counties making use of the depredation order, we propose to limit future use of the order to these four counties.

The depredation order allows take of horned larks (*Eremophila alpestris*), golden-crowned sparrows (*Zonotrichia atricapilla*), white-crowned sparrows (*Zonotrichia leucophrys*), house finches (*Carpodacus mexicanus*) and ''other crowned sparrows'' where they cause agricultural damage. We believe the current wording of the regulation is unclear as ''other crowned sparrows'' is imprecise. The only other U.S. sparrow with ''crowned'' in the name is the rufous-crowned sparrow (*Aimophila ruficeps*), which can be found in coastal California. However, the term ''crowned'' might be applied to many other sparrow species that have feather patterns on their heads that people might call ''crowns.''

Proposed Changes

We propose to revise § 21.44 to:

(1) Specify in which counties this regulation is applicable;

(2) precisely identify the species that may be taken as described below;

(3) specify the times of year that they may be taken to maximize protection of affected crops and effectiveness of control operations;

(4) require that landowners attempt nonlethal control each year;

(5) require the use of nontoxic ammunition; and

(6) update the requirement for reporting take under this depredation order.

These changes would bring the requirements of this depredation order in line with current regulations for other depredation orders under the MBTA and allow us to better carry out our statutory responsibility to protect and conserve migratory birds.

This proposed rule would remove horned larks from the depredation order. Horned larks feed on ''a diversity of food types, primarily seeds and insects, but also some fruits'' (Beason 1995). Damage to some agricultural crops has been documented, including to crops in California (Beason 1995, Clark and Hygnstrom 1994). However, trapping and shooting of horned larks to limit depredation is considered ineffective (Clark and Hygnstrom 1994).

In addition, the streaked horned lark subspecies, *E. a. strigata,* is endangered in Canada (Committee on the Status of Endangered Wildlife in Canada 2003), a Listing Priority 3 candidate species in the United States (76 FR 66370, October 26, 2011), and a subspecies of conservation concern in Washington and Oregon (USFWS 2008). Because the wintering locations of this subspecies may include parts of California, take of this subspecies would not be allowed under this depredation order.

Finally, we propose to remove golden-crowned sparrows, because none have been reported taken under the depredation order.

Public Comments

We request comments on this proposed rule. You may submit your comments and supporting materials by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax, or written comments sent to an address other than the one listed in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request that we withhold this information from public review, but we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection at *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), 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 effect of the rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. Other than a minimal change in the resources needed to address the proposed reporting requirements, there are no costs associated with this regulations change.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act. Because only four counties have made use of this depredation order, we believe no economic impacts to any small entities will result from the proposed revisions. Any agricultural producers who qualify as small entities in those counties could still seek relief from depredating birds under these proposed revisions. Under the current regulations, the county commissioners of agriculture have needed to comply with a reporting requirement, and the proposed changes to this requirement should add minimal burden. Because we have determined that this action would not have a significant economic impact on a substantial number of small

entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804 (2)). It would not have a significant impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of $100 million or more.

b. This rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, tribal, or local government agencies, or geographic regions.

c. This rule would 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

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule would not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. The proposed revisions would not have significant effects. The proposed regulation would minimally affect small government activities by changing the reporting requirement under the depredation order.

b. This rule would not produce a Federal mandate of $100 million or more in any year. It would not be a ''significant regulatory action.''

Takings

This rule does not contain a provision for taking of private property. In accordance with Executive Order 12630, a takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It would not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts are expected to result from the proposed changes in the depredation order.

Civil Justice Reform

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

Paperwork Reduction Act of 1995

We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Because this rule affects only four county government agencies in California, the annual report does not require OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

National Environmental Policy Act

We have analyzed this proposed rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and U.S. Department of the Interior regulations at 43 CFR part 46. We have completed an Environmental Action Statement stating that this action would have neither a significant effect on the quality of the human environment, nor unresolved conflicts concerning uses of available resources.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on Federally recognized Indian Tribes from the proposed regulations change. The proposed regulations change would not interfere with Tribes' abilities to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule only affects depredation control of migratory birds, and would not affect energy supplies, distribution, or use. This action would not be a significant energy action, and no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must Ainsure that any action authorized, funded, or carried out... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). The proposed regulations change would not affect listed species.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Does the description of the rule in the ''Supplementary Information'' section of the preamble help you to understand the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to the Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240–0001. You also may email *comments to Exsec@ios.doi.gov*.

Literature Cited

Beason, Robert C. 1995. Horned Lark (*Eremophila alpestris*). Number 195 *in* The Birds of North America Online. Edited by A. Poole. Ithaca, New York, Cornell Lab of Ornithology. Birds of North America Online, *http://bna.birds.cornell.edu/bna/species/195doi:10.2173/bna.195*.

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List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons described in the preamble, we propose to amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 is revised to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Revise § 21.44 to read as follows:

§ 21.44 Depredation order for house finches and white-crowned sparrows in California.

House finches (*Carpodacus mexicanus*) and white-crowned sparrows (*Zonotrichia leucophrys*) may be taken in Fresno, Merced, Napa, and Sonoma Counties in California if they are depredating on agricultural or horticultural crops. Take of birds under this order must be done under the supervision of the county agriculture commissioner. You do not need a Federal permit for this depredation control as long as you meet the conditions below, but a depredation permit (§ 21.41 in this subpart) is required for take of other migratory bird species, or for take of white-crowned sparrows from 1 April through 30 September.

(a) *When is take allowed?*

(1) House finches may be controlled at any time.

(2) White-crowned sparrows may be controlled from 1 October through 31 March.

(b) *Use of nonlethal control.* Each year, before lethal control may be undertaken, the landowner must attempt to use nonlethal control of migratory bird depredation as recommended by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The county agriculture commissioner must confirm that nonlethal measures have been undertaken to control or eliminate the problem prior to the landowner using lethal control.

(c) *Ammunition.* Except when using an air rifle or an air pistol, if firearms are used to kill migratory birds under the provisions of this regulation, the shooter must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types.

(d) *Disposition of carcasses.* Specimens useful for scientific purposes may be transferred to any entity authorized to possess them. If not transferred, all carcasses of birds killed under this order must be buried or otherwise destroyed. None of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed.

(e) *Annual report.* Any county official acting under this depredation order must provide an annual report to the Regional Migratory Bird Permit Office. The use of FWS Form 3–202–2144 (see Service Web site) is preferred, but not required. The address for the Regional Migratory Bird Permit Office is in § 2.2 of subchapter A of this chapter, and is on the form. The report is due by January 31st of the following year and must include the following information:

(1) The name, address, phone number, and email address of the reporting County Commissioner;

(2) The species and number of birds taken each month;

(3) The disposition of the carcasses; and

(4) The crop or crops that the birds were taken to protect.

Dated: April 30, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–11255 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–R9–MB–2012–0027; FF09M21200–234–FXMB1232099BPP0]

RIN 1018–AY60

Migratory Bird Permits; Removal of Yellow-Billed Magpie and Other Revisions to Depredation Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose changes to the regulations governing control of depredating blackbirds, cowbirds, grackles, crows and magpies. The yellow-billed magpie (*Pica nuttalli*) is endemic to California and has suffered substantial population declines. It is a species of conservation concern. We propose to remove the species from the depredation order. After this change, a depredation permit would be necessary to control the species. We also propose to narrow the application of the regulation from protection of any wildlife to protection of threatened or endangered species only. We propose to add conditions for live trapping, which are not currently included in the regulation. Finally, we propose to refine the reporting requirement to gather data more useful in assessing actions under the order.

DATES: Electronic comments on this proposal via *http://www.regulations.gov* must be submitted by 11:59 p.m. Eastern time on August 12, 2013. Comments submitted by mail must be postmarked no later than August 12, 2013. Comments on the information collection requirements are due no later than June 12, 2013.

ADDRESSES: You may submit comments by either of the following methods. Please do not submit comments by both.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R9–MB–2012–0027.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R9–MB–2012–0027; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203–1610.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Submit comments on the information collection requirements to the Desk Officer for the Department of the Interior at Office of Management and Budget (OMB–OIRA) at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, 703–358–1825. You may review the Information Collection Request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is authorized by the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Russian Federation (formerly the Soviet Union). We implement the provisions of the MBTA through regulations in parts 10, 13, 20, 21, and 22 of the Code of Federal Regulations (CFR). Regulations pertaining to migratory bird permits are

at 50 CFR 21; subpart D of part 21 contains regulations for the control of depredating birds.

A depredation order allows the take of specific species of migratory birds for specific purposes without need for a depredation permit. The depredation order for blackbirds, cowbirds, grackles, crows, and magpies (50 CFR 21.43) allows take when individuals of an included species are found ''committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner that they are a health hazard or other nuisance.''

We established the depredation order for blackbirds and grackles in 1949 (14 FR 2446, May 11, 1949). The regulation specified that take of birds under the order was to protect agricultural crops and ornamental or shade trees. We added cowbirds to that depredation order in 1958 (23 FR 5481; July 18, 1958). In 1972, we added magpies and also expanded the order to cover depredations on livestock or wildlife or ''when concentrated in such numbers and manner as to constitute a health hazard or other nuisance'' (37 FR 9223; May 6, 1972). We added crows to the order in 1973 (38 FR 15448; June 12, 1973) and removed the tri-colored blackbird *(Agelaius tricolor)* in 1989 (54 FR 47524, November 15, 1989).

From 1989 until 2010, the depredation order at 50 CFR 21.43 pertained to ''yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies.'' On December 8, 2008 (73 FR 74447), we proposed ''to make the list of species to which the depredation order applies more precise by listing each species that may be controlled under the order.'' We issued a final rule December 2, 2010 (75 FR 75153), which became effective January 3, 2011, and remains effective today, that revised 50 CFR 21.43 to include four species of grackles; three species each of blackbirds, cowbirds, and crows; and two species of magpies, including the yellow-billed magpie.

Proposed Revisions to Depredation Order

Removal of the Yellow-Billed Magpie

The yellow-billed magpie (*Pica nuttalli*) is an endemic species of California. It is found ''primarily in the Central Valley, the southern Coast Ranges, and the foothills of the Sierra Nevada,'' and is an ''integral part of the oak savannah avifauna'' in California (Koenig and Reynolds, 2009). Degradation of habitat is considered a threat to the species, though secondary poisoning may be a threat in some locations (Koenig and Reynolds, 2009).

The yellow-billed magpie is on the Service's list of Birds of Conservation Concern for the California/Nevada Region (USFWS, 2008). Recently, there have apparently been severe impacts of West Nile virus on the species (Crosbie et al. 2008, Ernest et al., 2010). Our concern for this species leads us to propose to remove it from the depredation order. If the final rule includes removal of this species, then individuals and organizations needing to deal with depredating yellow-billed magpies could apply for a depredation permit under 50 CFR 21.41.

Wildlife Depredation

For wildlife protection, we propose to limit application of this depredation order, which currently covers protecting all wildlife, to only allow take without a permit for protection of threatened or endangered species listed in 50 CFR 17.11(h), in counties in which the listed species occur as is shown to occur in the Service's Environmental Conservation Online System (*http://ecos.fws.gov*), or in designated critical habitat. Take to protect other species of wildlife can be allowed under depredation permits (see 50 CFR 21.41).

Trapping Conditions

We propose to add requirements regarding the use of traps to take birds listed in the order. Proposed regulations cover locating and checking traps, releasing nontarget birds, and using lure birds. We are particularly interested in suggestions about the frequency of trap checks (proposed paragraph (f)).

We are concerned that checking traps once per day, as we propose to require, may not be sufficient to limit take and loss of nontarget bird species. However, more frequent checks of traps may be difficult to accomplish, more expensive when traps are spread over wide areas, and could result in reduced trap performance, and may result in increased stress upon live lures. If we receive comments that substantiate the need for more frequent trap checks, we may require them in the final rule, and require authorization under depredation permits of less frequent trapping regimes, on a case-by-case basis.

Reporting

Under the current regulations, we cannot assess impacts of this order on nontarget species. Therefore, we propose to clarify that reporting of activities under this depredation order requires a summary of those activities and information about capture of nontarget species (proposed paragraph (i)).

Euthanasia

We propose to allow three methods of euthanasia that are considered humane by the American Veterinary Medical Association (2013, *https://www.avma.org/KB/Policies/Documents/euthanasia.pdf*). We solicit suggestions as to whether we should allow other methods of euthanasia.

Public Comments

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. Finally, we will not consider mailed comments that are not postmarked by the date specified in **DATES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), 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 effect of the rule on small businesses, small organizations, and small government jurisdictions.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action would not have a significant economic impact on a substantial number of small entities because the yellow-billed magpie does not frequently cause depredation problems. Where it does, depredation permits could be issued to alleviate problems.

The only potential costs associated with this proposed regulations change is that a person needing a depredation permit to control yellow-billed magpies would have to pay the application fee for the permit, which is $100 for organizations and $50 for homeowners. For the reasons explained in the preamble, we believe that few entities would have cause to apply for these permits. Therefore, we do not believe that this proposed rule would have a significant economic impact on a substantial number of small entities. Accordingly, we certify that a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)).

a. This rule would not have an annual effect on the economy of $100 million or more.

b. This rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions.

c. This rule would 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

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule would not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the proposed regulation would not affect small government activities in any significant way.

b. This rule would not produce a Federal mandate of $100 million or greater in any year. It would not be a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule has no takings implications. A takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It would not interfere with the ability of States to manage themselves or their funds. No significant economic impacts are expected to result from the proposed change in the depredation order.

Civil Justice Reform

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

Paperwork Reduction Act

This proposed rule contains new reporting requirements that we are submitting to the Office of Management and Budget (OMB) for review and approval under Sec. 3507(d) of the Paperwork Reduction Act (PRA). OMB has approved the current information collection requirements associated with the depredation orders in 50 CFR 21.43 and assigned OMB Control Number 1018–0146, which expires November 30, 2013. OMB has also approved the information collection requirements associated with migratory bird permits and assigned OMB Control Number 1018–0022, which expires February 28, 2014.

We are refining the reporting requirements at 50 CFR 21.43(i) to gather data that will be more useful in assessing actions taken under the order. At present, we cannot assess the impacts of the depredation order on nontarget species. Therefore, we clarify that reporting of activities under this regulation requires a summary of those activities and information about capture of nontarget species. We have developed FWS Form 3–202–2143 for respondents' use in submitting the annual report. We are proposing that the annual report contain the following new reporting requirements:

- GPS coordinates to three decimal places of the locations in which the birds were captured or killed. Only the county must be reported for captures by the USDA Animal and Plant Health Inspection Services, Wildlife Services that are conducted to protect agriculture operations, farming, or conservation practices.
- Species, if birds were taken for the protection of wildlife, or the crop, if birds were taken for the protection of agriculture.
- Method of take.
- Whether captured nontarget species were released, sent to rehabilitators, or died.
- If trapping was conducted, measures taken to minimize capture of nontarget species.

We are requesting that OMB assign a new control number for the new annual report requirements. When we publish the final rule, we will incorporate the new requirements into OMB Control Number 1018–0146 and discontinue the new number. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Title: New Annual Report Requirements for Take of Blackbirds, Cowbirds, Crows, Grackles, and Magpies, 50 CFR 21.43.

OMB Control Number: None. This is a new collection.

Service Form Number: 3–202–2143.

Type of Request: New collection.

Description of Respondents: Individuals, farmers, and State and Federal wildlife damage management personnel.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Number of Respondents: 250.

Estimated Number of Annual Responses: 250.

Estimated Completion Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 126 (rounded).

Estimated Total Nonhour Burden Cost: None.

As part of our continuing effort to minimize paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden, including:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email).

National Environmental Policy Act

We have analyzed this proposed rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and U.S. Department of the Interior regulations at 43 CFR 46 and have determined that the proposed changes can be categorically excluded from the NEPA process. This action would have no significant effect on the quality of the human environment, nor would it involve unresolved conflicts concerning alternative uses of available resources.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian Tribes and have determined that there are no potential effects. This rule would not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This action would not be a significant energy action. Because this rule change would not significantly affect energy supplies, distribution, or use, no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). We have concluded that the proposed regulation change would not affect listed species.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Literature Cited

Crosbie, S. P., W. D. Koenig, W. K. Reisen, V. L. Kramer, L. Marcus, R. Carney, E. Pandolfino, G. M. Bolen, L. R. Crosbie, D. A. Bell, and H. B. Ernest. 2008. Early impact of West Nile virus on the yellow-billed magpie *(Pica nuttalli).* Auk 125:542–550.

Ernest, H. B., L. W. Woods, and B. R. Hoar. 2010. Pathology associated with West Nile virus infections in the yellow-billed magpie *(Pica nuttalli):* a California endemic bird. Journal of Wildlife Diseases 46:401–408.

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U.S. Fish and Wildlife Service. 2008. Birds of Conservation Concern, 2008. Division of Migratory Bird Management, Arlington, Virginia.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

For the reasons stated in the preamble, we propose to amend part 21 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 21—MIGRATORY BIRD PERMITS

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

Authority: 16 U.S.C. 703–712.

■ 2. Revise § 21.43 to read as follows:

§ 21.43 Depredation order for blackbirds, cowbirds, crows, grackles, and magpies.

(a) *Species covered.*

Blackbirds	Cowbirds	Crows	Grackles	Magpies
Brewer's *(Euphagus cyanocephalus).* Red-winged *(Agelaius phoeniceus).* Yellow-headed *(Xanthocephalus xanthocephalus).*	Bronzed (*Molothrus aeneus*). Shiny (*Molothrus bonariensis*). Brown-headed *(Molothrus ater).*	American *(Corvus brachyrhynchos).* Fish *(Corvus ossifragus)* ... Northwestern *(Corvus caurinus).*	Boat-tailed *(Quiscalus major).* Common *(Quiscalus quiscula).* Great-tailed *(Quiscalus mexicanus).* Greater Antillean *(Quiscalus niger).*	Black-billed *(Pica hudsonia)*

(b) *Conditions under which control is allowed.* You do not need a Federal permit to control the species listed in paragraph (a) of this section in the following circumstances:

(1) Where they are seriously injurious to agricultural or horticultural crops or to livestock feed;

(2) When they cause a health hazard or property damage;

(3) To protect a threatened or endangered species in any county in which the species is shown to occur in the Service's Environmental Conservation Online System (*http://ecos.fws.gov*); or

(4) To protect a threatened or endangered species in designated critical habitat for the species.

(c) *Non-lethal control efforts.* You must attempt to control depredation by species listed under this depredation order using non-lethal methods before you may use lethal control.

(d) *Ammunition.* In most cases, if you use a firearm to kill migratory birds under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types. However, this prohibition does not apply if you use an air rifle or an air pistol for control of depredating birds.

(e) *Access to control efforts.* If you exercise any of the privileges granted by this section, you must allow any Federal, State, tribal, or territorial wildlife law enforcement officer unrestricted access at all reasonable times (including during actual operations) over the premises on which you are conducting the control. You must furnish the officer whatever information he or she may require about your control operations.

(f) *Trapping conditions.* You must comply with the following conditions if you attempt to trap any species under this order.

(1) You may possess, transport, and use a lure bird or birds of the species listed in paragraph (a) of this section that you wish to trap.

(2) You must check each trap at least once every day it is deployed.

(3) At temperatures above 80 °Fahrenheit, the traps must provide shade for captured birds.

(4) Each trap must contain adequate food and water.

(5) You must promptly release all healthy nontarget birds that you capture.

(6) You must send injured or debilitated nontarget birds to a federally permitted wildlife rehabilitator. You must report the captures in your annual report (see paragraph (i) of this section).

(g) *Euthanasia.* Captured birds of the species listed in paragraph (a) of this section may only be killed by carbon monoxide or carbon dioxide inhalation, or by cervical dislocation performed by well-trained personnel who are regularly monitored to ensure proficiency.

(h) *Disposition of birds and parts.* You may not sell, or offer to sell, any bird, or any part thereof, killed under this section, but you may possess, transport, and otherwise dispose of the bird or its parts, including transferring them to authorized research or educational institutions. If not transferred, the bird and its parts must either be burned, or buried at least 1 mile from the nesting area of any threatened or endangered migratory bird species.

(i) *Annual report.* Any person, business, organization, or government official acting under this depredation order must provide an annual report to the appropriate Regional Migratory Bird Permit Office. The use of FWS Form 3–202–2143 is preferred, but not required. The addresses for the Regional Migratory Bird Permit Offices are in § 2.2 of subchapter A of this chapter, and are on the form. The report is due by January 31st of the following year and must include the following information:

(1) The species and number of all birds captured or killed.

(2) The months in which the birds were captured or killed.

(3) The locations in which the birds were captured or killed.

(i) You must report the GPS coordinates to three decimal places of the locations.

(ii) However, only the county must be reported for captures by the U.S. Department of Agriculture's Animal and Plant Health Inspection Services, Wildlife Services that are conducted to protect agriculture operations, farming, or conservation practices.

(4) The purpose for which they were captured or killed (such as for protection of one or more threatened or endangered species, agriculture, human health and safety, or property). If taken for protection of wildlife, specify the species. If taken for protection of agriculture, specify the crop.

(5) The method of take.

(6) Whether captured nontarget species were released, sent to rehabilitators, or died.

(7) If you conducted trapping, measures you took to minimize capture of nontarget species, such as baiting traps with only white millet seed for capture of brown-headed cowbirds, and using traps that prevent raptors from entering.

(j) *Compliance with other laws.* You may trap and kill birds under this order only in a way that complies with all State, tribal, or territorial laws or regulations. You must have any State, tribal, or territorial permit required to conduct the activity.

(k) *Information collection.* The Office of Management and Budget has approved the information collection requirements associated with this depredation order and assigned OMB Control No. 1018–0146. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 1849 C Street, NW., Washington, DC 20240.

Dated: April 17, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–11254 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 78, No. 92
Monday, May 13, 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

Submission for OMB Review; Comment Request

May 7, 2013.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725-17th Street NW., Washington, DC, 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by June 12, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Almonds Grown in California (7 CFR Part 981).

OMB Control Number: 0581–0242.

Summary of Collection: Marketing Order No. 981 (7 CFR part 981) regulates the handling of almonds grown in California and emanates from the Agricultural Marketing Agreement Act of 1937, (Act) Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674) to provide the respondents the type of service they request, and to administer the California almond marketing order program. The board has developed forms as a means for persons to file required information with the board relating to the treatment of almonds to reduce the potential for Salmonella bacteria prior to shipment.

Need and Use of the Information: Almond handlers are required to submit annual treatment plans to the board and inspection agency to ensure such plans are complete and auditable regarding how they plan to treat their almonds to reduce the potential for Salmonella. The plan will be approved by the Board and must address specific parameters for the handler to ship almonds. The Board also gathers information from entities interested in being almond process authorities that validate technologies, to accept and further process untreated almonds and entities interested in being auditors. The information collected would be used only by authorized representatives of USDA, including the Agricultural Marketing Service, Fruit and Vegetable Programs' regional and headquarters' staff, and authorized employees and agents of the board.

Description of Respondents: Business or other for-profit; Individuals.

Number of Respondents: 175.

Frequency of Responses: Recordkeeping; Reporting: Annually; On occasion.

Total Burden Hours: 4,200.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–11245 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 7, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 12, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such

persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Nursery and Christmas Tree Production Survey and Nursery and Floriculture Chemical Use Survey.

OMB Control Number: 0535–0244.

Summary of Collection: The National Agricultural Statistics Service (NASS) is charged with the responsibility of providing reliable, up-to-date information concerning the Nation's crop and livestock production, prices, and disposition, as well as environmental statistics. This includes estimates of production and value of key nursery products and chemical use by nursery and floriculture production operations. Congress appropriated funds for the collection of pesticide use data on nursery and floriculture operations. This data will expand the existing NASS pesticide database that contains comprehensive annual pesticide use reports. NASS will collect the information using surveys. The authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: Nursery and Christmas tree production data and nursery and floriculture chemical use data will be used by NASS, the Environmental Protection Agency, the nursery and floriculture industries, and other parties to assess the environmental and economic impact of various programs, policies, and procedures on nursery and floriculture operators and workers. The basic chemical use and farm practices information also will be used to enhance the national chemical use database maintained by NASS. This database is an integral source of data necessary for on-going risk assessments related to dietary exposure to chemicals, worker safety, water quality, and ecological resources.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 8,136.

Frequency of Responses: Reporting: Triennial.

Total Burden Hours: 5,075.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–11213 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–13–0013]

Request for Extension and Revision of a Currently Approved Information Collection With Additional Merge of Additional Collection: Regulations Governing Inspection and Certification of Fresh and Processed Fruits, Vegetables and Other Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the merger of Agricultural Marketing Service's (AMS) Fresh Products Division with the Processed Products Division: The newly combined program is named Specialty Crops Inspection Division. The purpose of this notice is to revise and rename two information collections, 0581–0125 Regulation Governing Inspection, Certification, Standards, and Audit Services for Fresh Fruits, Vegetables, and Other Products—7 CFR part 51 and 0581–0234 Reporting Requirements under the Regulations Governing Inspections and Certification of Processed Fruits and Vegetables and Related Products—7 CFR part 52. This notice also combines, 0581–0125 Regulation Governing Inspection, Certification, Standards, and Audit Services for Fresh Fruits, Vegetables, and Other Products—7 CFR part 51 and 0581–0234 Reporting Requirements under the Regulations Governing Inspections and Certification of Processed Fruits and Vegetables and Related Products—7 CFR part 52 providing approved information collections into one and request extension approval of the information collection retitled Regulations Governing Inspection and Certification of Fresh and Processed Fruits, Vegetables and Other Products 7 CFR part 51 and part 52 from the Office of Management and Budget. Specialty Crops Inspection Division provides nationwide inspection, certification and auditing services for fresh and processed fruits, vegetables, and other products on a ''user fee'' basis to facilitate trading of agricultural products on international, interstate and intrastate levels.

DATES: Comments on this notice must be received by May 31, 2013, to be assured consideration.

Additional Information: Interested persons are invited to submit comments on the Web at *http://www.regulations.gov* or contact Nathaniel W. Taylor, Inspection Branch Chief, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC, and 20250; email: *Nathaniel.Taylor@ams.usda.gov;* Ph.: 800–811–2373; or fax: 202–720–0393. Comments should make reference to the date and page number of this issue of the **Federal Register**. All comments received will be posted without change, including the identity of the individuals or entities and their personal information, and will be available for public inspection via the Internet at *http://www.regulations.gov* or at the address cited above during regular business hours.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Inspection Certification and Audit Services for Fresh and Processed Fruits, Vegetables, and Other Products—7 CFR part 51 and part 52.

OMB Number: 0581–0125.

Expiration Date of Approval: October 31, 2013.

Type of Request: Revision and Extension of approval of an information collection.

Abstract: The Agricultural Marketing Act of 1946, (7 U.S.C., 1621–1627) as amended authorizes the Agricultural Marketing Service, Specialty Crops Inspection Division to provide inspection and certification of the quality and condition of agricultural products. Specialty Crops Inspection Division provides a nationwide inspection, grading, and auditing service for fresh and processed fruits, vegetables and other products to shippers, importers, processors, sellers, buyers, and other financially interested parties on a ''user fee'' basis. The use of services is voluntary and is made available only upon request or when specified by some special program or contract. Information is needed to carry out the inspection, grading, or auditing services. Such information includes; the name and location of the person or company requesting services, the type and location of the product to be inspected, the type of inspection being requested, information that will identify the product or type and scope of audit requested. With this revision, Specialty Crops Inspection Division is including information collection requirements currently approved by OMB control number 0581–0125 Regulations

Governing Inspection, Certification, Standards and Audit Services for Fresh Fruits, Vegetables, and Other Products—CFR part 51 (Expires 10/31/13) and 0581–0234 Reporting Requirement under the Regulations Governing Instruction and Certification of Processed Fruits and Vegetables and Related Products 7 CFR part 52 (Expires 1/31/14). Upon approval AMS will request a discontinuation for 0581–0234 from OMB. Merging the Collections will enable the Division to more efficiently manage the collection and prevent duplication of burden.

Regulations Governing Inspection, Certification, Standards and Audit Services for Fresh Fruits, Vegetables and Other Products—7 CFR Part 51 (0581–0125)

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.03 hours per response.

Respondents: Business or other for profit, nonprofit institutions, farms or federal, state, local or Tribal Government.

Estimated Number of Respondents: 8,657.

Estimated Total Annual Responses: 129,769.

Estimated Number of Responses per Respondent: 15.

Estimated Total Annual Burden on Respondents: 4,127.

Reporting Requirements under the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products 7 CFR part 52 (0581–0234).

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.33 hours per response.

Respondents: Business or other for profit, nonprofit institutions, farms or federal, state, local or Tribal Government.

Estimated Number of Respondents: 1,446.

Estimated Total Annual Responses: 15,218.

Estimated Number of Responses per Respondent: 11.

Estimated Total Annual Burden on Respondents: 4,990.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 7, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–11211 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0031]

Environmental Impact Statement; Feral Swine Damage Management

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement and notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service plans to prepare an environmental impact statement (EIS) to address the need for a national feral swine damage management program to protect agriculture, natural resources, property, and human health and safety. This notice identifies potential issues and alternatives that will be studied in the EIS, requests public comments to further delineate the scope of the alternatives and environmental impacts and issues, and provides notice of public meeting.

DATES: We will consider all comments that we receive on or before June 12, 2013. We will also consider comments received at a public meeting to be held on May 23, 2013, from 1 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the USDA Center at Riverside, Oklahoma City Memorial Conference Center, 4700 River Road, Riverdale, MD 20737.

You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0031-0002.*
- *Postal Mail/Commercial Delivery:* Please send your comment to Project Managers, Feral Swine EIS, USDA APHIS–WS, 732 Lois Drive, Sun Prairie, WI 53590.
- At the public meeting in person at the USDA Center at Riverside, Oklahoma City Memorial Conference Center, 4700 River Road, Riverdale, MD 20737.
- By visiting *http://www.aphis.usda.gov/wildlife_damage/feral_swine/index.shtml* for details on how to access the public meeting via the Internet and to submit comments.

Supporting documents and any comments we receive on this notice may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0031* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

Additional information about feral swine may be viewed by visiting the APHIS feral swine Web page at: *http://www.aphis.usda.gov/wildlife_damage/feral_swine/index.shtml.*

FOR FURTHER INFORMATION CONTACT: Dr. Kimberly Wagner, Staff Wildlife Biologist, Wildlife Services, APHIS, 732 Lois Drive, Sun Prairie, WI 53590; (608) 837–2727.

SUPPLEMENTARY INFORMATION:

Background

Feral swine are a harmful and destructive invasive species. Their geographic range is rapidly expanding and their populations are increasing exponentially across the United States. Feral swine also occur in Guam, Puerto Rico, U.S. Virgin Islands, the Northern Mariana Islands, and American Samoa. Feral swine can inflict significant damage to numerous resources including physical damage to crops and property; predation on livestock; disease transmission threats to livestock, humans, and wildlife; and other threats to human health and safety. Feral swine also damage natural resources including sensitive habitats and endangered species. The Tribes, States, and Territories have legal authority to manage feral swine. Executive Order 13112 directs Federal agencies to use their programs and authorities to prevent the introduction of invasive species, control populations of invasive species, and minimize the economic or environmental harm, or harm to human health caused by invasive species. The Animal Plant Health Inspection Service (APHIS) has been receiving increased numbers of requests from local governments and private entities to assist with feral swine damage management.

APHIS–Wildlife Services (APHIS–WS) has issued a number of local environmental assessments (EAs) for proposed actions that incorporated legally available methods to manage feral swine damage. These methods currently include technical assistance in which APHIS–WS provides information and recommendations on how to minimize feral swine damage to the requesting public and resource management agencies, and direct control services in which APHIS–WS uses one or more methods such as live corral and cage traps, snares, dogs, and aerial and ground shooting to remove feral swine. APHIS–WS EAs, which include feral swine damage management, are available on the APHIS–WS Web site at *http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml#EAs.*

Current efforts to manage problems associated with feral swine damage have helped to alleviate localized damage, but the overall feral swine population and associated damage and disease threats have continued to expand at a much faster rate than local governments and APHIS have been able to address them. We believe that a national, coordinated effort would more effectively address the growing problems associated with feral swine and would result in more efficient delivery of damage management programs to Tribes, States, Territories, individuals, and organizations that request assistance.

The APHIS–WS program is authorized by the Animal Damage Control Act (7 U.S.C. 426) to work with other Federal agencies, Tribes, States, Territories, local governments, and private individuals and organizations to protect American resources from damage associated with wildlife. The APHIS–Veterinary Services (VS) program will be participating in the development of the environmental impact statement (EIS). The APHIS–VS program works in a variety of ways to protect and improve the health, quality, and marketability of U.S. animals, animal products, and veterinary biologics by preventing, controlling, and/or eliminating animal diseases and monitoring and promoting animal health and productivity. The authority for the mission of VS is found in the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental impacts of proposed Federal actions before actions are taken. In accordance with NEPA, the regulations of the Council on Environmental Quality (CEQ) for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), U.S. Department of Agriculture (USDA) regulations implementing NEPA (7 CFR part 1b), and APHIS' NEPA Implementing Procedures (7 CFR part 372), APHIS has decided to prepare an EIS to review potential alternatives for a national feral swine management strategy. APHIS will be the lead Federal agency in the development of the EIS in cooperation with other Federal, State, and Tribal entities that have jurisdiction by law and expertise and share a common interest in reducing or eliminating problems caused by feral swine.

Several Federal agencies and national organizations have been invited to formally cooperate in the development of the EIS. States and Territories will also be contacted for input and all federally recognized Tribes will be provided an opportunity for consultation and participation. By preparing an EIS at this time, APHIS may provide other Federal agencies with an opportunity to adopt all or part of the EIS for future actions in accordance with the adoption provisions of the CEQ's NEPA implementing regulations (40 CFR 1506.3).

Proposed Action

APHIS is proposing to implement a nationally coordinated swine damage management program in cooperation with Tribes, agencies, and organizations at the State level to accommodate varying local laws and management objectives for feral swine. Program activities would be implemented in all or most States and Territories where feral swine occur. In States where feral swine are an infrequent occurrence or populations are low, APHIS proposes to cooperate with local and State agencies and Tribes to implement strategies to eliminate feral swine. In areas with established or high swine populations, APHIS would work with Tribes, and State and local agencies and organizations to meet local management objectives, which may include reducing statewide populations or eliminating swine from specific locations. The proposed action would incorporate an integrated approach to feral swine damage management issues using the latest scientific research findings, improvements in management methods and new techniques, and communication and outreach tools to manage feral swine conflicts. Methods that would be evaluated for potential use and/or recommendation by APHIS may include, but are not limited to, fencing, frightening devices, cage traps, corral traps, drop nets, telemetry to locate pigs, hunting with dogs, shooting from ground or from aircraft, the toxicant sodium nitrite, and public hunting.

Scoping

We are requesting public comments to further delineate the scope of alternatives and environmental impacts and issues to be addressed in the analysis. We will be hosting a public meeting to discuss the scope of the EIS on May 23, 2013 (see **DATES** and **ADDRESSES** above). We are particularly interested in receiving comments regarding biological, cultural, or ecological issues that should be addressed in the analysis (see ''Environmental Issues for Consideration'' below), and we encourage the submission of scientific data, studies, or research to support your comments.

Alternatives

The EIS will consider a range of reasonable alternatives that will include the proposed action described above and a ''no action'' alternative, which can be defined as a continuation of current ongoing management practices (40 CFR 1502.14(d)). Under the no action alternative, current APHIS feral swine damage management actions, as conducted in a number of States, would continue without expansion and national coordination. We welcome additional recommendations for management strategies to be addressed in the EIS.

Environmental Issues for Consideration

We have also identified the following potential environmental issues for consideration in the EIS:

- Potential effects on feral swine populations.
- Potential direct or indirect impacts on protected and sensitive species and on non-target animals.
- Potential environmental effects of carcass disposal methods.
- Potential direct or indirect effects on tribal resources and values.
- Potential direct or indirect effects on hunters and others who benefit from feral swine.
- Potential direct or indirect economic effects.
- Potential effects on social values such as ethical perspectives and humaneness.

In considering reasonable alternatives, the EIS will study the effects of the project on these environmental issues.

While the environmental issues evaluated at the local level have not been significant, a decision to implement the proposed action would expand the current program capabilities to a national scale and encourage additional national and local level partnerships to address feral swine conflicts. Comments that identify other issues or alternatives that should be considered in the EIS would be extremely helpful.

After the comment period closes, APHIS will review and consider all comments received during the comment period and any other relevant information in the development of the EIS. All comments received will be available for public review. Upon completion of the draft EIS, a notice announcing its availability and an opportunity to comment will be published in the **Federal Register**.

Parking and Security Procedures for the Public Meeting

Persons attending the May 23, 2013, meeting in Riverdale, MD, are required to register in advance at *http://www.aphis.usda.gov/wildlife_damage/feral_swine/index.shtml* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Travel directions to the USDA Center at Riverside are available on the Internet at *http://www.aphis.usda.gov/plant_health/general_info/directions_riverdale.shtml*. Please note that a fee of $5 is required to enter the parking lot at the USDA Center at Riverside. The machine accepts bills and coins as well as credit and debit transactions. You must display your daily parking receipt and have it visible in your vehicle for parking attendants to recognize. Upon entering the building, visitors should inform security personnel that they are attending the feral swine damage management public meeting. Photo identification is required to gain access to the building, and all bags will be screened.

For individuals who are unable to attend the meeting in person, it will be streamed on the Internet as a live Webcast. Information about how to join the live Webcast and conference line will be made available at *http://www.aphis.usda.gov/wildlife_damage/feral_swine/index.shtml*. We recommend that you connect at least 5 minutes prior to the start of the meeting.

Done in Washington, DC, this 8th day of May 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11271 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0019]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0494]

Draft Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens: Notice of Availability of Documents and Request for Comment

AGENCY: Food Safety and Inspection Service, United States Department of Agriculture; Center for Food Safety and Applied Nutrition, Food and Drug Administration, HHS.

ACTION: Notice and request for comment.

SUMMARY: The United States Department of Agriculture (USDA)/Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA)/Center for Food Safety and Applied Nutrition (CFSAN) are announcing the availability of the draft ''Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens.'' This draft quantitative risk assessment (QRA) includes an Interpretive Summary and a Technical Report. The purpose of the draft QRA is to evaluate the conditions, such as *Listeria* (*L.*) *monocytogenes* contamination of certain ready-to-eat (RTE) foods, for example cheese, deli meats, and deli salads; in the retail deli environment; in niches (a harborage site); or on incoming RTE foods, that contribute to cross-contamination and ultimately, to the risk of listeriosis. The draft QRA makes it possible to evaluate the effectiveness of some retail practices and intervention strategies in reducing the predicted risk of listeriosis from some RTE foods that are sliced, packaged, or prepared in retail delicatessens and consumed in the home.

DATES: Comments on the draft QRA should be submitted on or before July 12, 2013.

ADDRESSES: Comments to FSIS may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2013–0019. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Comments to FDA: Interested persons may submit either electronic comments and scientific data and information to *http://www.regulations.gov* or written comments and scientific data and information to the Division of Dockets Management [(HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852]. It is only necessary to send one set of comments. Identify comments with the FDA docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: FSIS: Janell Kause, Scientific Advisor for Risk Assessment, Office of Public Health Science, Food and Safety Inspection Service, USDA, 355 E Street SW., Washington, DC 20024; Telephone: (202) 690–0286, Email: *Janell.Kause@fsis.usda.gov.*

FDA: Sherri Dennis, Acting Director, Division of Risk Assessment, Office of Analytics and Outreach, FDA/CFSAN, HFS–005, 5100 Paint Branch Parkway, College Park, Maryland 20740;

Telephone: (240) 402–1914, Email: *Sherri.Dennis@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Listeria monocytogenes (*L. monocytogenes*) is a widely occurring pathogen that persists in agricultural, food processing, and retail environments. Ingestion of *L. monocytogenes* can lead to the development of listeriosis, which could cause septicemia, meningitis, encephalitis, spontaneous abortion, and stillbirth. Epidemiological data show that listeriosis has one of the highest hospitalization rates (approximately 95 percent) and one of the highest case fatality rates (approximately 16 percent) among foodborne diseases in the United States (Ref. 1).

To reduce listeriosis, it is important to identify: (1) which RTE foods pose the greatest risk to public health, and (2) which changes in practices are critical for reducing the prevalence and levels of *L. monocytogenes* in these RTE products. Risk assessment is a decision-support tool that has been used to successfully accomplish these goals by prioritizing RTE foods according to risk and linking food safety research to changes in practices that will improve public health outcomes.

A 2003 industry survey of *L. monocytogenes* in RTE foods purchased at retail grocery stores showed a seven-fold higher incidence and level of *L. monocytogenes* in deli meats sliced and served in retail delis compared to those sliced and packaged in manufacturing plants (Ref. 2). A subsequent survey by academia yielded similar findings (Ref. 3). An FSIS risk assessment, using these data, predicted an estimated 83 percent of all deli meat-related listeriosis cases are associated with deli meat sliced and packaged at retail delis (Ref. 4). A Cornell University comparative risk assessment had similar findings (Ref. 5).

Cross contamination in the deli environment is thought to contribute to *L. monocytogenes* contamination of RTE foods, but little is known about the transfer of this pathogen from one surface to another in the retail setting. *L. monocytogenes* is present in the environment and can survive and grow in foods held at ambient and refrigeration temperatures. Therefore adequate preventive controls must take into account contamination as well as survival and proliferation of the organism. *L. monocytogenes* can contaminate foods via cross contamination from one product to another or through contamination from the environment, or both. FSIS and CFSAN (we) jointly developed a risk assessment to better understand *L. monocytogenes* transmission, survival, and growth in the retail environment and to evaluate how retail practices may impact public health. In 2009, the President's Food Safety Work Group identified this quantitative risk assessment (QRA) as a priority (Ref. 6).

II. Draft Interagency Risk Assessment—*L. monocytogenes* in Retail Delicatessens

The draft ''Interagency Risk Assessment—*Listeria monocytogenes in Retail Delicatessens''* (Ref. 7–8) provides federal risk managers and the retail industry with a science-based decision support tool to evaluate the effectiveness of retail practices and interventions to reduce or prevent listeriosis associated with the consumption of RTE foods commonly prepared and sold in the delicatessen (deli) of a retail food store. It also examines how changes in current retail practices might further mitigate the predicted risk of listeriosis from these RTE foods. We conducted the draft QRA collaboratively, in consultation with the Centers for Disease Control and Prevention (CDC) and with input from industry, academic institutions, and consumer advocacy group stakeholders. It is available on FSIS's Web site at *http://www.fsis.usda.gov/PDF/Interagency_RA_Lm_Retail_Report_May2013.pdf* and FDA's Web site at *http://www.fda.gov/Food/FoodScienceResearch/RiskSafetyAssessment/default.htm*.

The draft QRA model has undergone an independent external peer review consistent with the requirements for peer review in the Office of Management and Budget's ''Final Information Quality Bulletin for Peer Review.'' Our response to the peer-review is available electronically on FSIS's Web site and FDA's Web site (Ref. 9).

The draft QRA answers the following three broad risk management questions:

1. What is the exposure to *L. monocytogenes* from consuming RTE foods prepared in retail delis?

2. What are the key processes that increase RTE foods contamination at retail delis?

3. How much is the relative risk per serving reduced according to specific risk management options?

The three risk management questions are very broad in nature, and we further refined them to a list of risk mitigations evaluated through scenario analyses within the QRA. We used specific risk management questions provided by federal partners and stakeholders to guide the simulation scenarios conducted with the QRA.

Specifically, the QRA model:

- Considers *L. monocytogenes* entering the retail deli area from either contaminated incoming products or from environmental/niche contamination;
- Considers a variety of RTE foods (*e.g.,* different types of cheeses, deli meats, and deli salads) entering the retail deli;
- Simulates the transmission of *L. monocytogenes* among multiple pathways (including product-to-slicers, gloves-to-display cases, and utensils-to-gloves);
- Incorporates employee behaviors that contribute either to the spread or inactivation of *L. monocytogenes* (*e.g.,* cleaning and sanitizing); and
- Factors with the potential for affecting bacterial growth (*e.g.,* temperature/time, product pH, water activity, presence of growth inhibitors).

The QRA also estimates the risk of listeriosis from the handling and consumption of these products in the home. The QRA models two subpopulations: (1) The subpopulation with increased susceptibility (including neonates, older adults, and the immunocompromised), and (2) the subpopulation with decreased susceptibility (the general healthy population).

We coordinated with CDC and several universities to gather data for the QRA. Stakeholders also developed partnerships to fill the data gaps identified in a request for scientific data and information for the project (Ref. 10). In 2009, we held a public meeting to present the background and data needs for this QRA (Ref. 11) (transcripts are available in the FSIS docket room and on the FSIS Web site at *http://www.fsis.usda.gov/PDF/Listeria-Transcript_062309.pdf*). As announced by FSIS in the **Federal Register** (78 FR 23901; April 23, 2013), we will hold a second public meeting on May 22, 2013 to present the supporting data, modeling approach, and findings of the QRA. (More information about this meeting will be available on FSIS's Web site at *http://www.fsis.usda.gov/news/meetings_&_events/*.

III. Request for Comments

We invite comments on the QRA that can help improve:

- The overall risk assessment approach used;
- The assumptions made;
- The modeling techniques;
- The data used; and
- The clarity and the transparency of the documentation in this draft QRA.

We will review and evaluate all public comments on this draft QRA and make modifications to the assessment based on comments, as appropriate.

IV. References

The following references are on display in the FSIS Docket Room at the address above between 8:00 a.m. and 4:30 p.m., Monday through Friday, and in the FDA Division of Dockets Management at the address above between 9 a.m. and 4 p.m., Monday through Friday. (We have verified the following Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. Scallan, E., Hoekstra, R.M., Angulo, F.J., Tauxe, R.V., Widdowson, M.A., Roy, S.L., Jones, J.L., and Griffin, P.M., Foodborne illness acquired in the United States—major pathogens. *Emerging Infectious Diseases,* 2011. 17(1): p. 7–12.
2. Gombas, D.E., Chen, Y., Clavero, R.S., and Scott, V.N., Survey of *Listeria monocytogenes* in ready-to-eat foods. Journal of Food Protection, 2003. 66(4): p. 559–69.
3. Draughon, A.F. A collaborative analysis/risk assessment of *Listeria monocytogenes* in ready-to-eat processed meat and poultry collected in four FoodNet states in International Association for Food Protection 93rd Annual Meeting. 2006. Calgary, Alberta, Canada. Data shown in Endrikat *et al.* (2010)(Ref. 4).
4. Endrikat, S., Gallagher, D., Pouillot, R., Hicks Quesenberry, H., Labarre, D., Schroeder, C.M., and Kause, J., A Comparative Risk Assessment for *Listeria monocytogenes* in Prepackaged versus Retail-Sliced Deli Meat. *Journal of Food Protection,* 2010. 73(4): p. 612–9.
5. Pradhan, A.K., Ivanek, R., Grohn, Y.T., Bukowski, R., Geornaras, I., Sofos, J.N., and Wiedmann, M., Quantitative Risk Assessment of Listeriosis-Associated Deaths Due to *Listeria monocytogenes* Contamination of Deli Meats Originating from Manufacture and Retail. *Journal of Food Protection,* 2010. 73(4): p. 620–30.
6. Federal Food Safety Working Group, The Federal Food Safety Working Group Progress Report, 2011. p. 31. Available from: *http://www.whitehouse.gov/sites/default/files/fswg_report_final.pdf.*
7. U.S. Department of Agriculture, Food Safety and Inspection Service and Department of Health and Human Service, Food and Drug Administration/Center for Food Safety and Applied Nutrition. Draft Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens: Interpretative Summary. May 2013. *http://www.fsis.usda.gov/PDF/Interagency_RA_Lm_Retail_Summary_May2013.pdf* and *http://www.fda.gov/Food/FoodScienceResearch/RiskSafetyAssessment/default.htm.*
8. U.S. Department of Agriculture, Food Safety and Inspection Service and Department of Health and Human Service, Food and Drug Administration/Center for Food Safety and Applied Nutrition. Draft Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens: Report. May 2013. *http://www.fsis.usda.gov/PDF/Interagency_RA_Lm_Retail_Report_May2013.pdf* and *http://www.fda.gov/Food/FoodScienceResearch/RiskSafetyAssessment/default.htm.*
9. U.S. Department of Agriculture, Food Safety and Inspection Service and Department of Health and Human Service, Food and Drug Administration/Center for Food Safety and Applied Nutrition. Draft Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens: Response to Peer Review Comments. May 2013. *http://www.fsis.usda.gov/PDF/Interagency_RA_Lm_Retail_Peer_Review_May2013.pdf* and *http://www.fda.gov/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/.*
10. **Federal Register** Notice. Risk Assessment of the Public Health Impact from Foodborne *Listeria monocytogenes* in Some Ready-to-Eat Foods Sliced, Prepared, and/or Packaged in Retail Facilities; Request for Comments and for Scientific Data and Information. (74 FR 3617; January 21, 2009), Docket No. FDA–2008–N–0658, *http://www.fda.gov/OHRMS/DOCKETS/98fr/E9–938.pdf.*
11. Interagency Retail Listeria monocytogenes Risk Assessment: Notice of a Public Meeting. (74 FR 27276; June 9, 2009). Docket No. FSIS–2009–0012, *http://www.gpo.gov/fdsys/pkg/FR–2009–06–09/html/E9–13378.htm.*

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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Done at Washington, DC, on: April 24, 2013.

Alfred V. Almanza,

Administrator.

Leslie Kux,

Assistant Commissioner for Policy, FDA.

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DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC41

Advertising and Sponsorship in Connection With Concessions Involving Privately Owned Improvements on National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of final directive; response to public comment.

SUMMARY: The Forest Service is amending its internal directives for concessions with privately owned improvements that operate under special use permit on National Forest System (NFS) lands. Subject to certain conditions, the final directive allows holders of concession permits to advertise (1) inside buildings and other interior spaces they own; (2) on chairlift restraining bars in conjunction with trail map displays; (3) at designated ski/snowboard racing sites; and (4) at venues for short-term competitive events. In addition, the final directive

allows concessioners to advertise the services and accommodations they offer at the concession site. The final directive also encourages third-party sponsorships of events, projects, and programs to assist the Agency in promoting public participation in or awareness of management of NFS lands. The revised direction promotes consistency in the special uses program by clarifying where advertising is permitted or prohibited and by describing how sponsorships may be utilized and how sponsors may be recognized. The final directive also adds several definitions to FSM 2340 to aid in understanding terms used in this directive.

DATES: This directive is effective May 13, 2013.

ADDRESSES: The record for this final directive is available for inspection and copying at the office of the Director, Recreation, Heritage, and Volunteer Resources Staff, USDA, Forest Service, 4th Floor Central, Sidney R. Yates Federal Building, 1400 Independence Avenue SW., Washington, DC, from 8:30 a.m. to 4:00 p.m., Monday through Friday, except holidays. Those wishing to inspect these documents are encouraged to call ahead at (202) 205–9530 to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT: Corey Wong, Recreation, Heritage, and Volunteer Resources Staff, (970) 874–6668.

SUPPLEMENTARY INFORMATION:

1. Background and Need for the Final Directives

Background

The Forest Service authorizes and regulates the provision of concession recreation services to the public through private individuals and entities that own and operate recreational facilities and provide services on NFS lands. These facilities and services are authorized by special use permits and are intended to enhance opportunities for the public to recreate on NFS lands. Concessioners often provide the primary and sometimes the only experience on NFS lands for many members of the public. Many people visit concessions on NFS lands each year. For example, approximately one-half of the 60 million annual skier and snowboarder visits in the United States occur at ski areas that operate under a Forest Service special use permit. Thus, concessioners such as resort, marina, and ski area operators greatly assist the Forest Service in providing outdoor recreation opportunities in developed settings.

Concession special use permits are issued to provide for particular types of public recreation opportunities. While the Agency recognizes that a permit holder must charge fees to cover the cost of these facilities and services and to provide a return on the holder's financial investment, these authorizations are not issued simply to generate revenue. A primary objective in the NFS recreation program is to ''provide nonurbanized outdoor recreation opportunities in natural appearing forest and rangeland settings'' (FSM 2302). At concession sites, the Agency is required to manage for ''a diversity of recreation activities that emphasize the forest setting and rustic, natural resource-based recreation opportunities'' (FSM 2343.02). Under these policies, the Forest Service has a responsibility at concession sites to limit the types of development and posted displays and information to protect the natural setting.

Prior to 2005, Forest Service directives prohibited all outdoor advertising, except for posting of available services and accommodations inside buildings (FSM 2343.03, para. 11). Since 2005, the Forest Service has authorized limited outdoor advertising under an interim directive issued on November 25, 2005. The interim directive recognizes that it may not be economical for a concessioner to conduct some types of activities or provide some facilities without the financial support of third parties. In addition, the interim directive recognizes that sponsorship of events, projects, and programs can promote public participation in and awareness of management of NFS lands if these activities evaluate solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety.

Need for the Final Directive

The final directive provides long-term direction to field employees on advertising and sponsorship at concession sites and reflects current trends at concession sites. At many of these sites, such as ski areas, the nature of the setting and the activities offered have become more developed in recent years. In addition, some activities, such as national and international ski and snowboard racing, including Olympic events, would not be possible if advertising were not allowed. Financial support for certain facilities and activities from third parties such as the National Standard Race Program is critical and probably would not be feasible if the supporting entities were not provided some sort of promotional opportunity. The final directive keeps pace with these changes while ensuring that concession sites remain a place for natural resource-based recreation, where visitors can expect to find refuge from extensive advertising and other urban pressures. The revisions to the provisions on sponsorship provide for a more consistent approach nationally and more clearly distinguish sponsorship from advertising.

2. Public Comments on the Interim Directive and Agency Responses

On November 25, 2005, the Forest Service published notice in the **Federal Register** (70 FR 71081) of and requested public comment on an interim directive governing advertising at concession sites with privately owned improvements. The interim directive allowed holders of concession permits to advertise inside buildings and other interior spaces that they own. In addition, the interim directive introduced sponsorship as a means of promoting public participation in and awareness of management of NFS lands through events, projects, and programs that provide for evaluation of solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety.

The notice of the interim directive was posted electronically on the **Federal Register** Web site, *www.gpoaccess.gov,* and on the FirstGov e-rulemaking site, *www.regulations.gov*. The Agency posted the notice and the interim directive on its special uses Web site, *www.fs.fed.us/recreation/permits*. The notice provided for a 120-day public comment period ending March 27, 2006. The Forest Service received 190 comments on the interim directive. Each respondent was grouped in one of the following categories:

Business	9
Commercial Recreation Permit Holder or Association	3
Individual	172
Environmental Organization	5
Recreation Organization	1

The 190 respondents represented 16 States and the District of Columbia. Most comments were short statements of one paragraph or less provided via email. Fewer than 20 of the comments were identical.

Many respondents offered general comments supporting or opposing the interim directive, while others offered comments on specific sections of the interim directive. Most respondents stated that NFS and other Federal lands should be a refuge from the constant

barrage of commercialism in their daily lives and that advertising detracts from the natural environment they seek when visiting the NFS. These respondents generally objected to any change in the Agency's pre-2005 policy on advertising.

Many respondents objected to the designation of the side of a restraining bar facing the rider on a chairlift as an indoor space owned by the permit holder and therefore eligible for placement of advertising. Several respondents stated that the advertisements on a chairlift restraining bar did not diminish their experience and were helpful.

Other respondents provided specific comments about other agency policy-making efforts or existing Forest Service direction in other areas, which are beyond the scope of the interim directive.

Untimely comments were not considered.

General Comments and Responses

Comment. Several respondents observed that the Forest Service provided no information supporting the public need to revise the policy on advertising. One respondent stated that there is no historical precedent that supports advertising as a legitimate use of Federal lands.

Response. The Agency believes that in general outdoor advertising on NFS lands at concession sites is not appropriate. The Forest Service has not identified outdoor advertising generally as a needed public service. However, there are limited situations where advertising at concession sites on NFS lands provides a useful public service that would not otherwise be available. Further clarification and clear limitations on advertising opportunities are important aspects of the revised policy. Specifically, the final directive (1) more clearly defines what constitutes an indoor space where advertising is allowed and specifies applicable restrictions, including those governing advertising on chairlift restraining bars; (2) clarifies that permit holders may advertise their own accommodations and services; (3) indicates that printed materials distributed at concession sites, such as trail map brochures, are not subject to advertising restrictions; (4) provides for limited advertising opportunities at short-term competitive events, such as ski races; and (5) includes provisions for limited advertising at designated competitive courses that are used throughout an operating season.

In terms of sponsorships, the Forest Service sees a public need to promote public interest and participation in management of NFS lands. The Agency believes this objective is met by sponsorship of events, projects, and programs that provide for evaluation of solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety. Without sponsorship opportunities, these endeavors might not provide a return on investment for concessioners and therefore most likely would not be undertaken.

Comment. Several respondents were concerned that implementation of the interim directive will lead to incremental proliferation of advertising at concession sites due to pressure from permit holders and advertisers on authorized officers.

Response. The Forest Service believes that the final directive provides sufficient controls on advertising to prevent the incremental proliferation of advertising at concession sites.

Comment. Several respondents expressed a concern that the revenues generated from advertising at concession sites will result in a reduction in public support for Forest Service appropriations from tax revenues, as well as a reduction in the public's sense of ownership of NFS lands.

Response. Most advertising revenues will not accrue to the Forest Service. Rather, they will accrue to permit holders. The Forest Service will obtain only a percentage of advertising revenue as part of the land use fee for concessions. Therefore, implementation of the final directive will have minimal effect on public support for Forest Service appropriations or the public's sense of ownership of NFS lands.

Comment. One respondent voiced opposition to concessioners operating on NFS lands.

Response. Whether concessions are an appropriate use of NFS lands is outside the scope of the interim directive and therefore was not considered in formulation of the final directive.

Comment. Many respondents expressed opposition to the interim directive because they believed it will result in commercialization of NFS lands, promote corporate branding, and generate profits for resorts.

Response. The Agency believes the final directive includes sufficient restrictions to protect the National Forest setting. The Forest Service understands that both permit holders and third parties are motivated by a variety of factors, including financial considerations. Most concession permit holders are for-profit businesses.

Comment. One respondent stated that the interim directive will allow posting of religious messages.

Response. The final directive defines advertising as ''the act of calling public attention to a product or business'' and therefore does not apply to the posting of religious information.

Comment. One respondent stated that the interim directive provides no assurance that any of the revenues generated will be devoted to a public purpose that enhances the recreation experience. This respondent also noted that in implementing the interim directive, the Forest Service will be conveying valuable property rights of the United States to concessioners without receiving compensation.

Response. The advertising revenues a permit holder generates are subject to land use fees that are returned to the U.S. Treasury. The Forest Service believes that the changes made to the interim directive will help ensure that sponsorship funding will be focused on promoting public awareness of and engagement in management of NFS lands. Enhancement of the recreation experience is not an objective of the sponsorship program, although it could be a secondary result in some cases. Sponsorship and advertising provided for in the final directive do not convey a property interest to permit holders.

Comment. Some respondents supported the interim directive and stated that it will provide more clarity and consistency for concessioners.

Response. The Forest Service believes that the changes contained in the final directive are important to help reduce confusion and promote consistent application.

Comment. One respondent stated that sponsorships were needed for some concessions to underwrite services and amenities provided to the public.

Response. This comment confuses advertising and sponsorship. Sponsorship is not intended as a means for the holder to cover operating expenses or finance new recreational facilities. The final directive includes more explicit language on this point and reiterates that to qualify for sponsorship, events, projects, and programs must provide for evaluation of solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety.

Comment. One respondent stated that the interim directive was too restrictive with respect to the types of commercial information that may be posted in the base area of ski resorts. This respondent noted that the base area is already developed and that posting some

commercial information at that location beyond what the interim directive allows would not detract from the outdoor experience.

Response. The Forest Service agrees that the base area of ski resorts, especially those with intermingled private and Federal land ownership, often has a more developed appearance. However, the Agency does not believe it would be appropriate or practical for the amount of commercial information allowable to be based on the level of development.

Comment. Some respondents expressed a concern about the need to analyze adverse effects from the interim directive on scenic quality, open space, and the Forest Service's mission and core values.

Response. With respect to advertising, the Agency does not believe that the final directive will have adverse effects on scenic quality, open space, or the Forest Service's mission and core values because advertising will be confined to indoor spaces; chairlift restraining bars, provided certain conditions are met; holder services, provided certain conditions are met; printed materials and other media produced outside the permit area and distributed inside the permit area, provided they are not posted in outdoor settings inside the permit area; short-term competitive events; and at the start and finish points of designated ski and snowboard race courses and terrain parks.

With respect to sponsorship, the Agency does not believe that the final directive will have adverse effects on scenic quality, open space, or the Forest Service's mission and core values because events, projects, and programs must provide for evaluation of solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety. Moreover, the final directive does not approve or disapprove any event, project, or program. Events, projects, and programs proposed for sponsorship will be subject to the requisite analysis under the National Environmental Policy Act (NEPA). Issues pertaining to scenic quality and open space that arise in connection with these events, projects, and programs could be addressed in any required environmental analysis.

Comment. One respondent asserted that the interim directive will eventually affect many small entities.

Response. The final directive will apply only to holders of concession permits authorizing facilities that are constructed and operated by the permit holder on NFS lands. These facilities primarily include operations such as resorts, marinas, and ski areas, some of which are not built and operated by small entities. The final directive will apply equally to all these permit holders, regardless of the size of the business. Moreover, the final directive enhances the financial position of these concessioners to the extent the final directive allows advertising and sponsorship, which will generate revenue for the concessioners. The Forest Service believes it is unlikely that there would be any change in the number of special uses authorized as a result of the final directive.

Comment. Several respondents stated that State and local law regarding advertisement of alcohol and other products will be preempted by the interim directive.

Response. The final directive governs the time, place, and manner in which advertising may take place at concessions on NFS lands. The final directive does not address the types of products that may be advertised and therefore does not preempt State and local law governing advertisement of specific products such as alcohol. State and local law regarding advertisement of alcohol and other products will still be in effect.

Comment. Several respondents expressed concerns about the effect the interim directive will have on NFS lands outside the permit area. One respondent was concerned that the interim directive will lead to requests from businesses to allow advertising along roads and scenic byways.

Response. The final directive provides for limited advertising only within the permit area for concessions involving privately owned improvements. The final directive does not allow advertising in other contexts on NFS lands, including along roads and scenic byways. Therefore, the Agency does not believe that the final directive will have any effect on NFS lands outside the permit area for these concessions, nor does the Agency believe that the final directive will lead to requests from businesses to allow advertising along roads and scenic byways.

Comment. Several respondents stated that they believed that the interim directive will give companies and donors undue influence over Forest Service decision-makers.

Response. Under the final directive, the business relationship for both advertising and sponsorship is between the advertiser or sponsor and the concessioner. The Agency's role is limited to ensuring that advertising and sponsorship meet the requirements in the final directive. The final directive restricts advertising to specific situations and more clearly defines sponsorships. In the case of advertising, the final directive helps meet the Agency's objectives of resource protection and scenery management. In the case of sponsorship, the final directive helps meet the Agency's objectives regarding natural resource management, conservation awareness, and promotion of public health and safety.

Comment. A few respondents made suggestions regarding accounting for funds received by the Forest Service under the interim directive, including retaining the funds in the unit where they are collected, requiring advertisers to enter into an agreement with the permit holder for use of NFS lands, and ensuring that the United States receives market value fees for advertising and sponsorship revenue received by concessioners under the interim directive. Other respondents asked the Forest Service to ensure that the additional revenue generated under the interim directive be devoted to public programs, projects, or activities.

Response. The Forest Service does not have the authority to retain land use fees for concession permits involving privately owned improvements, including the part of the fees attributable to advertising and sponsorship revenues. These fees will be deposited in the U.S. Treasury. Advertisers will enter into advertising agreements with holders of permits for concessions involving privately owned improvements. The Forest Service will not be a party to these agreements. A land use agreement between these parties is unnecessary, as the permit holder is responsible for use and occupancy of NFS lands for the concession, including advertising and sponsorship authorized under the final directive. The Forest Service collects land use fees based on market value for concessions involving privately owned improvements. To the extent authorized by law, revenues derived from advertising and sponsorships will be factored into calculation of these land use fees. The National Forest Ski Area Permit Fee Act (16 U.S.C. 497c(f)) exempts sponsorship event revenue from the land use fee calculation for ski area permits. Although the Forest Service cannot retain and spend revenues generated from advertising and sponsorship under the final directive, sponsored events, projects, and programs promote the public interest by providing for evaluation of solutions to specific natural resource management problems, increasing conservation awareness, or promoting public health or safety.

Specific Comments and Responses

FSM2343.03, Paragraph 11—Advertising

Prior to issuance of the interim directive in 2005, Forest Service policy prohibited all advertising at concession sites, except for signs on buildings that simply iterated the services and accommodations available inside. Forest Service policy did not address advertising inside buildings and other structures. Paragraph 11 of the interim directive addressed this issue by allowing for advertising in interior spaces owned by the permit holder. The interim directive included chairlift restraining bars at ski areas as an interior space. Paragraph 11 also cited paragraph 12 for guidance regarding advertising for short-term special events.

Confusion between advertising and sponsorship has been the most common obstacle to consistent implementation of the interim directive. To distinguish sponsorship recognition more clearly from advertising, the final directive defines sponsorship as ''monetary or in-kind support from an individual or entity for an event, project, or program that promotes public participation in or awareness of management of National Forest System lands'' (FSM 2340.5). In contrast, advertising is defined as ''the act of calling public attention to a product or business.'' Additionally, the final directive addresses this confusion by focusing on advertising in paragraph 11 and on sponsorship in paragraph 12. In addition, paragraph 11 of the final directive includes limited exceptions to the general advertising prohibition, some of which might have been approved as sponsorships under the interim directive.

In response to public comments, the final directive clarifies that chairlift restraining bars facing passengers are not an interior space, but qualify as a location for placement of advertising if the advertising meets the conditions enumerated in the final directive. Specifically, based on the recognition that trail maps are helpful to ski area visitors, the advertising must be included in a trail map display and must not exceed 33 percent of the surface area of the panel facing passengers.

Paragraph 11 of the final directive also includes other exceptions to the general advertising prohibition that might have previously been treated as sponsorships because of ambiguity in the interim directive. The final directive clarifies that concession permit holders may advertise their services and accommodations at their concession site and that printed materials and other media produced outside the permit area that contain advertising may be distributed at the concession site, provided they are not posted in outdoor settings in the permit area. The final directive also includes exceptions for advertising at short-term competitive events and for limited advertising at designated ski and snowboard race courses and snow sports terrain parks.

The Forest Service recognizes that concessioners may have some advertisements and displays under contract with third parties that do not meet the requirements of the final directive. Therefore, the final directive provides that these advertisements and displays may remain in place through the term of the current contract. Finally, as in the interim directive, the final directive prohibits display of Forest Service symbols in conjunction with product or service names and advertisements and requires prior written approval for exterior signage.

Comment. Many respondents stated that expanding opportunities for advertising in indoor spaces owned by permit holders would detract from the natural environment they expect on NFS lands. One respondent stated that social science research indicates that increased commercialism results in less enjoyment of the outdoor experience.

Response. The interim and final directives authorize advertising only at concessions with privately owned improvements, such as ski areas, marinas, and other resorts. These concessions involve significant developments. Nevertheless, the Agency believes that even these developed settings should offer visitors some degree of refuge from urban and commercial influences. The restrictions in the final directive strike a balance between allowing advertising in some contexts at commercial public service sites and maintaining the natural integrity of these areas so that they stand apart from urban settings as a place for natural resource-based outdoor recreation.

Comment. Many respondents expressed opposition to allowing advertising on chairlift restraining bars. These comments were often focused on a pilot program that was in place in Colorado where advertising was integrated into trail map displays. Respondents frequently stated that chairlift restraining bars should not be considered an indoor space; that riding on a chairlift was a highly outdoor experience; and that advertising on the restraining bar would detract from their enjoyment of the natural setting. Several respondents objected to being a captive audience to the advertising while on a chairlift. One respondent suggested that if a ski area believes that trail map displays on chairlift restraining bars add value to the recreation experience, the maps could be provided without advertising.

Response. The Forest Service agrees that chairlift restraining bars should not be considered an indoor space. However, the Agency believes that trail map displays on chairlift restraining bars provide a useful public service and that recognition of third-party support in the limited manner authorized by the final directive will not unduly detract from the outdoor experience of skiers and snowboarders. The fact that trail map displays on chairlift restraining bars did not exist before advertising was allowed in conjunction with them suggests that permit holders would be unlikely to include the displays without that support.

Comment. Some respondents were supportive of the usefulness and convenience of trail map displays on chairlift restraining bars. A few of these respondents thought the advertising or message on the map was either useful or did not negatively affect their experience. One respondent noted that the three types of maps available (on paper, on chairlift restraining bars, and posted on the mountaintop) were redundant and unnecessary.

Response. The Agency believes that trail maps that are attached to chairlift restraining bars are a positive amenity for skiers and snowboarders. However, the interim directive allowed advertising on chairlift restraining bars with no requirement that the display include a trail map or any other public service feature. Likewise, the interim directive did not include any limit on the size or extent of advertising that may be placed on chairlift restraining bars. The final directive does not allow any advertising on chairlift restraining bars unless it is part of a trail map display and conforms to the other limitations specified.

Comment. Some respondents expressed concern that the interim directive will lead to advertising in other areas at resorts. One respondent stated that considering chairlift restraining bars an indoor space will lead to advertising on rope tow handles and platters on tows. Another respondent stated that advertising on chairlift restraining bars will probably lead to electronic alternating message displays.

Response. The Forest Service believes that the final directive includes sufficient restrictions to prevent the

expansion of advertising into other areas of resorts and undesirable formats.

Comment. One respondent was concerned that allowable commercial displays will be beyond the power of the Forest Service to regulate, no matter how offensive or tasteless they are.

Response. The final directive merely addresses the time, place, and manner of sponsorship recognition and advertising. The Forest Service does not believe advertising and sponsorship recognition under the final directive will be objectionable to most members of the public because the final directive establishes clear limits on the extent of the displays. In addition, State and local government restrictions on these displays will still apply. Moreover, the activities offered at commercial public service sites tend to be family-oriented, and the Agency expects that permit holders will use good judgment as to the content of materials they post.

Comment. One respondent expressed concern that the interim directive will make it more difficult for the Forest Service to enforce the requirement that permit holders acknowledge in their brochures and advertising that their concession is located on NFS lands. Another respondent noted that NFS visitors will infer that the Forest Service endorses the products and services that are advertised on NFS lands.

Response. Special use permits for concessions involving privately owned improvements continue to require holders to acknowledge in their brochures and other printed materials that their concessions are located on NFS lands. The final directive expressly states that Forest Service symbols must not appear in conjunction with commercial product or service names and advertisements and that care must be taken to avoid any other appearance of Agency endorsement of products or services. The final directive also states that placement of product or service names or advertisements on Government vehicles is always prohibited. In addition, the final directive addresses endorsement and the appearance of endorsement by more clearly describing the situations where advertising may be permitted and providing clearer direction for sponsorship recognition.

FSM2343.03, Paragraph 12

Before 2005, Forest Service directives did not address the use of sponsorships at commercial public service sites. The 2005 interim directive allowed sponsorship recognition and provided guidance on its implementation. Since 2005, confusion between advertising and sponsorship recognition has impeded consistent application of the interim directive and has resulted in approval of some projects that do not conform with the interim directive's objective of promoting public participation in management of NFS lands. The final directive reinforces this objective by emphasizing that sponsorship recognition is not intended to offset the cost of operating a public service site, attract more customers, or provide financial support for basic elements of a permit holder's operations.

Paragraphs 12(a) through 12(c) closely parallel the interim directive in describing how sponsors may be recognized. Paragraph 12(a) describes the duration and location of sponsor recognition; paragraph 12(b) describes the content of allowed recognition; and paragraph 12(c) addresses sponsored events and describes how sponsors may be recognized at event sites.

Comment. Some respondents were concerned that the concept of public participation in management of NFS lands was not clearly defined in the interim directive.

Response. The Forest Service agrees. The final directive includes changes that more clearly define sponsorships and the objectives of sponsorship recognition. Under the final directive, events, projects, and programs that provide for evaluation of solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety will be suitable for sponsorship initiatives. Some examples of events, projects, and programs that are appropriate for sponsorship include (1) interpretative displays that inform visitors about the area's geology, wildlife, or vegetation; (2) initiatives seeking public involvement or support for Forest Service watershed or wildlife habitat improvement projects or Forest Service efforts to reduce the spread of noxious weeds; and (3) promotion of public safety programs for visitors to the concession or surrounding NFS lands. Exhibit 01 has been added to the final directive to provide an example of a plan for an appropriate sponsorship.

Comment. Several respondents commented about the terms used in the interim directive. One respondent stated that ''trademark'' should be defined to include a name, word, phrase, slogan, symbol, logo, or design that allows the trademark owner to dictate its use in identifying a product. Another respondent commented that use of the term ''cooperator'' may imply that the interim directive applies to interpretive associations that work with the Forest Service.

Response. The word ''trademark'' is a term of art in advertising and business that does not need to be defined in the final directive. The term ''cooperator'' is not used in the final directive. The final directive applies only to commercial public service sites involving privately owned improvements that are authorized under a special use permit. Interpretive associations do not operate these concessions.

Comment. Several respondents commented that sponsor recognition was essentially advertising designed to promote brand identification and should not be allowed. Some of these respondents believed that sponsorship recognition will commercialize NFS lands and that the revenues generated will not be devoted to public participation in management of NFS lands and will instead generate profits for the resorts. Several respondents objected to inclusion of corporate logos in sponsorship recognition on the grounds that they were just another form of advertising.

Response. To distinguish sponsorship recognition more clearly from advertising, the final directive defines sponsorship as ''monetary or in-kind support from an individual or entity for an event, project, or program that promotes public participation in or awareness of management of National Forest System lands'' (FSM 2340.5). In contrast, advertising is defined as ''the act of calling public attention to a product or business.'' The Agency believes the final directive includes adequate controls to ensure that sponsorship recognition does not become advertising by another name.

Comment. Several respondents expressed concern that sponsorship recognition will place undue influence on Forest Service managers. One respondent commented that if one sponsor is recognized, it will be difficult for the Forest Service to refuse recognition to any other sponsor and that the Agency will not be able to prevent posting of corporate logos for alcohol, tobacco, and gaming interests. Another respondent stated that sponsorship recognition will create an insidious and pervasive corrupting influence on cash-starved Forest Service managers; that corporations will exert improper leverage over the Agency through donations; and that Forest Service officials will be forced to solicit contributions.

Response. Sponsors will enter into sponsorship agreements with holders of permits for concessions involving privately owned improvements. The Forest Service is not subject to undue influence, as the Agency will not be a

party to these agreements and will receive funds from these agreements only to the extent the funds are factored into the land use fee. The National Forest Ski Area Permit Fee Act (16 U.S.C. 497c(f)) exempts event sponsorship revenue from the land use fee calculation for ski area permits. Sponsored events, projects, and programs promote the public interest by providing for evaluation of solutions to specific natural resource management problems, increasing conservation awareness, or promoting public health or safety. The final directive does not restrict the number and type of sponsors. Rather, the final directive limits how sponsors can be recognized.

Comment. One respondent commented that sponsorship recognition should be expanded beyond resorts to allow other groups to work more effectively with the Forest Service.

Response. The interim and final directives apply only to concession sites with privately owned facilities. Expanding sponsorship recognition to other contexts is beyond the scope of the interim and final directives.

Comment. Many respondents were concerned that the interim directive needed either more specificity or more latitude to provide authorized officers with effective guidelines when considering approval of sponsorship recognition and outdoor advertising for short-term events. Concerns included (1) the need for additional direction on the size, scope, location, and timing of sponsor recognition and advertising to apply the interim directive consistently on NFS lands; (2) lack of sufficient guidance to determine when sponsorship recognition and advertising are excessive; (3) insufficient distinction between sponsorship and advertising; and (4) excessive constraints on allowable recognition.

Response. The Forest Service agrees that effective guidelines are needed when considering approval of sponsorship recognition and outdoor advertising. Based on public comments on the interim directive and experience gained since 2005, the final directive provides more guidance to the authorized officer in determining whether to approve advertising and sponsorship recognition. In addition, the final directive more clearly differentiates between advertising and sponsorship recognition. The Agency believes that advertising and placement of commercial displays on NFS lands are generally not appropriate and should be allowed only in limited circumstances, subject to certain constraints. Therefore, the final directive provides only specific exceptions to the advertising prohibition and authorizes sponsorship recognition only in specified circumstances that serve the public interest, rather than providing more latitude for the authorized officer.

Comment. Several respondents stated that the interim directive does not contain sufficient clarity to manage sponsorship recognition effectively. Some respondents commented that the interim directive should contain criteria for determining how much sponsorship recognition should be allowed and should contain provisions preventing commercial displays from being installed all over a ski area. One respondent stated that the interim directive will allow every chair on every chairlift to be turned into a billboard and objected to a 25-foot advertising banner for a ski manufacturer on the outside of a yurt where skis are rented being considered sponsorship recognition.

Response. The final directive includes more specificity to allow authorized officers to manage sponsorship recognition as intended in the interim directive and set more specific limits on the extent of advertising. For example, the final directive clarifies that sponsorship recognition may not be used to fund services or facilities required for the concession. With the additional specificity, the Agency believes the final directive will not allow chairs on ski lifts to become billboards. A banner for a ski manufacturer placed on the outside of a yurt where skis are rented would not meet the requirements of a sponsorship.

Comment. Some respondents were concerned that sponsorship recognition would become more prevalent on NFS lands and would appear, for example, on ski trail signs.

Response. The Forest Service believes that the additional limitations included in the final directive will prevent inappropriate posting of commercial information.

Comment. One respondent commented that the special events provisions in the interim directive give the Forest Service undue control over management and promotion of the concessioners' business and that the Agency should provide a resort a certain number of days each season to allow advertising for special events.

Response. Paragraph 11 of the final directive includes provisions allowing holders to promote the services and accommodations they offer at their concession. Furthermore, the final directive allows outdoor advertising on chairlift restraining bars and in connection with short-term events, subject to certain restrictions. However, the Forest Service issues concession special use permits to provide for public recreation, not simply to provide a business opportunity for permit holders.

Comment. Several respondents expressed concern about sponsorship recognition for short-term special events. Some respondents stated that temporarily waiving the advertising prohibition for special events is too expensive and allows almost any advertising to be approved. Another respondent commented that successive and simultaneous short-term events will result in de facto permanent advertising and aggressive marketing campaigns and will make the national forests look more like a strip mall.

Response. The Forest Service agrees that a temporary waiver is too expensive and difficult to manage effectively. The final directive eliminates this provision and limits posted commercial information to a sponsor's name and trademark. The Forest Service believes that the restrictions on advertising in connection with short-term events will prevent de facto permanent advertising.

Comment. One respondent stated that the interim directive should allow local ski race teams, working with ski areas, to place company sponsor names on the back of chairlifts because the revenue from this program would help fund the teams.

Response. Providing financial support to local ski race teams would not promote public participation in management of NFS lands and would not qualify for sponsorship recognition in most cases under the final directive.

FSM 2343.03, Paragraph 13 (Previously Paragraph 12)

This section specifies holders' responsibilities for the safety of their employees and the public while participating in activities covered by the holders' special use permit.

Comment. Several respondents expressed concerns about skier safety with respect to advertising panels placed on chairlift restraining bars.

Response. This paragraph was merely renumbered; no substantive changes were made to this paragraph. The Agency does not believe that advertising that is part of a trail map display on a chairlift restraining bar presents an increased safety risk. The Agency is not aware of any safety-related incidents that have occurred since 2005 when the interim directive went into effect.

FSM 2343.03, Paragraph 14 (Previously Paragraph 13)

This paragraph requires that advertising of facilities and services be

free from discriminatory statements and include recognition that facilities and services are located on NFS lands. This paragraph was merely renumbered. No substantive changes were made to this paragraph, and no comments were received on this paragraph.

3. Summary of Revisions to the Proposed Directives

The Agency has made changes to the interim directive based on public comments and experience acquired in implementing the interim directive since 2005. The Agency believes that the changes to the interim directive add clarity and provide for more consistent application. In addition, the Agency has revised the interim directive to include a definition for sponsorship and a terrain park. The changes to the interim directive at FSM 2343.03 are summarized below.

Paragraph 11—Advertising. The Agency revised this paragraph to include the title ''Advertising'' to distinguish this activity more clearly from sponsorship; to note that advertising is prohibited except as specified in paragraphs 11 and 12; to state that naming of facilities intended to promote the products or services of a third party is prohibited; to note that the Agency has no authority to regulate advertising on non-NFS lands; to add provisions for removal of noncompliant advertising and other displays; and to add subparagraphs (a) through (f), which provide exceptions to the advertising prohibition.

Paragraph 11(a)—Indoor Spaces. This paragraph more clearly addresses advertising in indoor spaces; notes that chairlift restraining bars and other ski lift components are not an indoor space; requires that indoor advertising not be visible from outdoor locations; and clarifies that advertising inside buildings owned by the permit holder is permitted.

Paragraph 11(b)—Chairlift Restraining Bars. This paragraph provides for advertising on chairlift restraining bars only when the advertising is included as part of a trail map display and only to the extent the advertising does not exceed 33 percent of the surface area of the panel facing passengers.

Paragraph 11(c)—Holder Services. This paragraph allows holders to post signs and other information at suitable indoor and outdoor locations in the permit area that notify visitors of the location of services offered at the concession site, provided that outdoor postings are limited to those services provided by the holder and identify only the name and location of services provided at the concession site. This paragraph provides that outdoor postings may not include the name of other companies or product descriptions, trademarks, taglines, promotional graphics, or any other advertising for those companies.

Paragraph 11(d)—Holder Name and Logo. This paragraph allows holders, contractors, and service providers to use vehicles in the permit area that have the name and logo of holder or company attached to the exterior of the vehicle.

Paragraph 11(e)—Printed Materials and Other Off-Site Media. This paragraph notes that printed material such as trail map brochures and other media that are produced off the NFS and that contain advertising may be distributed at the site, but may not be posted in outdoor settings in the permit area.

Paragraph 11(f)—Short-Term Competitive Events. This paragraph allows authorized officers to approve outdoor advertising for competitive events lasting 21 days or less. This paragraph also states that advertising materials may be placed only at the event site and must be removed as soon as practicable after the event.

Paragraph 11(g)—Designated Ski and Snowboard Race Courses and Terrain Parks. This paragraph is new and allows entities that provide financial or in-kind support for snow sport race courses and terrain parks to be recognized at the start and finish points of the courses and parks throughout the winter season; states that advertising, taglines and other promotional materials may not be posted elsewhere at these sites; and requires snow sport race courses and terrain parks to be identified in a master development plan or an operating plan approved by the authorized officer.

Paragraph 11(h)—Manufacturer's Name. This paragraph allows for a manufacturer's name to be included on products and equipment that are used within the permit area when they are made a part of these products through the manufacturing process.

Paragraph 12—Sponsorship. The Agency revised this paragraph to include the title ''Sponsorship'' to distinguish this activity more clearly from advertising; to delete ''proposed public services'' as an example of a sponsorship activity and to eliminate the use of the term ''cooperator''; to state that sponsorships should promote agency conservation education and outdoor environmental education objectives; to indicate that sponsorships should not be a means to defray the cost of services or facilities; and to note that facilities such as trail map bulletin boards, directional signing, and similar postings are not appropriate for sponsorship recognition. A second section has been added to this section to note that recognition of sponsors should be no larger than necessary to be visible at a pedestrian scale and that such postings should be consistent with the Forest Service Built Environment Image Guide. A new exhibit (FSM 2343.01, exhibit 02) has been added to illustrate the appropriate format and content for a sponsorship plan submitted by a permit holder to the authorized officer for approval. Minor revisions were also made to subsections of this paragraph.

Paragraph 12(a)—Duration and Location of Recognition. This paragraph has been revised to eliminate the use of the term ''cooperator'' and the reference to recognition on government vehicles, since both are addressed earlier in paragraph 12.

Paragraph 12(b)—Scope of the Recognition. The title of this paragraph has been revised from ''Content of the Recognition,'' and the content of this paragraph has been revised to eliminate use of the term ''cooperator''; and to state that taglines and other promotional materials must not be included in sponsorship recognition.

Paragraph 12(c)—Events. The title of this paragraph has been revised from ''Special Events,'' and the content of this paragraph has been revised to clarify that events are conducted by the holder with the support of sponsors; to eliminate the provision that allowed the authorized officer temporarily to waive the prohibition on exterior advertising; to delete the reference to agency symbols, since this restriction is included earlier in paragraph 12; and to limit sponsor recognition at events to sponsor names and trademarks.

4. Regulatory Certifications

Environmental Impacts

Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment (EA) or environmental impact statement (EIS) ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The Agency has concluded that these final directives fall within this category of actions and that no extraordinary circumstances exist that would require preparation of an EA or EIS.

Regulatory Impact

The final directive has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. It has been determined that this

is not a significant directive. The final directive will not have an annual effect of $100 million or more on the economy, nor will it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. The final directive will not interfere with an action taken or planned by another agency, nor will it raise new legal or policy issues. Finally, the final directive will not alter the budgetary impact of entitlement, grant, user fee, or loan programs or the rights and obligations of beneficiaries of those programs. Accordingly, the final directive is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, the Forest Service has considered the final directive in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The Agency has determined that the final directive will not have a significant economic impact on a substantial number of small entities as defined by the Act because the final directive will not impose recordkeeping requirements on them; will not significantly affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market. The benefits of the final directive cannot be quantified and are not likely substantially to alter costs to small businesses.

No Takings Implications

The Agency has analyzed the final directive in accordance with the principles and criteria contained in Executive Order 12630. The Agency has determined that the final directive does not pose the risk of a taking of private property.

Civil Justice Reform

The Agency has reviewed the final directive under Executive Order 12988 on civil justice reform. Upon adoption of the final directive, (1) all State and local laws and regulations that conflict with the final directive or that impede its full implementation will be preempted; (2) no retroactive effect will be given to the final directive; and (3) administrative proceedings will not be required before parties can file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of the final directive on State, local, and tribal governments and the private sector. The final directive will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism

The Agency has considered the final directive under the requirements of Executive Order 13132 on federalism and has determined that the final directive conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Consultation and Coordination With Indian Tribal Governments

No comments were received from Indian tribes on the interim directive, and no comments regarding the interim directive were submitted to the Agency in the years since its publication. The Agency believes that most advertising and sponsorship projects that will occur under the final directive will be in areas of the NFS that already support fairly extensive development for recreation. Proposals for sponsored events, projects, and programs will be subject to review, as appropriate, under NEPA, which will offer further opportunity for consultation with Indian tribes. Accordingly, the final directive does not have tribal implications as defined by Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments.''

Energy Effects

The Agency has reviewed the final directive under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Agency has determined that the final directive does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

The final directive does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

5. Access to the Final Directive

The Forest Service organizes its Directive System by alphanumeric codes and subject headings. The intended audience for this direction is Forest Service employees charged with issuing and administrating concession special use permits involving privately owned improvements. To view the full text of the final directive, visit the Forest Service's Web site at *http://www.fs.fed.us/im/directives/*.

Dated: March 29, 2013.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2013–11299 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Circleville, OH; and Decatur, IN Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on December 31, 2013. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Columbus Grain Inspection, Inc. (Columbus); and Northeast Indiana Grain Inspection, Inc. (Northeast Indiana).

DATES: Applications and comments must be received by June 12, 2013.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISOnline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISOnline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to Regulations.gov (*http://www.regulations.gov*). Instructions for

submitting and reading comments are detailed on the site.

- *Mail, Courier or Hand Delivery:* Eric J. Jabs, Chief, USDA, GIPSA, FGIS, QACD, QADB, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Eric J. Jabs, 816–872–1257.
- *Email: Eric.J.Jabs@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov*.

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Columbus

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic areas, in the States of Michigan and Ohio, are assigned to this official agency.

In Michigan

Bounded on the West by State Route 127 at the Michigan-Ohio State line north to State Route 50; Bounded on the north by State Route 50 at State Route 127 east to the Michigan State line; the Michigan state line south to the Michigan-Ohio State line.

In Ohio

The northern Ohio State line east to the Ohio Pennsylvania State line; Bounded on the East by the Ohio-Pennsylvania State line south to the Ohio River; Bounded on the South by the Ohio River south-southwest to the western Scioto County line; and Bounded on the West by the western Scioto County line north to State Route 73; State Route 73 northwest to U.S. Route 22; U.S. Route 22 west to U.S. Route 68; U.S. Route 68 north to Clark County; the northern Clark County line west to State Route 560; State Route 560 north to State Route 296; State Route 296 west to Interstate 75; Interstate 75 north to State Route 47; State Route 47 northeast to U.S. Route 68 (including all of Sidney, Ohio); U.S. Route 68 north to the southern Hancock County line; the southern Hancock County line west to the western Hancock, Wood and Lucus County lines north to the Michigan-Ohio State line; the Michigan-Ohio State line west to State Route 127.

Columbus's assigned geographic area does not include the export port locations inside Columbus's area, which are serviced by GIPSA.

Northeast Indiana

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of Indiana, is assigned to this official agency; Bounded on the North by the northern Lagrange and Steuben County lines; Bounded on the East by the eastern Steuben, De Kalb, Allen, and Adams County lines; Bounded on the South by the southern Adams and Wells County lines; and Bounded on the West by the western Wells County line; the southern Huntington and Wabash County lines; the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

The following grain elevator is part of this geographic area assignment. In Michigan Grain Inspection Services, Inc.'s, area: Trupointe Elevator, Payne, Paulding County, Ohio.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR § 800.196. Designation in the specified geographic areas is for the period beginning January 1, 2014 and ending December 31, 2016. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov*.

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Columbus and Northeast Indiana official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov*.

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–11260 Filed 5–10–13; 8:45 am]

BILLING CODE 3410–KD–P

BROADCASTING BOARD OF GOVERNORS

Government in the Sunshine Act Meeting Notice

DATE AND TIME: Wednesday, May 15, 2013, 4:00 p.m.–4:30 p.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. The meeting will be a continuation of the April 11, 2013 meeting, which was adjourned due to lack of a quorum. The BBG will receive and consider a report from the Governance Committee regarding the compliance progress with the recommendations in the Office of Inspector General's inspection report of the BBG, as well as a BBG Board staffing plan. The BBG will receive and consider a progress report from the Strategy and Budget Committee, including the 2013 language service review process and the BBG strategic plan update.

A complete audio recording and a verbatim transcript of the meeting will promptly be made available for public observation on the BBG's Web site at *www.bbg.gov*. Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the Agency's Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–11338 Filed 5–9–13; 11:15 am]

BILLING CODE 8160–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2014 New York City Housing and Vacancy Survey.

OMB Control Number: 0607–0757.

Form Number(s): H–100, H–108, H–100(L), H–100L(A).

Type of Request: Reinstatement, with change, of an expired collection.

Burden Hours: 9,391.

Number of Respondents: 18,800.

Average Hours Per Response: 28 minutes.

Needs and Uses: The U.S. Census Bureau requests approval to conduct the 2014 New York City Housing and Vacancy Survey (NYCHVS). The Census Bureau will conduct this survey for the New York City Department of Housing Preservation and Development (NYCHPD). Pursuant to the Local Emergency Housing Rent Control Act of 1962 (as amended) as well as Sections 26–414 and 26–415 of the Administrative Code of the City of New York, a survey is required in order to determine the supply, condition, and vacancy rate of housing in the city. The NYCHPD must take this survey every three years. The Census Bureau has conducted this survey for the city since 1962, most recently in 2011.

Census Bureau field representatives will conduct personal visit interviews for a sample of housing units in the City, the vast majority of which are rental units in multi-unit rental structures (apartment buildings). Single-family rental or owner-occupied units (houses), however, are not excluded from the sample. We will interview residents (occupied units) or other knowledgeable people such as a building manager, superintendent, or rental or real estate agent (vacant units) to gather information on vacancy rates, housing costs, and the income of residents. About ten percent of the sample will be reinterviewed for quality control purposes.

At the request of the sponsor, NYCHPD, we made the following changes to the survey instrument, Form H–100: (a) Reduced the number of possible rent subsidy options for renter-occupied units, (b) added three new housing condition questions, (c) reduced the number of health-related items, and, (d) eliminated the maintenance questions for owner-occupied units. As a result, we have checked that the average interview time will remain about the same as these changes overall will result in a negligible difference.

The 2014 NYCHVS will be an up-to-date and comprehensive data source required by rent regulation laws as well as a source of data needed to evaluate the city's housing policies. Specifically, the city will look to the 2014 survey to provide accurate and reliable estimates of the rental and homeowner vacancy rates, to measure improvements in housing and neighborhood conditions, and to provide data on low-income, doubled-up, and crowded households at risk of becoming homeless. The city will use the results to develop programs and policies that aim to improve housing conditions for their citizens.

Affected Public: Individuals or households, businesses or other for-profit.

Frequency: Every three years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 8b.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: May 8, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–11244 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–41–2013]

Foreign-Trade Zone (FTZ) 75—Phoenix, Arizona; Notification of Proposed Production Activity; Honeywell Aerospace, Inc., (Aircraft Engines, Systems and Components), Phoenix and Tempe, Arizona

The City of Phoenix, grantee of FTZ 75, submitted a notification of proposed production activity to the FTZ Board on behalf of Honeywell Aerospace, Inc (Honeywell), located in Phoenix and Tempe, Arizona. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 3, 2013.

The Honeywell facilities are located within Subzone 75J. The facilities are used for the production of aircraft engines, systems and components. 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 Honeywell from customs duty payments on the foreign status components used in export production. On its domestic sales, Honeywell would be able to choose the duty rates during customs entry procedures that apply to: Turbofan engines; turbo-propeller engines; turbo-shaft engines; auxiliary power units; rotor assemblies; tube assemblies; hydraulic actuators; air-turbine starters; wheel turbines; air-turbine pump systems; duct temperature limiters; air/oil heat exchangers; oil cooler fans; fuel filter assemblies; shutoffs and regulators valves; dual 3-way valves; check valves; pneumatic overpressure outline valves; regulating and shutoff pressure valves; center-drive units; shaft assemblies; bearing housings; gearbox assemblies; shaft couplings; spur gears; tertiary outline locks; power supplies; outline brake modules; data transmitters; XM receivers; XM antennas; head-up displays and components; electrical control panels; EPROMS; microcircuits; air-data transducers; axles with wheel and brake assemblies; aeronautical instruments; duct temperature sensors; flow-sensing modules; air/outflow-sensing modules; air-data modules; thermo switches; and, temperature control valves (duty rate free—3.30%) for the foreign status inputs noted below. Customs duties also could

possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Unwrought titanium alloy; Kevlar-woven fabric; sample oil; scandium oxide; silicon nitride; turbine oil; varnish; X-ray films; guide springs; plastic tubes; plastic hose assemblies; plastic markers; plastic hose ducts; decals; tape; foam strips; ignition-exciter spacers and insulators; shielding bags; plastic caps; plastic thrust washers; rubber inserts; rubber tooth belts; pre-formed rubber gaskets; rubber tips; pine shipping guards; wood boards; corrugated packing boxes; logbooks; technical manuals; spinner decals; air diaphragms; duct gaskets; grinding wheels and tooling; asbestos gaskets; carbon washers; carbon seals; thermal carbon-fiber insulation blankets; ceramic turbine blisks; sight glasses; glass tubes; insulation and fire-protection shields; fiberglass covers and blankets; iron or steel angles; exhaust ducks; pneumatic tubes; metal tube actuators; double-ended union tubes; adaptor valve assemblies; flared union tubes; union assemblies; spherical-end adaptors; engine oil tanks; cable lifts; cable assemblies; chain assemblies; screws; double-hex bolts; threaded covers; turnbuckles; springs; thrust washers; rivets; retaining springs; tube sleeves; leaf springs; drain springs; torsion rods; forgings; wire clips; tube nipple assemblies; balancing wire; jumper-cable assemblies; seals; floating nuts; stiffener bars; nickel alloy bars; tubes and pipe fittings; straight-headed pins; test blocks; protective shipping devices; high voltage covers; gear plates; plates; XFR tubes; tubes; flow restrictor plugs; inserts; rig-pin brackets; grooved, headless pins; adaptor assemblies; filter extractors; de-coupler/disassembly wrenches; torque wrench adaptors; test benches; drills; screwdrivers; retract nut fixtures; clamp and baffle flappers; riveting anvils; alignment kits; crimp fixtures; assembly drill fixtures; carbide reamers; taper cutters; small wire brushes; bits; grooved pins; position stops; servo brackets; nameplates; turbojets; turbo-propellers; gas-turbine engines; stop mechanisms; internal gear hubs; linear hydraulic actuators; piston-spacer rings; electro-pneumatic outline actuators; engine air starters; actuator motor valves; piston-ring sets; pump assemblies; air-turbine pump systems; lubrication pump assemblies; turbine engine pumps; lube pump shafts; turbine stators; vacuum test equipment; fan assemblies; air compressors; cabinet fans; cooling packs; duct temperature limiters; environmental control units; split ducts; oil temperature regulators; outlet coolers; fuel heaters; oil cooler fans; filter assemblies; oil filter install kits; cartridge screens; filter housings; trim balance weights; fire bottles; water-spray nozzles; lift fixtures; inlet lifting slings; flight deck printers; laser drilling systems; grinding fixture set; machining tools; hydraulic presses; test equipment fixtures; turbine seal driver fixtures; hydraulic press/housing removal fixtures; bearing install tools; laptops; computer servers; computer systems; touch screens; disk drives; electronic flight-bag interface units; programmers; computer parts; dual-layer spinnerets; wet vacuum impregnation machines; translating nuts; piston housing assemblies; investment dies; cast die tooling; regulator valves; outline pressure regulator valves; outline check valves; safety valves; temperature control valves; switch interrupter assemblies; annular ball bearings; roller bearings; plain bearings, radial needle-roller bearings; sun-gear bearings; ball kits; bushings; butterfly shafts; planetary-gear bearings; turbine carriers; screw and nut ball bearings; ratchet shaft splines; spur-gear assemblies; shaft seals; nozzle gaskets; encased seals; actuator assembly motors; servo-drive assemblies; actuators; starter motors; rotary actuators; geared AC-motors; AC generators; brake assembly arms; power units, DV modulators; power supplies; transducers; interface cards; magnets; brake modules; solenoid assemblies; lithium batteries; ignition exciters; electric starters; igniters; aluminum castings; plasma arc welding machines and fixtures; electric furnace components ; heater plates; computer displays; encryption boxes; power supply assemblies; remote microphones; loudspeakers; amplifiers; cockpit voice recorders; diskettes; software CDs; memory cards; aircraft identification modules; video tapes; international receiver and decoder module assemblies; weather radar receivers and transmitters; radio altimeter receivers and transmitters; LCD monitors; VLF antennas; nuclear instrumentation modules; emergency locator transmitters with alarm; multi-function displays; CRT display units; circuit card assemblies; ceramic capacitors; capacitors; aluminum electrolytic capacitors; ceramic, surface-mounted capacitors; mica capacitors; resistors; fixed-film resistors; linear variable-resistor assemblies; variable-resistor assemblies; resistor assemblies; angular potentiometers; temperature sensors/resistors; printed circuit boards; switch assembly actuators; contacts; radio frequency filters; relays; switch assemblies; switches; light-board switches; electrical-connector receptacles; housings; control boxes; printed wiring boards; adapter switches; lamps; CRT assemblies; tube and bezel assemblies; magnetron tubes; diodes; microwave power transistors; transistors; semiconductor devices; light-emitting diodes; surface-mount semiconductors; oscillators; microcircuits; masks; IC switches; integrated-circuit heat sinks; signal generator test equipment; linear, dual transformers; printed board assemblies; coaxial cable; electrical wiring harnesses; strain-gage cable; test adaptors; fiber-optic couplers; electrodes; insulators; insulator sleeves; ceramic filters; transport carts; aircraft; brake rotor piston housings; pneumatic actuators; spacer retainers; computer interface cards; LCD glass; glass LCD covers; mach trim couplers; integrated computers; nozzle castings; ultrasound instruments; concave gauges; shim-checking gauges; gauge dials; test vehicles and machinery; chemise thermo-couplers; duct temperature sensors; calibration thermostats; liquid level gauges; air-flow sensor outlets; flow meters; air quality monitors; photometers; densitometers; reflectance standards; start counter meters; hand-held tachometers; oscilloscopes; multi-meters; light-wave multi-meters; bleed valves; signal generators and decoders; digital multi-meters; waveform analyzers; electrical test equipment holding fixtures; balance arbors; simulator test fixtures; optical protractors; borescope tube assemblies; piezoelectric accelerometers; bearing housings; body thermostats; controllers; generator control units; relief valves; time meters; metal engine stands; incandescent lamps; and, igniter leads (duty rate ranges from 0 to 15%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 24, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz*.

FOR FURTHER INFORMATION CONTACT: Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: May 6, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11196 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2013]

Notification of Proposed Production Activity, CNH America, LLC, Subzone 59B, (Agricultural Equipment Production); Grand Island, Nebraska

The Lincoln Foreign-Trade Inc., grantee of FTZ 59, submitted a notification of proposed production activity to the FTZ Board on behalf of CNH America, LLC, located in Grand Island, Nebraska. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 17, 2013.

The CNH facilities are located within Subzone 59B. The facility currently has authority to produce combines, haytools and related equipment using certain foreign-sourced components. The currently request involves additional combine subassemblies and other agricultural equipment. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products listed in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt CNH from customs duty payments on the foreign status components used in export production. On its domestic sales, CNH would be able to choose the duty rates during customs entry procedures that apply to combine and other agricultural equipment including: cab platforms; conveyors and mountings; cooler screens and mountings; grain separators; grain pan modules; grain elevator head strip-off plates; rotors, rotor cages, and variators; tail housings; vertical auger tubes; chopper drive gearbox accessories; cotton picker frames and cabs; and, non-motorized bale wagons (duty rates range from free to 2.8%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: sealant; sealant paste; oil drain assemblies; rubber pads; flaps and seals; rubber adhesive strips; rubber hoses and elbows; transmission belts; floor mats; gaskets; instruction manuals; brake hose ferrules; lawnmower blades and parts; security keys; fuel pumps; fans and fan assemblies; heating ventilation air conditioners and parts; heater coils; hydraulic fluid filters; engine intake air filters; sprayer nozzles; conveyor belts; feeder clutch cylinders; crop spreaders; hose and air guns; valves and valve assemblies; bearings and bearing housings; converters; safety clutches; battery systems; ignition alternator; speakers; GPS navigational systems; AM/FM radios; antennas; headlights; harness wires and cable batteries; bale wagon chassis; flail blades for straw chopper; drive axles; radiators; temperature sensors; pressure gauges; and, seats (duty rates range from free to 5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 24, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary; Foreign-Trade Zones Board; Room 21013; U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002; and in the ''Reading Room'' section of the Board's Web site; which is accessible via *www.trade.gov/ftz.*

For further information; contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: May 3, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11186 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1899]

Reorganization and Expansion of Foreign-Trade Zone 3 (Expansion of Service Area and Additional Site) San Francisco, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the San Francisco Port Commission, grantee of Foreign-Trade Zone 3, submitted an application to the Board (FTZ Docket B–1–2013, docketed 01–09–2013, amended 02–28–2013) for authority to expand the service area of the zone to include Contra Costa, Marin and Solano Counties, as well as portions of Napa and Sonoma Counties, California, and include a new usage-driven site, as described in the amended application, within and adjacent to the San Francisco U.S. Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (78 FR 2952, 01/15/2013, 78 FR 14962–14963, 03/08/2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application of FTZ 3 to expand the service area under the ASF and include a new usage-drive site is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Site 6 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by April 30, 2016.

Signed at Washington, DC, this 30th day of April 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11193 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1897]

Reorganization of Foreign-Trade Zone 147 Under Alternative Site Framework Reading, Pennsylvania

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15

CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the FTZ Corporation of Southern Pennsylvania, grantee of Foreign-Trade Zone 147, submitted an application to the Board (FTZ Docket B–79–2012, docketed 11–1–2012) for authority to reorganize under the ASF with a service area of Berks, Cumberland, Dauphin, Franklin, Lancaster and York Counties, Pennsylvania, in and adjacent to the Harrisburg Customs and Border Protection port of entry, FTZ 147's existing Sites 1–5, 7–14, 16–19 and 23–26 would be categorized as magnet sites, and FTZ 147's existing Sites 20–22 would be categorized as usage-driven sites;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 66796–66797, 11/7/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 147 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 2–5, 7–14, 16–19 and 23–26 if not activated by April 30, 2018 and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 20–22 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by April 30, 2016.

Signed at Washington, DC, this 30th day of April 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11206 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–933]

Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on frontseating service valves from the People's Republic of China (''PRC''). The period of review (''POR'') is April 1, 2011, through March 31, 2012. The review covers two exporters of subject merchandise, Zhejiang DunAn Hetian Metal Co., Ltd. (''DunAn'') and Zhejiang Sanhua Co., Ltd. (''Sanhua''). The Department preliminarily finds that DunAn did not have reviewable transactions during the POR. In addition, we preliminarily determine that Sanhua made sales of subject merchandise at less than normal value during the POR.

DATES: *Effective Date:* May 13, 2013.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof of any size, configuration, material composition or connection type.[1] Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States (''HTSUS''). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this proceeding is dispositive.[2]

Preliminary Determination of No Shipments for DunAn

DunAn submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR.[3] Consistent with its practice, the Department asked U.S. Customs and Border Protection (''CBP'') to conduct a query on potential shipments made by DunAn during the POR; CBP did not provide any evidence that contradicts DunAn's claim of no shipments.[4] Further, on August 2, 2012, the Department released to interested parties the results of the CBP query that it intended to use for corroboration of DunAn's no shipment claims.[5] The Department received no comments from interested parties concerning the results of the CBP query.

Based on DunAn's certification and our analysis of CBP information, we preliminarily determine that DunAn did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with its recently announced refinement to its assessment practice in non-market economy (''NME'') cases, it is appropriate not to rescind the review in part in this circumstance, but rather to complete the review with respect to DunAn and issue appropriate instructions to CBP based on the final results of the review.[6]

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). Constructed

[1] *See* Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review issued concurrently with this notice for a complete description of the Scope of the Order.

[2] *See Antidumping Duty Order: Frontseating Service Valves from the People's Republic of China,* 74 FR 19196 (April 28, 2009) (*''Order''*).

[3] *See* letter from DunAn, ''No Shipment Letter for Zhejiang DunAn Hetian Metal Co., Ltd.: Third Annual Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China, A–570–933 (POR: 04/01/11–03/31/12),'' dated July 19, 2012.

[4] *See* CBP Message Number, 2240301, dated 08/27/2012.

[5] *See* Memorandum to the File, ''2011–2012 Administrative Review of Frontseating Service Valves from the People's Republic of China: U.S. Customs and Border Protection Data,'' dated August 2, 2012.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

export prices have been calculated in accordance with section 772(b) of the Act. Because the PRC is a NME within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. Specifically, the respondents' factors of production have been valued in the Philippines (when available), which is a market economy country that is economically comparable to the PRC and is a significant producer of comparable merchandise.[7] To determine the appropriate comparison method, the Department applied a ''differential pricing'' analysis and has preliminarily determined to use the average-to average method in making comparisons of constructed export price and normal value for Sanhua.

For a full description of the methodology underlying our preliminary determinations, please see ''Decision Memorandum for Preliminary Results of 2011–2012 Antidumping Duty Administrative Review: Frontseating Service Valves from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, dated concurrent with this notice (''Preliminary Decision Memorandum'') and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the POR April 1, 2011, through March 31, 2012:

Exporter	Weighted average dumping margin
Zhejiang Sanhua Co., Ltd. ...	9.03

Disclosure and Public Comment

The Department intends to disclose to the parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[8] Rebuttals to written comments may be filed no later than five days after the written comments are filed.[9]

Any interested party may request a hearing within 30 days of publication of this notice.[10] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[11]

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.[12] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[13]

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[14] The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of this review.

For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[15] For duty assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case

[7] *See* Memorandum to Eugene Degnan, ''Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Frontseating Service Valves (''FSV'') from the People's Republic of China (''China''), dated August 29, 2012 (''Surrogate Country Memorandum'').

[8] *See* 19 CFR 351.309(c).

[9] *See* 19 CFR 351.309(d).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310(d)(1).

[12] *See, e.g., Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[13] *See* 19 CFR 351.301(c)(3).

[14] *See* 19 CFR 351.212(b)(1).

[15] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[16]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For DunAn, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to DunAn in the most recently completed review of the company; (2) for Sanhua, which has a separate rate, the cash deposit rate will be the one established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (3) for any previously investigated or reviewed PRC and non-PRC exporter that is not under review in this segment of the proceeding but that received a separate rate in a previous segment, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (4) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 55.62 percent, which is rate assigned to the PRC-Wide Entity in the investigation; [17] and (5) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing notice of these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated; May 2, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Non-Market Economy Country
4. Separate Rates
5. Surrogate Country and Surrogate Value Data
6. Surrogate Country
7. Economic Comparability
8. Significant Producers of Identical or Comparable Merchandise
9. Data Availability
10. Date of Sale
11. Comparisons to Normal Value
12. Constructed Export Price
13. Normal Value
14. Factor Valuations
15. Currency Conversion

[FR Doc. 2013–11194 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–DS–P

[16] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

[17] *See Frontseating Service Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 74 FR 10886 (March 13, 2009) (*''Final Determination''*).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–BD25

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 39 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

ACTION: Notice of Intent (NOI) to prepare a draft environmental impact statement (DEIS); notice of public hearings; request for comments.

SUMMARY: NMFS, Southeast Region, in collaboration with the Gulf of Mexico Fishery Management Council (Council) intends to prepare a DEIS to describe and analyze a range of alternatives for management actions to be included in Amendment 39 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 39). The purpose of this NOI is to inform the public of upcoming opportunities to provide comments on the actions to be addressed in the DEIS, as specified in this notice.

DATES: Written comments on the scope of issues to be addressed in the DEIS must be received by NMFS by June 12, 2013.

ADDRESSES: You may submit comments on this document, identified by ''NOAA–NMFS–2013–0078'', by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013–0078,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St., Petersburg, FL 33701.

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

FOR FURTHER INFORMATION CONTACT: Cynthia Meyer; phone: (727) 824–5305; email: *Cynthia.Meyer@noaa.gov.*

SUPPLEMENTARY INFORMATION: Currently, Federal management measures for the recreational harvest of red snapper are consistent for the entire Gulf exclusive economic zone (EEZ). These management measures include a fishing season, bag limit, and minimum size limit. Since 1996, the recreational fishing season for red snapper has become progressively shorter. Shorter seasons have continued despite an annual increase in the quota since 2010, because the quota continues to be harvested in a shorter amount of time.

In Amendment 39, the Council is considering management measures to modify and facilitate management of the recreational red snapper component of the reef fish fishery by reorganizing the Federal fishery management strategy to better account for biological, social, and economic differences among the regions of the Gulf of Mexico (Gulf). Regional

management of recreational red snapper in the Gulf would enable regions and their associated communities to specify the optimal management parameters that best meet the needs of their local constituents thereby addressing regional socio-economic concerns. These alternatives will consider regional management for the recreational harvest of red snapper in the Gulf including the delegation of management to the regions and accountability measures necessary to prevent overfishing.

In Amendment 39, the Council is considering regional management as a way to provide greater flexibility in management of recreational red snapper fishing in the Gulf. Regional management refers to allowing regulations to be different for identified regions of the Gulf, in contrast to uniform regulations applied to the entire EEZ. Regionally specific regulations may be more appropriate to the fishing preferences of local fishermen. For example, regulations could be designed to accommodate various tourist seasons or rough weather conditions, thereby optimizing fishing opportunities regionally around the Gulf.

The intent behind regional management is that participating states or regions could design management options to better fit their needs. However, the proposed options must achieve the same conservation goals as the Federal management measures in existence at a given time (i.e., constrain the catches of participating fishermen to the region's allocation of the total recreational quota). Red snapper would remain a federally managed species. The Council and NMFS would continue to oversee management of the stock. This includes continuing to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the mandate to ensure the red snapper annual recreational quota is not exceeded and that conservation objectives are achieved. The Council's Scientific and Statistical Committee (SSC) would continue to determine the acceptable biological catch (ABC) for red snapper, and the Council and NMFS would determine the total recreational red snapper quota that could be allocated among regions.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze management alternatives to address the management needs described above. For the actions and alternatives, the Council would need to identify the regions, apportion the recreational red snapper quota among the identified regions, and define the management measures that may be modified at the regional level. The regional management measures that are most likely to be modified include the timing (season start and end dates) of the fishing season, structure (e.g., continuous or weekends only) of the fishing season, and closed areas. Modifications to the bag limit and minimum and/or maximum size limits, including options for a slot limit could also be considered. A recreational quota would remain for the entire Gulf and regional accountability measures (AMs) will need to be established. At the regional level, when a regional quota is projected to be reached, red snapper fishing would be closed according to the guiding regional recreational AMs. At the Gulf-wide level, the total recreational quota would also need to be monitored, and when the recreational quota is reached or projected to be reached, red snapper fishing could be closed for the entire Gulf even if a region has remaining quota.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze alternatives to address the management needs described above. Those alternatives will include a ''no action'' alternative for each action.

In accordance with NOAA's Administrative Order 216–6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Council, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the DEIS.

After the DEIS associated with Amendment 39 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability (NOA) of the DEIS for public comment in the **Federal Register**. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS) and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the amendment. During Secretarial review, NMFS will also file the FEIS with the EPA and the EPA will publish a NOA for the FEIS in the **Federal Register**.

NMFS will announce, through a notice published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the FEIS, prior to final agency action.

Public Hearings, Times, and Locations

Public comment will be taken at the Council meetings in Pensacola, FL, on June 17–21, 2013, and in San Antonio, TX, on August 26–30, 2013. In addition, public comments will be solicited at Public Hearings which will be scheduled following the June 2013, Council meeting. Exact dates, times, and locations will be announced by the Council and advertised on the Councils Web site: *http://www.gulfcouncil.org/.* The public will be informed, via a notification in the **Federal Register**, of the exact times, dates, and locations of future scoping meetings and public hearings for Amendment 39. Comments will also be accepted during the comment periods for the DEIS and NOA for the amendment.

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

Dated: May 7, 2013.

James P. Burgess,

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

[FR Doc. 2013–11288 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC676

Fisheries of the South Atlantic, Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of SEDAR 36 pre-data deadline and assessment webinars.

SUMMARY: The SEDAR 36 assessment of the South Atlantic stock of snowy

grouper will consist of a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: A SEDAR 36 pre-data deadline webinar will be held on Monday, June 3, 2013 from 9 a.m. until 1 p.m. Additional assessment webinars will be held from 9 a.m. until 1 p.m. on the following dates: July 12, 2013; July 26, 2013; August 23, 2013 (optional); September 4, 2013; and September 27, 2013 (optional). Optional webinar dates will be used as required by the Assessment Panel during the assessment process.

ADDRESSES:

Meeting address: The meetings will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator; telephone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. The product of the SEDAR webinar series is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the SEDAR 36 Assessment webinar series are as follows:

1. Participants will evaluate and recommend datasets appropriate for assessment analysis, employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

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 identified in this notice 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 intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: May 8, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–11266 Filed 5–10–13; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2013–0005]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration Card Effectiveness Survey

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is announcing that a proposed collection of information regarding a survey on the effectiveness of product registration cards in facilitating product recalls has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax or email written comments on the collection of information by June 12, 2013.

ADDRESSES: Written comments should be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to: *oira_submission@omb.eop.gov.* All comments should be identified by Docket No. CPSC–2013–0005. In addition, written comments also should be submitted at: *http://www.regulations.gov,* under Docket No. CPSC–2013–0005, or by mail/hand delivery/courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION: On February 4, 2013, the Commission provided an opportunity for public comment on a proposed collection of information on the effectiveness of product registration cards in facilitating product recalls (78 FR 7761). No comments were received. In compliance with 44 U.S.C. 3507, the CPSC has submitted the following proposed collection of information to the OMB for review and clearance: Registration Card Effectiveness Survey. The Danny Keysar Child Product Safety Notification Act, Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires durable infant or toddler product manufacturers to provide product registration cards with each product sold. The Commission established product registration card requirements for consumer registration of durable infant or toddler products under 16 CFR part 1130. Section 104(d)(4) also requires the Commission to prepare a report of the effectiveness of product registration cards in facilitating product recalls, which is to

be presented to the appropriate congressional committees. 15 U.S.C. 2056a(d)(4).

To prepare the report to Congress, CPSC staff will conduct a survey that will be sent out to infant or toddler product manufacturers who have conducted recalls since June 28, 2010, the date when the final rule concerning product registration cards went into effect. The survey seeks information about the recall, how many consumers registered their products, and how many consumers the firm attempted to contact about the recall. A copy of the draft survey may be viewed on: *http://www.regulations.gov* under Docket No. CPSC–2013–0005, Supporting and Related Material. The report will aggregate the information received from the manufacturers to assess the effectiveness of product registration cards in facilitating product recalls.

The average estimated time required for each manufacturer to complete the survey is 1 hour. The survey will be distributed to a maximum of 50 manufacturers, creating a maximum estimated burden across manufacturers of 50 hours. CPSC staff estimates that the hourly compensation for the time required to complete the survey is $27.55 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2012, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated total combined annual cost for all surveyed manufacturers associated with the proposed requirements is $1,377.50 ($27.55 per hour × 50 hours = $1,377.50). The estimated cost of the information collection to the federal government is approximately $2,068, which includes 25 CPSC staff hours to examine and evaluate the information.

Dated: May 8, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission .

[FR Doc. 2013–11236 Filed 5–10–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Legal Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense (DoD) announces the following federal advisory committee meeting of the Defense Legal Policy Board (hereafter referred to as ''the Board'').

ADDRESSES: Holiday Inn Ballston, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

DATES: The meeting will be held on May 30, 2013. The Public Session will begin at 9:00 a.m. and end at 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Gruber, Staff Director, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email: *Staff DirectorDefenseLegalPolicyBoard@osd.mil.* Phone: (703) 696–5449.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: At this meeting the Board will consider the report of the Subcommittee tasked by the Secretary of Defense, in his memorandum of July 30, 2012, to review certain military justice cases in combat zones. The Board is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking. The mission of the Board is to advise the Secretary of Defense on legal and related legal policy matters within DoD, the achievement of DoD policy goals through legislation and regulations, and other assigned matters.

Agenda: Prior to the Public Session, the Board will conduct an Administrative Session starting at 8:30 a.m. and ending at 9:00 a.m. to address administrative matters. After the Public Session, the Board will conduct an Administrative Session starting at 4:30 p.m. and ending at 5:00 p.m. to prepare for upcoming meetings. Pursuant to 41 CFR 102–3.160, the public may not attend the Administrative Sessions.

Agenda

- Presentation of the Subcommittee's Findings and Recommendations
- Deliberation on the Board's Advice and Recommendations
- Receipt of Public Comments.

Availability of Materials for the Meeting: A copy of the agenda for the May 30, 2013 meeting and the tasking for the Subcommittee may be obtained at the meeting or from the Board's Staff Director at *StaffDirectorDefenseLegalPolicyBoard@osd.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, part of this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Staff Director at *Staff DirectorDefenseLegalPolicyBoard@osd.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session. Written comments must be received by the Designated Federal Officer at least five (5) business days prior to the meeting date so that they may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the address for the Designated Federal Officer given in this notice in the following formats: Adobe Acrobat, WordPerfect, or Microsoft Word. Please note that since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted as above along with a request to provide an oral statement. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during the open portion of this meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and relevance to the Committee's activities. Five minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted between 3:30 p.m. and 4:30 p.m. in front of the Board. The number of oral presentations to be made will depend on the number of requests received from members of the public.

Committee's Designated Federal Officer: The Board's Designated Federal Officer is Mr. James Schwenk, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email: *defense legalpolicyboarddfo@osd.mil.* Phone: (703) 697–9343. For meeting information please contact Mr. David Gruber, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email:

StaffDirectorDefenseLegalPolicyBoard@osd.mil. Phone: (703) 696–5449.

Dated: May 8, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11252 Filed 5–10–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13565–001]

Charles Hotchkin and Claire Fay; Notice of Application for Amendment of Exemption, Soliciting Motions To Intervene, Protests, Comments, and Terms and Conditions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Exemption.

b. *Project No.:* 13565–001.

c. *Date Filed:* February 4, 2013.

d. *Applicant:* Charles Hotchkin and Claire Fay.

e. *Name of Project:* Alder Brook Hydroelectric Project.

f. *Location:* Alder Brook in Franklin County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Charles Hotchkin and Ms. Claire Fay, 321 Prive Hill Road, Richford, Vermont 05476, (802) 933–2217.

i. *FERC Contact:* Steven Sachs at (202) 502–8666; *steven.sachs@ferc.gov.*

j. Deadline for filing motions to intervene, protests, comments, and terms and conditions is 30 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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.

Please include the project number (P–13565–001) on any motions, protests, comments, and terms and conditions filed.

k. *Description of Amendment:* The applicant proposes to install two crossflow turbines at the project rather than two double suction pump turbines as previously envisioned. The applicant also proposes to modify project operation by running the two units in parallel as opposed to operating only one of the two units at any given time. The proposed amendment would not change the project's hydraulic capacity or possible electrical output but would increase the authorized installed capacity from 7.0 to 9.0 kilowatts.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call (866) 208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Motions to Intervene, Protests, and Comments:* Anyone may submit a motion to intervene, protest, or comments in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any motions to intervene, protests, or comments must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must: (1) Bear in all capital letters the title ''MOTION TO INTERVENE,'' ''PROTEST,'' ''COMMENTS,'' or ''TERMS AND CONDITIONS'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening, protesting, or commenting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All motions to intervene, protests, or comments must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All motions to intervene, protests, or comments should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11282 Filed 5–10–13; 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 rate filings:

Docket Numbers: ER13–37–003.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35: 05–03–2013 Schedule 43 Escanaba Compliance to be effective 6/15/2012.

Filed Date: 5/3/13.

Accession Number: 20130503–5137.

Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–38–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35: 05–03–2013 SA 6500 Escanaba-MISO SSR Compliance to be effective 6/15/2012.

Filed Date: 5/3/13.

Accession Number: 20130503–5136.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–311–001.
Applicants: MP2 Energy IL LLC.
Description: Compliance Filing to be effective 4/29/2013.
File Date: 5/3/13.
Accession Number: 20130503–5092.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–868–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2013–05–02 Module E–2 Compliance to be effective 4/3/2013.
Filed Date: 5/2/13.
Accession Number: 20130502–5130.
Comments Due: 5 p.m. ET 5/23/13.

Docket Numbers: ER13–1414–000.
Applicants: ITC Midwest LLC.
Description: Filing of CIAC Agreement of ITC Midwest to be effective 7/2/2013.
Filed Date: 5/2/13.
Accession Number: 20130502–5083.
Comments Due: 5 p.m. ET 5/23/13.

Docket Numbers: ER13–1415–000.
Applicants: El Paso Electric Company.
Description: Concurrence of EPE to APS Service Agreement No. 193, Amendment 2 to be effective 2/28/2013.
Filed Date: 5/2/13.
Accession Number: 20130502–5135.
Comments Due: 5 p.m. ET 5/23/13.

Docket Numbers: ER13–1416–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2013–05–03 SA 2519 NIPSCO-Duke IA to be effective 4/5/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5013.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1417–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Notice of Cancellation of Engineering, Permitting and Construction Services Agreement with Luther Forest Technology Campus Economic Development Corporation of Niagara Mohawk Power Corporation ER13–1417.
Filed Date: 5/2/13.
Accession Number: 20130502–5149.
Comments Due: 5 p.m. ET 5/23/13.

Docket Numbers: ER13–1418–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Notice of Cancellation of Agreement for Substation Services with Nine Mile Point Nuclear Station LLC of Niagara Mohawk Power Corporation.
Filed Date: 5/2/13.
Accession Number: 20130502–5150.
Comments Due: 5 p.m. ET 5/23/13.

Docket Numbers: ER13–1419–000.
Applicants: ExxonMobil Baton Rouge Complex.
Description: Refile tariff title change to be effective 5/4/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5076.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1420–000.
Applicants: MP2 Energy NE LLC.
Description: Compliance Filing to be effective 5/4/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5091.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1421–000.
Applicants: Llano Estacado Wind, LLC.
Description: Updated MBRT 5–3–2013 to be effective 5/4/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5096.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1422–000.
Applicants: Ebensburg Power Company.
Description: Ebensburg Power Company submits tariff filing per 35.12: Initial Tariff Baseline to be effective 5/12/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5135.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1423–000.
Applicants: Massachusetts Electric Company.
Description: Massachusetts Electric Company submits tariff filing per 35.13(a)(2)(iii: Interconnection Agreement Between Massachusetts Elec Co. and Energy Thorndike to be effective 7/3/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5138.
Comments Due: 5 p.m. ET 5/24/13.

Docket Numbers: ER13–1424–000.
Applicants: New York Independent System Operator, Inc., PJM Interconnection, L.L.C.
Description: Joint Waiver Request to Change Scheduled Interchange Expected on Ramapo PAR of New York Independent System Operator, Inc. and PJM Interconnection, L.L.C.
Filed Date: 5/3/13.
Accession Number: 20130503–5162.
Comments Due: 5 p.m. ET 5/10/13.

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: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11279 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5991–003]

Gordon Foster and Seneca Falls School, Deep Creek Energy LLC; Notice of Transfer of Exemption

1. By letter filed March 20, 2013, Mr. Brian Gogarty, Deep Creek Energy LLC informed the Commission that the exemption from licensing for the Deep Creek Project, FERC No. 5991, originally issued October 1, 1982,[1] has been transferred to Deep Creek Energy LLC. The project is located on Deep Creek in Stevens County, Washington. The transfer of an exemption does not require Commission approval.

2. Mr. Brian Gogarty, Deep Creek Energy LLC, located at 806 B Gillette Road, Colville, WA 99114 is now the exemptee of the Deep Creek Project, FERC No. 5991.

Dated: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11281 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR13–19–000]

Enbridge Pipelines (Illinois) LLC; Notice of Petition for Declaratory Order

Take notice that on May 2, 2013, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2012), Enbridge Pipelines (Illinois) LLC filed a petition seeking a declaratory order approving priority service, rate structure, and lottery apportionment

[1] 21 FERC ¶ 62,002, Order Granting Exemption From Licensing of a Small Hydroelectric Project of 5 MW or Less.

provisions for the proposed Southern Access Extension Project. Enbridge Illinois states that the Project is a 165 mile pipeline designed to transport both light and heavy crude petroleum from Flanagan, Illinois to the pipeline hub at Patoka, Illinois, and asks that the Commission act expeditiously on the Petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 3, 2013.

Dated: May 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11280 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14496–000]

Archon Energy 1, Inc. Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 11, 2013, the Archon Energy 1, 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 Upper Alamo River Hydroelectric Project (Upper Alamo River Hydroelectric Project or project) to be located on the Alamo River, near the cities of Calipatria, Brawley, and Holtville in Imperial County, California. 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 six river drop developments. Each of the proposed in-stream installations would consist of the following: (1) a VLH 4000 turbo-generator; (2) a 10-by-10-foot electrical shack; and (3) appurtenant facilities. The proposed project would have a total installed capacity of 3 megawatts and generate an estimated average annual energy production of 21 gigawatt-hours.

Applicant Contact: Mr. Paul Grist, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602, phone: (403) 618–2018.

FERC Contact: Corey Vezina; phone: (202) 502–8598, email: *Corey.vezina@ferc.gov*.

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 five 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–14496) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11276 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14494–000]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 11, 2013, the Archon Energy 1, 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 Lower Alamo & New Rivers Hydroelectric Project (Lower Alamo & New Rivers Hydroelectric Project or project) to be located on the Alamo River and New River, near the cities of Calipatria and Brawley, Imperial County, California. 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 four river drop developments:

• The Alamo River Drop 2, New River Drop 2, and New River Drop 3 developments would consist of the

following: (1) a VLH 4000 turbo-generator; (2) a 10-by-10 foot electrical control shack; and (3) appurtenant facilities.

• The Alamo River Drop 3–3A development would consist of the following: (1) a gated water intake canal located upstream of the 3A weir; (2) a 30-foot-wide concrete diversion canal approximately 1,300 feet in length; (3) a 50-by-40-foot powerhouse enclosing one Kaplan turbine and generator; and (4) appurtenant facilities.

The proposed project would have a total installed capacity of 2.9 megawatts and generate an estimated average annual energy production of 23.65 gigawatt-hours.

Applicant Contact: Mr. Paul Grist, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602, phone: (403) 618–2018.

FERC Contact: Corey Vezina; phone: (202) 502–8598, email: *Corey.vezina@ferc.gov*.

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 five 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–14494) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11274 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped chronologically, in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Exempt:

Docket No.	Filed date	Presenter or requester
1. P–6597–013	04–16–13	FERC Staff. [1]

[1] Telephone record.

Dated: May 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11278 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD13–6–000]

Reliability Technical Conference; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission will hold a Technical Conference on Tuesday, July 9, 2013 from 9:00 a.m. to 5:00 p.m. This Commissioner-led conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The conference will be open for the public to attend, and advance registration is not required.

The purpose of the conference is to discuss policy issues related to the reliability of the Bulk-Power System. A more formal agenda will be issued at a later date.

Information on this event will be posted on the Calendar of Events on the Commission's Web site, *www.ferc.gov*, prior to the event. The conference will also be Webcast. Anyone with Internet access who desires to listen to this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to the webcast. The Capitol Connection provides technical support for webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit

www.CapitolConnection.org or call 703–993–3100.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov*.

Dated: May 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11275 Filed 5–10–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9812–8]

Draft Small Municipal Separate Storm Sewer System NPDES General Permit—New Hampshire; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a Notice of Availability of the draft Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) general permit for New Hampshire, published in the **Federal Register** on February 12, 2013. A 30 day extension to the original comment period was published in the **Federal Register** April 4, 2013 and the comment period is currently set to expire on May 15, 2013. This notice extends the comment period from May 15, 2013 to August 15, 2013.

DATES: Comments must be received on or before August 15, 2013.

ADDRESSES: Submit comments by one of the following methods:

- *Email: Tedder.Newton@epa.gov.*
- *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding legal holidays from: Newton Tedder, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *Tedder.Newton@epa.gov*.

SUPPLEMENTARY INFORMATION:

This notice extends the public comment period established in the **Federal Register** issue of April 4, 2013 (78 FR 20316) (FRL–9799–1). In the February 12, 2013 issue of the **Federal Register** (78 FR 9908) (FRL–13–006 and 9779–7), EPA announced the availability for public comment of its draft small MS4 NPDES general permit for New Hampshire. In response to comments received during the Public Hearing, EPA extended the original comment period by 30 days and published the extension of comment period in the **Federal Register** on April 4, 2013. Currently, the comment period is set to expire on May 15, 2013. This extension is in response to additional requests received from several commenters to extend the comment period. EPA is hereby extending the comment period, which was set to end on May 15, 2013, to August 15, 2013.

Dated: May 2, 2013.

H. Curtis Spalding,

Regional Administrator, Region 1.

[FR Doc. 2013–11310 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9812–7]

Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Science Advisory Board Panel to discuss three planned actions identified in the agency's regulatory agenda and their supporting science.

DATES: The public teleconference will be held on Wednesday, June 5, 2013 from 1:00 p.m. to 3:00 p.m. (Eastern Time).

Location: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2218 or at *nugent.angela@epa.gov.* General information about the SAB as well as any updates concerning the meeting announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on the topics below.

As noted in the **Federal Register** Notice announcing a meeting of the chartered SAB on March 7–8, 2013 (78 FR 9689–9690), the EPA has recently underscored the need to routinely inform the SAB about proposed and planned agency actions that have a scientific or technical basis. Accordingly, the agency provided notice to the SAB that the Office of Management and Budget published the ''Unified (Regulatory) Agenda'' on the Web on December 21, 2012 (*http://www.reginfo.gov/public*). On March 7–8, 2013, the chartered SAB discussed whether it should provide advice and comment on the adequacy of the scientific and technical basis for EPA actions included in the Unified (Regulatory) Agenda. The chartered SAB identified three planned actions for additional fact-finding [Effluent Guidelines and Standards for Unconventional Oil and Gas Extraction Including Coalbed Methane and Shale Gas Extraction (2040 AF35); Revised Regulations for Environmental Radiation Protection Standards for Nuclear Power Plant Operations (2060 AR12), and Petroleum Refinery Sector Risk and Technology Review (RTR) and New Source Performance Standards (2060 AQ75), which EPA plans to jointly propose with Petroleum Refinery Sector for Flares (2060–AR69)]. The chartered SAB will discuss information gathered relating to these planned

actions and determine whether it should provide advice and comment on the adequacy of the scientific and technical basis for those actions.

Availability of Meeting Materials: Agendas and materials in support of this meeting will be placed on the EPA Web site at *http://www.epa.gov/sab* in advance of the meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via email) at the contact information noted above by May 29, 2013 for the teleconference, to be placed on the list of public speakers.

Written Statements: Written statements should be supplied to the DFO via email at the contact information noted above by May 29, 2013 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 564–2218 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: May 6, 2013.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2013–11320 Filed 5–10–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re Forms Relating To Processing Deposit Insurance Claims

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed information collection renewal and comment request.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, 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 renewal of an existing information collection, as required by the PRA. On February 7, 2013 (78 FR 9049), the FDIC solicited public comment for a 60-day period on renewal without change of its ''Forms Relating to Processing Deposit Insurance Claims'' information collection (OMB No. 3064–0143). No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before June 12, 2013.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *Email: comments@fdic.gov.*
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Room NY–5050, Washington, DC 20429.
- *Hand 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 7:00 a.m. and 5:00 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about this information collection, please contact Leneta G. Gregorie, by telephone at (202) 898–3719 or by mail at the address identified above. In addition, copies of the forms contained in the collection can be obtained at the FDIC's Web site: *http://www.fdic.gov/regulations/laws/FORMS/claims.html.*

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to renew the following information collection:

Title: Forms Related to Processing of Deposit Insurance Claims.

Forms Currently In Use:

Declaration for Public Unit Deposit, Form 7200/04
Declaration for Trust, Form 7200/05
Declaration of Independent Activity, Form 7200/06
Declaration of Independent Activity for Unincorporated Association, Form 7200/07
Declaration for Joint Ownership Deposit, Form 7200/08
Declaration for Testamentary Deposit (Multiple Grantors), Form 7200/09
Declaration for Defined Contribution Plan, Form 7200/10
Declaration for IRA/KEOGH Deposit, Form 7200/11
Declaration for Defined Benefit Plan, Form 7200/12
Declaration of Custodian Deposit, Form 7200/13
Declaration for Health and Welfare Plan, Form 7200/14
Declaration for Plan and Trust, Form 7200/15
Declaration for Irrevocable Trust, Form 7200/18

Estimated Number of Respondents and Burden Hours for Forms in Use:

FDIC Document	Hours per response	Number of respondents	Burden hours
Declaration for Government Deposit, Form 7200/04	0.50	30	15
Declaration for Revocable Trust, Form 7200/05	0.50	150	75
Declaration of Independent Activity, Form 7200/06	0.50	5	2.5
Declaration of Independent Activity for Unincorporated Association, Form 7200/07	0.50	5	2.5
Declaration for Joint Ownership Deposit, Form 7200/08	0.50	5	2.5
Declaration for Testamentary Deposit, Form 7200/09	0.50	50	25
Declaration for Defined Contribution Plan, Form 7200/10	1.0	10	10
Declaration for IRA/KEOGH Deposit, Form 7200/11	0.50	5	2.5
Declaration for Defined Benefit Plan, Form 7200/12	1.0	10	10
Declaration of Custodian Deposit, Form 7200/13	0.50	5	2.5
Declaration for Health and Welfare Plan, Form 7200/14	1.0	20	20
Declaration for Plan and Trust, Form 7200/15	0.50	20	10
Declaration for Irrevocable Trust, Form 7200/18	0.50	10	5
Sub-total	.....	5025	182.5
Additional Burden for Deposit Brokers Only	.....	70	137
Total	.....	5095	319.5

General Description of Collection: The collection involves forms used by the FDIC to obtain information from individual depositors and deposit brokers necessary to supplement the records of failed depository institutions to make determinations regarding deposit insurance coverage for depositors of failed institutions. The information provided allows the FDIC to identify the actual owners of an account and each owner's interest in the account.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 7th day of May, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–11205 Filed 5–10–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 7, 2013.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Wildcat Bancshares, Inc.,* Springfield, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of CBR Bancshares, Corporation, and thereby acquire Citizens Bank of Rogersville, both in Rogersville, Missouri.

Board of Governors of the Federal Reserve System, May 8, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–11248 Filed 5–10–13; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–OERR–2013–01; Docket No. 2013–0002; Sequence 10]

Joint Working Group on Improving Cybersecurity and Resilience Through Acquisition

AGENCY: Office of Emergency Response and Recovery, U.S. General Services Administration (GSA).

ACTION: Request for information.

SUMMARY: On February 12th, 2013, the President issued the Executive Order for Improving Critical Infrastructure Cybersecurity (Executive Order 13636). In accordance with Section 8(e) of Executive Order 13636, within 120 days, the General Services Administration and the Department of Defense, in consultation with the Department of Homeland Security and the Federal Acquisition Regulation Council, are required to make recommendations on the feasibility, security benefits, and relative merits of incorporating security standards into acquisition planning and contract administration and address what steps

can be taken to harmonize, and make consistent, existing procurement requirements related to cybersecurity.

Public outreach is a critically important activity for implementation of the Executive Order. In an effort to obtain broad stakeholder involvement, the General Services Administration and the Department of Defense are publishing this Request for Information (RFI) seeking information that can be used in the Section 8(e) report.

DATES: *Effective date:* Submit comments on or before June 12, 2013.

ADDRESSES: Submit comments in response to Notice–OERR–2013–01 by *any of the following methods:*

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice–OERR–2013–01''. Select the link ''Submit a Comment'' that corresponds with ''Notice–OERR–2013–01''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Notice–OERR–2013–01'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite ''Notice-OERR–2013–01'', in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Emile Monette, U.S. General Services Administration, at *emile.monette@gsa.gov* or 703–605–5470.

SUPPLEMENTARY INFORMATION:

A. Background

On February 12th, 2013, the President issued the Executive Order for Improving Critical Infrastructure Cybersecurity (E.O. 13636) and the Presidential Policy Directive on Critical Infrastructure Security and Resilience (PPD–21). In accordance with Section 8(e) of Executive Order 13636 (EO), within 120 days, the General Services Administration and the Department of Defense, in consultation with the Department of Homeland Security and the Federal Acquisition Regulation Council, are required to make recommendations on the feasibility, security benefits, and relative merits of incorporating security standards into acquisition planning and contract administration and address what steps can be taken to harmonize, and make consistent, existing procurement requirements related to cybersecurity. Among other things, PPD–21 requires the General Services Administration, in consultation with the Department of Defense and the Department of Homeland Security, to jointly provide and support government-wide contracts for critical infrastructure systems and ensure that such contracts include audit rights for the security and resilience of critical infrastructure.

In order to accomplish the task required by EO Section 8(e), the General Services Administration (GSA) and the Department of Defense (DoD) have formed the ''*Joint Working Group on Improving Cybersecurity and Resilience through Acquisition,''* (Working Group) with GSA as the lead agency. The Working Group is comprised of topic-knowledgeable members selected from the DoD, GSA, the Department of Homeland Security (DHS), the Office of Federal Procurement Policy (OFPP), and the National Institute of Standards and Technology (NIST). The Working Group is coordinating its efforts to obtain input from the stakeholder community, including industry, academia, and federal, state, and local government.

Public outreach is a critically important activity for implementation of the EO and PPD. In an effort to obtain broad stakeholder involvement, the Working Group is publishing this Request for Information (RFI) seeking information that can be used in the Section 8(e) report. To the extent applicable, the Section 8(e) recommendations will also lay the foundation for establishment or identification of the government-wide cybersecurity contracts required by PPD–21.

The Working Group is also directly engaged with the DHS Interagency Task Force (ITF). The ITF has been established to lead implementation of the EO and PPD–21, including, among other things, stakeholder engagement. The ITF has established working groups to accomplish the major deliverables and action items required by the EO and PPD, and this RFI for the Section 8(e) report is one element of the larger outreach efforts underway to address the requirements of the EO and PPD.

The importance of common language cannot be overstated. It is apparent that a common lexicon is one of the critical gaps in harmonizing federal acquisition requirements related to cybersecurity.

Given the limitations of the unsettled definition of the word, for purposes of this RFI, the term ''cybersecurity'' is given a broad meaning that includes information security and related areas, like supply chain risk management, information assurance, and software assurance, as well as other efforts to address threats or vulnerabilities flowing from or enabled by connection to digital infrastructure.

In responding to the questions below, please highlight any applicable distinctions in responses related to classified and unclassified acquisitions.

Feasibility and Federal Acquisition: In general, DoD and GSA seek input about the feasibility of incorporating cybersecurity standards into federal acquisitions.

For example:

1. What is the most feasible method to incorporate cybersecurity-relevant standards in acquisition planning and contract administration? What are the cost and other resource implications for the federal acquisition system stakeholders?

2. How can the federal acquisition system, given its inherent constraints and the current fiscal realities, best use incentives to increase cybersecurity amongst federal contractors and suppliers at all tiers? How can this be accomplished while minimizing barriers to entry to the federal market?

3. What are the implications of imposing a set of cybersecurity baseline standards and implementing an associated accreditation program?

4. How can cybersecurity be improved using standards in acquisition planning and contract administration?

5. What are the greatest challenges in developing a cross-sector standards-based approach cybersecurity risk analysis and mitigation process for the federal acquisition system?

6. What is the appropriate balance between the effectiveness and feasibility of implementing baseline security requirements for all businesses?

7. How can the government increase cybersecurity in federal acquisitions while minimizing barriers to entry?

8. Are there specific categories of acquisitions to which federal cybersecurity standards should (or should not) apply?

9. Beyond the general duty to protect government information in federal contracts, what greater levels of security should be applied to which categories of federal acquisition or sectors of commerce?

10. How can the Federal government change its acquisition practices to ensure the risk owner (typically the end user) makes the critical decisions about that risk throughout the acquisition lifecycle?

11. How do contract type (*e.g.,* firm fixed price, time and materials, cost-

plus, etc.) and source selection method (*e.g.,* lowest price technically acceptable, best value, etc.) affect your organization's cybersecurity risk definition and assessment in federal acquisitions?

12. How would you recommend the government evaluate the risk from companies, products, or services that do not comply with cybersecurity standards?

Commercial Practices: In general, DoD and GSA seek information about commercial procurement practices related to cybersecurity.

For example:

13. To what extent do any commonly used commercial standards fulfill federal requirements for your sector?

14. Is there a widely accepted risk analysis framework that is used within your sector that the federal acquisition community could adapt to help determine which acquisitions should include the requirement to apply cybersecurity standards?

15. Describe your organization's policies and procedures for governing cybersecurity risk. How does senior management communicate and oversee these policies and procedures? How has this affected your organization's procurement activities?

16. Does your organization use ''preferred'' or ''authorized'' suppliers or resellers to address cybersecurity risk? How are the suppliers identified and utilized?

17. What tools are you using to brief cybersecurity risks in procurement to your organization's management?

18. What performance metrics and goals do organizations adopt to ensure their ability to manage cybersecurity risk in procurement and maintain the ability to provide essential services?

19. Is your organization a preferred supplier to any customers that require adherence to cybersecurity standards for procurement? What are the requirements to obtain preferred supplier status with this customer?

20. What procedures or assessments does your organization have in place to vet and approve vendors from the perspective of cybersecurity risk?

21. How does your organization handle and address cybersecurity incidents that occur in procurements? Do you aggregate this information for future use? How do you use it?

22. What mechanisms does your organization have in place for the secure exchange of information and data in procurements?

23. Does your organization have a procurement policy for the disposal for hardware and software?

24. How does your organization address new and emerging threats or risks in procurement for private sector commercial transactions? Is this process the same or different when performing a federal contract? Explain.

25. Within your organization's corporate governance structure, where is cyber risk management located (*e.g.,* CIO, CFO, Risk Executive)?

26. If applicable, does your Corporate Audit/Risk Committee examine retained risks from cyber and implement special controls to mitigate those retained risks?

27. Are losses from cyber risks and breaches treated as a cost of doing business?

28. Does your organization have evidence of a common set of information security standards (*e.g.,* written guidelines, operating manuals, etc)?

29. Does your organization disclose vulnerabilities in your product/services to your customers as soon as they become known? Why or why not?

30. Does your organization have track-and-trace capabilities and/or the means to establish the provenance of products/services throughout your supply chain?

31. What testing and validation practices does your organization currently use to ensure security and reliability of products it purchases?

Harmonization: In general, DoD and GSA seek information about any conflicts in statutes, regulations, policies, practices, contractual terms and conditions, or acquisition processes affecting federal acquisition requirements related to cybersecurity and how the federal government might address those conflicts.

For example:

32. What cybersecurity requirements that affect procurement in the United States (*e.g.,* local, state, federal, and other) has your organization encountered? What are the conflicts in these requirements, if any? How can any such conflicts best be harmonized or de-conflicted?

33. What role, in your organization's view, should national/international standards organizations play in cybersecurity in federal acquisitions?

34. What cybersecurity requirements that affect your organization's procurement activities outside of the United States (*e.g.,* local, state, national, and other) has your organization encountered? What are the conflicts in these requirements, if any? How can any such conflicts best be harmonized or de-conflicted with current or new requirements in the United States?

35. Are you required by the terms of contracts with federal agencies to comply with unnecessarily duplicative or conflicting cybersecurity requirements? Please provide details.

36. What policies, practices, or other acquisition processes should the federal government change in order to achieve cybersecurity in federal acquisitions?

37. Has your organization recognized competing interests amongst procurement security standards in the private sector? How has your company reconciled these competing or conflicting standards?

Dated: May 7, 2013.

Darren Blue,

Associate Administrator for the GSA, Office of Emergency Response and Recovery.

[FR Doc. 2013–11239 Filed 5–10–13; 8:45 am]

BILLING CODE 6820–89–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin–PBS–2013–01; Docket 2013–0002; Sequence 5]

Federal Management Regulation; Redesignations of Federal Buildings

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of a bulletin.

SUMMARY: The attached bulletin announces the designation and redesignation of six Federal buildings.

DATES: *Expiration Date:* This bulletin announcement expires July 30, 2013. The building designations and redesignations remains in effect until canceled or superseded by another bulletin.

FOR FURTHER INFORMATION CONTACT: U.S. General Services Administration, Public Buildings Service (PBS), 1800 F Street NW., Washington, DC 20405, telephone number: 202–501–1100.

Dan Tangherlini,

Acting Administrator of General Services.

U.S. GENERAL SERVICES ADMINISTRATION

DESIGNATIONS AND REDESIGNATION OF FEDERAL BUILDINGS

TO: Heads of Federal Agencies

SUBJECT: Redesignations of Federal Buildings

1. *What is the purpose of this bulletin*? This bulletin announces the designation and redesignation of six Federal buildings.

2. *When does this bulletin expire*? This bulletin announcement expires July 30, 2013. The building designations and redesignations remain in effect until

canceled or superseded by another bulletin.

3. *Designation.* The names of the designated buildings are as follows:

Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, NY 14202

Alto Lee Adams, Sr., United States Courthouse
United States Route 1
Fort Pierce, FL 34950

James F. Battin United States Courthouse
2601 2nd Avenue North
Billings, MT 59101

(Location at 315 North 26th Street shall no longer be designated as the James F. Battin U.S. Courthouse)

4. *Redesignation.* The former and new names of the redesignated buildings are as follows:

Former Name	*New Name*
Ariel Rios Federal Building 1200 Pennsylvania Avenue NW. Washington, DC 20004	William Jefferson Clinton Federal Building 1200 Pennsylvania Avenue NW. Washington, DC 20004
George Mahon Federal Building 200 East Wall Street Midland, TX 79701	George H.W. Bush and George W. Bush United States Courthouse and George Mahon Federal Building 200 East Wall Street Midland, TX 79701
Federal Office Building 8 200 C Street, SW. Washington, DC 20204	Thomas P. O'Neill, Jr., Federal Building 200 C Street, SW. Washington, DC 20204

5. *Who should we contact for further information regarding designation and redesignation of these Federal buildings*? U.S. General Services Administration, Public Buildings Service (PBS), 1800 F Street NW., Washington, DC 20405, telephone number: 202–501–1100.

Dan Tangherlini,
Acting Administrator of General Services.

[FR Doc. 2013–11247 Filed 5–10–13; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Community Preventive Services Task Force (Task Force)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC) announces the next meeting of the Community Preventive Services Task Force (Task Force). The Task Force is independent and nonfederal. Its members are nationally known leaders in public health practice, policy, and research, and are appointed by the CDC Director. The Task Force was convened in 1996 by the Department of Health and Human Services (HHS) to assess the effectiveness of community, environmental, population, and healthcare system interventions in public health and health promotion. During this meeting, the Task Force will consider the findings of systematic reviews and issue findings and recommendations to help inform decision making about policy, practice, and research in a wide range of U.S. settings. The Task Force's recommendations, along with the systematic reviews of the scientific evidence on which they are based, are compiled in the *Guide to Community Preventive Services (Community Guide).*

DATES: The meeting will be held on Wednesday, June 19, 2013 from 8:30 a.m. to 5:30 p.m., EDT and Thursday, June 20, 2013 from 8:30 a.m. to 1:00 p.m. EDT.

Logistics: The Task Force Meeting will be held at the Emory Conference Center at 1615 Clifton Road Atlanta, GA 30329. Information regarding logistics will be available Wednesday, May 22, 2013 on the Community Guide Web site (*www.thecommunityguide.org*).

FOR FURTHER INFORMATION CONTACT: Andrea Baeder, The Community Guide Branch, Epidemiology and Analysis Program Office, Office of Surveillance, Epidemiology, and Laboratory Services, Centers for Disease Control and Prevention, 1600 Clifton Road, MS–E–69, Atlanta, Georgia 30333, phone: (404) 498–6876, email: *CPSTF@cdc.gov*.

Purpose: The purpose of the meeting is for the Task Force to consider the findings of systematic reviews and issue findings and recommendations to help inform decision making about policy, practice, and research in a wide range of U.S. settings.

Matters to be discussed: Matters to be discussed: cancer prevention and control, cardiovascular disease prevention and control, diabetes prevention and control, motor vehicle-related injury prevention, improving oral health, promoting physical activity, promoting health equity, and reducing tobacco use and secondhand smoke exposure.

Meeting Accessibility: This meeting is open to the public, limited only by space availability.

Dated: May 6, 2013.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2013–11242 Filed 5–10–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1131]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; New Animal Drug Applications and Supporting Regulations and Form FDA 356V

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by June 12, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written

comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0032. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796, 3794, *Jonnalynn.capezzuto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Presubmission Conferences, New Animal Drug Applications and Supporting Regulations and Guidance #152, and Form FDA 356V—21 CFR 514.5, 514.1, 514.4, and 514.8 (OMB Control Number 0910–0032)—Extension

Under section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(b)(3)), any person intending to file a new animal drug application (NADA) or supplemental NADA or a request for an investigational exemption under section 512(j) of the FD&C Act is entitled to one or more conferences with FDA to reach an agreement acceptable to FDA establishing a submission or investigational requirement. FDA and industry have found that these meetings have increased the efficiency of the drug development and drug review processes.

Section 514.5 of Title 21 of the Code of Federal Regulations describes the procedures for requesting, conducting, and documenting presubmission conferences. Section 514.5(b) describes the information that must be included in a letter submitted by a potential applicant requesting a presubmission conference, including a proposed agenda and a list of expected participants. Section 514.5(d) describes the information that must be provided by the potential applicant to FDA at least 30 days prior to a presubmission conference. This information includes a detailed agenda, a copy of any materials to be presented at the conference, a list of proposed indications and, if available, a copy of the proposed labeling for the product under consideration, and a copy of any background material that provides scientific rationale to support the potential applicant's position on issues listed in the agenda for the conference. Section 514.5(f) discusses the content of the memorandum of conference that will be prepared by FDA and gives the potential applicant an opportunity to seek correction to or clarification of the memorandum.

Under section 512(b)(1) of the FD&C Act, any person may file a NADA seeking approval to legally market a new animal drug. Section 512(b)(1) sets forth the information required to be submitted in a NADA. FDA allows applicants to submit a complete NADA or to submit information in support of a NADA for phased review followed by submission of an administrative NADA when FDA finds all the applicable technical sections are complete.

Section 514.1 of Title 21 of the Code of Federal Regulations interprets section 512(b)(1) of the FD&C Act and further describes the information that must be submitted as part of a NADA and the manner and form in which the NADA must be assembled and submitted. The application must include safety and effectiveness data, proposed labeling, product manufacturing information, and where necessary, complete information on food safety (including microbial food safety) and any methods used to determine residues of drug chemicals in edible tissue from food producing animals. Guidance #152 outlines a risk assessment approach for evaluating the microbial food safety of antimicrobial new animal drugs. FDA requests that an applicant accompany NADAs, supplemental NADAs, and requests for phased review of data to support NADAs, with the Form FDA 356V to ensure efficient and accurate processing of information to support new animal drug approval.

In the **Federal Register** of November 20, 2012, (77 FR 69630), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—NADAS—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section/FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
514.5(b), (d), (f) Requesting presubmission conferences	169	0.41	69	50	3,450
514.1 and 514.6 Applications and amended applications	169	0.07	12	212	2,544
514.8(b) Manufacturing changes to an approved application	169	2.22	375	35	13,125
514.8(c)(1) Labeling and other changes to an approved application	169	0.06	10	71	710
514.8(c)(2) and (3) Labeling and other changes to an approved application	169	0.72	121	20	2,420
514.11 Submission of data, studies and other information	169	0.08	14	1	14
558.5(i) Requirements for liquid medicated feed	169	0.01	1.7	5	8.5
514.1(b)(8) and 514.8(c)(1) [2] Evidence to establish safety and effectiveness	169	0.15	25	90	2,250
Form FDA 356V	169	4.37	739	5	3,695
Total					28,217

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] NADAs and supplements regarding antimicrobial animal drugs that use a recommended approach to assessing antimicrobial concerns as part of the overall preapproval safety evaluation.

Based on the number of sponsors subject to animal drug user fees, FDA estimates that there was an average of 169 annual respondents during the 5 fiscal years, from October 1, 2008, through September 30, 2012, on which

these estimates were made. We use this estimate consistently throughout the table and calculate the ''total annual responses'' by multiplying the number of responses per respondent by the number of respondents.

Dated: May 7, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11273 Filed 5–10–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–P–1000]

Determination That REV–EYES (Dapiprazole Hydrochloride Ophthalmic Solution), 0.5%, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for dapiprazole hydrochloride ophthalmic solution, 0.5%, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: David E. Markert, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6248, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, is the subject of NDA 19–849, held by Angelini Pharmaceuticals Inc., and initially approved on December 31, 1990. REV–EYES is indicated for the treatment of iatrogenically induced mydriasis produced by adrenergic (phenylephrine) or parasympatholytic (tropicamide) agents.

REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

CUSTOpharm, Inc., submitted a citizen petition dated September 11, 2012 (Docket No. FDA–2012–P–1000), under 21 CFR 10.30, requesting that the Agency determine whether REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of REV–EYES (dapiprazole hydrochloride ophthalmic solution). 0.5%. from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to REV–EYES (dapiprazole hydrochloride ophthalmic solution), 0.5%, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11285 Filed 5–10–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0677]

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 18th, 2013, from 8 a.m. to 2:30 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B and C, 620 Perry Pkwy., Gaithersburg, MD,

20877. The hotel phone number is 301–977–8900.

Contact Person: Sara J. Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg 66, Rm. 1611, Silver Spring, MD, *Sara.Anderson@fda.hhs.gov,* 301–796–7047, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On July 18, 2013, the committee will discuss and make recommendations on the proposed regulatory classification for dental devices known as Endosseous Dental Implants (Blade-form), one of the remaining preamendments Class III devices. The Class III blade-form endosseous dental implant is a device placed into the maxilla or mandible and composed of biocompatible material, such as commercially pure titanium, with sufficient strength to support a dental restoration, such as a crown, bridge, or denture, intended for the purpose of replacing tooth (or teeth) roots and extending a support post through the gingival tissue into the oral cavity to restore chewing function. The blade-form implant is generally a rectangular shape or rounded corner rectangle shape (in the mesio-distal plane) with a narrow tapered (narrow at the apical edge) edge (in the bucco-lingual plane) similar in shape to a razor blade. Other blade designs, such as square, V-shaped, and triangles have also been used. The blade-form implants are either one-piece or two-piece implants designed with one to three cylindrical abutment posts extending from the coronal aspect of the blade through the soft tissue and into the oral cavity.

On January 4, 2013 (FDA–2012–N–0677), FDA issued a proposed order which, if made final, would reclassify the blade-form endosseous dental implant into class II (special controls). The committee's discussion will involve making recommendations regarding regulatory classification to either reaffirm Class III or reclassify these devices into Class II and comment on whether the proposed Special Controls are adequate to reasonably ensure the safety and effectiveness of blade-form endosseous dental implants. The regulatory history of blade-form endosseous dental implant has been discussed as part of the proposed order (FDA–2012–N–0677).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 9, 2013. On July 18, 2013, oral presentations will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 28, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 1, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at *Annmarie.Williams@fda.hhs.gov* or 301 796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11286 Filed 5–10–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

HRSA especially requests comments on: (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.

Information Collection Request Title: Information and Referral and Professional Training Impact Surveys in Health Resources and Services Administration (HRSA)—Funded Traumatic Brain Injury Grants (OMB No. 0915–xxxx)—New

Abstract: This survey is designed to collect information from HRSA-funded Traumatic Brain Injury (TBI) State Implementation Partnership Grants and Protection and Advocacy for Traumatic Brain Injury (TBI) Grants regarding the impact of grant activities on individuals with traumatic brain injury and their family members. The authority for this program is the Public Health Service Act, Title XII, Section 1252 (42 U.S.C. 300d–52) as amended by the Children's Health Act of 2000, sec. 1304, Public Law 106–310, as further amended by the Traumatic Brain Injury Act of 2008, sec. 6, Public Law 110–206.

Individuals with TBI present with a host of different symptoms, which exist with varying levels of severity. Comprehensive appropriate care often requires a variety of services such as physical rehabilitation, speech rehabilitation, cognitive rehabilitation, special education accommodations, vocational skills coaching, and independent living skills training, which are located across many state and local agencies. For this reason, individuals with TBI and their family members often have difficulty identifying local providers with the skills and expertise to deliver services that will promote recovery and maximize independence.

Per the authorizing legislation, the intent of these programs is to improve access to rehabilitation and other services regarding traumatic brain injury. The HRSA State Implementation Partnership Grants and State Protection and Advocacy Grants support this charge by providing information to individuals with TBI and their families about TBI and making referrals to local providers equipped to meet the unique needs of each survivor. Additionally, these grant programs train providers in various settings to identify and effectively serve individuals with TBI and their families.

To date, a number of grantees have collected data independently to determine the impact of their work on individuals with TBI and their families. HRSA proposes uniform data collection surveys for these two categories of activities—information and referral services, and professional training—to assess the extent to which these activities are increasing access to rehabilitation and other services. In addition to providing uniform data across these grant programs, the data will help determine what efforts might improve outreach and provision of services for future projects.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

The annual estimate of burden is as follows:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Feedback Form for Individuals with TBI and/or their Family Members receiving Information and Referral Services	21,000	1	21,000	0.25	5250
Feedback Form for Training Session Participants	10,500	1	10,500	0.25	2,625
Total	31,500	1[1]	31,500	0.50	7,875

[1] Respondents for these two survey forms will be distinct; individuals will not complete both surveys. Therefore, there will be only one response per respondent.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Deadline: Comments on this ICR must be received within 60 days of this notice.

Dated: May 7, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–11256 Filed 5–10–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Health Resources and Services Administration (HRSA) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

Information Collection Request Title: Organ Donation/Transplant Life Stories (OMB No. 0915–xxxx)—NEW

Abstract: HRSA's Division of Transplantation (DoT) is the primary entity in the Department of Health and Human Services (HHS) responsible for the Organ Transplant Program established under the National Organ Transplant Act (Pub. L. 98–507, codified at sections 371–377D of the Public Health Service (PHS) Act). Section 377A of the PHS Act authorizes the Secretary

of HHS to establish a public education program to increase awareness about organ donation and the need to provide for an adequate rate of such donations. In brief, DoT's responsibilities are two-fold: (1) To provide oversight and guidance to the national organ transplant system in the U.S. including monitoring the Organ Procurement and Transplantation Network and the Scientific Registry of Transplant Recipients; and (2) to implement a program of public and professional education and outreach aimed at increasing the number of organ donors in this country. Many preventable deaths occur each year because of a staggering imbalance between the supply and demand for donor organs. As of March 2013, the national transplant waiting list exceeded 117,000. In 2011, the total number of deceased and living organ donors was only 14,145. These donors enabled 28,538 patients to receive a transplant while 6,693 died waiting. Without successful interventions to increase donation, the disparity between need and supply is likely to be substantially exacerbated, resulting in more unnecessary deaths.

Organdonor.gov is DoT's primary mechanism for providing the public with information about organ donation. Among the most visited pages on organdonor.gov are the donor and recipient life stories which in a recent evaluation study were shown to raise interest on the topic and, more important, persuade people to register as organ donors. To expand this component of organdonor.gov, DoT proposes to develop an application to give organ recipients, living donors, and donor families the opportunity to voluntarily submit their stories to DoT via a standardized online form. The online form will be posted on organdonor.gov and will collect demographic and contact information, the individual's donation/transplant story up to 500 words, a high resolution photo, and a signed authorization. The standardized, electronic form will increase HRSA staff's ability to process those stories more efficiently. In addition to enabling story submission, the online application process will make the donor and recipient life stories posted on the site searchable by the public to enhance public viewing and understanding of the organ donation process. Submission of a story and completion of the form is voluntary. Overall, this application has the potential to strengthen DoT's outreach efforts and increase organ donation registration in the United States.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The annual estimate of burden is as follows:

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Donation/Transplantation Life Story Submission Form	100	1	100	0.68	68
Total	100	1	100	0.68	68

ADDRESSES: Submit your comments to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Deadline: Comments on this ICR should be received within 30 days of this notice.

Dated: May 7, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–11257 Filed 5–10–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on Migrant Health; Cancellation of Meeting

Name: National Advisory Council on Migrant Health.

Dates and Times: May 21, 2013, 8:30 a.m. to 5:00 p.m., May 22, 2013, 8:00 a.m. to 12:00 p.m.

Status: The meeting of the National Advisory Council on Migrant Health, scheduled for May 21 and 22, 2013, is cancelled. This cancellation applies to all sessions of the meeting. The meeting was announced in the **Federal Register** of April 17, 2013 (78 FR 22890).

FOR FURTHER INFORMATION CONTACT: Gladys Cate, Public Health Analyst, Office of National Assistance and Special Populations, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, Room 15–74, Rockville, Maryland 20857; telephone (301) 594–0367.

Dated: May 7, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–11259 Filed 5–10–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: National Cancer Institute (NCI) Alliance for Nanotechnology in Cancer Platform Partnership Scientific Progress Reports

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have

practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dorothy Farrell, Center for Strategic Scientific Initiatives, Office of Cancer Nanotechnology Research, National Cancer Institute, 31 Center Drive, Bldg. 31 A, Rm. 10A52, Bethesda, MD 20892 or call non-toll-free number 301–496–5652 or Email your request, including your address to: *farrelld@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: National Cancer Institute (NCI) Alliance for Nanotechnology in Cancer Platform Partnership Scientific Progress Reports, 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: National Institutes of Health grantees are required to submit interim and final progress reports and other post-award documents associated with the monitoring, oversight, and closeout of an award. This submission represents a request for OMB to approve new program specific progress report guidelines for Cancer Nanotechnology Platform Partnerships (CNPP) awarded by the National Cancer Institute (NCI). The CNPPs are part of the Alliance for Nanotechnology in Cancer, a network of awards funded by NCI to promote the application of nanotechnology to cancer research and care. The proposed guidelines request information about award performance related to trans-Alliance collaboration, scientific milestones, progress towards clinical translation and technology commercialization, and education and outreach efforts. The report also gathers information on leveraged funding, patents and publications. The information is gathered every six months. This information is needed to monitor the performance of this special program within NCI, funded through Requests for Applications (RFA CA–09–013, released May 29, 2009) using the cooperative agreement mechanism (U01). The information will be used to monitor individual award performance and the effectiveness of the program as a whole. The respondents are the Principal Investigators of the awards, along with their institutional business officials. The awards are administered by and the reports reviewed by the Office of Cancer Nanotechnology Research (OCNR), part of the Center for Strategic Scientific Initiatives within NCI.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The estimated annualized burden hours are 72.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response (in hours)	Annual burden hours
Principal Investigators	12	2	3	72

Dated: May 7, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–11294 Filed 5–10–13; 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 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: Molecular Endocrinology.

Date: June 3, 2013.

Time: 11:30 a.m. to 1:00 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: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.

Date: June 6, 2013.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

Date: June 6–7, 2013.

Time: 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC Downtown Hotel, 999 Ninth Street NW., Washington, DC 20001.

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Services Organization and Delivery Overflow.

Date: June 11, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *brontetinkewjm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; OppNet RFA: Culture, Health and Wellbeing.

Date: June 11, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Tremont Suites Hotel and Grand Historic Venue, 222 St. Paul Place, Baltimore, MD 21202.

Contact Person: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: June 11, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Baltimore, 300 Light Street, Baltimore, MD 21202.

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Systemic Injury By Environmental Exposure.

Date: June 11, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Lung Diseases.

Date: June 11–12, 2013.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: George M Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Membrane Biology and Protein Processing Study Section.

Date: June 12, 2013.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.

Contact Person: Janet M Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Development—1 Study Section.

Date: June 12, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue SW., Washington, DC 20024.

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—1 Study Section.

Date: June 12, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Hilary D Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@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: May 7, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11208 Filed 5–10–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Leadership Group for a Clinical Research Network on Integrated Strategies to Prevent HIV Infection.

Date: May 29–30, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Tracy A. Shahan, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2606, *tshahan@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: June 4, 2013.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Room 3128, Bethesda, MD 20892–7616, 301–451–2744, *battlesja@mail.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Network.

Date: June 6, 2013.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Vasundhara Varthakavi, Ph.D., DVM, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700–B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, *varthakaviv@niaid.nih.gov.*

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: June 10, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nancy Lewis Ernst, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–7383, *nancy.ernst@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 7, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11210 Filed 5–10–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Behavior and Social Science of Aging Review Committee NIA–S.

Date: June 12–13, 2013.

Time: 4:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Long Beach Downtown, 500 East First Street, Long Beach, CA 90802.

Contact Person: Rebecca Jo Ferrell, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *rebecca.ferrell@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 6, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11209 Filed 5–10–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)

SUMMARY: The NIH Office of Biotechnology Activities (NIH OBA) proposes to revise the *NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)* to streamline review of certain human gene transfer trials that present a low biosafety risk. Specifically, the NIH OBA proposes to remove the requirement that institutional biosafety committees (IBCs) review and approve certain human gene transfer clinical trials that use plasmids and certain attenuated, non-integrating viral vectors, provided the clinical trial follows an initial study in humans that was previously approved by an IBC registered with the OBA. This initial trial will have established the safety of the proposed dose of the gene transfer product (vector and transgene) in a comparable population (adults or children). The initial study should have been conducted in the same country as the proposed study to control for potential variability in infectious disease backgrounds of the participants.

An initial IBC review is important to evaluate the safety of the product and to set standards for administration; however, for well-characterized vectors, in the absence of any unexpected toxicities in the initial study, subsequent biosafety assessments may not provide any additional information. While a single IBC review does not pose an undue burden, as the gene transfer field advances and more Phase II and Phase III multisite trials are developed, the time, effort and expense associated with multiple IBC reviews can be significant without adding commensurate value in the form of additional recommendations to protect the health and safety of the subject, health care worker, and community.

IBCs play a critical role in the evaluation of new products and their review can inform other oversight bodies, such as Institutional Review Boards. However, given the competing demands on IBCs, this change will provide IBCs with the option of focusing their efforts on those clinical trials where review will be most productive. While IBCs will no longer be *required* to review all clinical trials using the same product, each institution can implement its own policies regarding the need to review such trials and the information that a principal investigator (PI) should submit regarding the safety of the previous trial. For example, an institution may designate the Biological Safety Officer and the IBC Chair to review data from the initial trial and determine whether a subsequent trial using the same agent meets the exemption criteria outlined herein. The institution may also set its own policies regarding the need for the PI to inform the IBC about enrollment, any relevant new biosafety findings, and completion of the trial.

This policy will only exempt human gene transfer clinical trials from IBC review under Section III–C–1. It does not apply to basic, nonclinical research. In addition, it does not create an exemption from registration of the trial with the NIH OBA or the Recombinant DNA Advisory Committee (RAC) review and reporting requirements. By continuing to require registration and reporting on these trials, the NIH OBA will be able to continue to monitor adverse events or incident reports of accidental exposures by health care workers delivering these agents and, if necessary, provide information regarding these events to investigators, IBCs, and the public. The NIH OBA will also be able to assess whether this change in policy has any adverse impact on the biosafety of gene transfer trials.

DATES: All comments should be submitted by June 12, 2013.

ADDRESSES: Comments may be submitted to the NIH OBA by email at *oba@od.nih.gov*; by fax to 301–496–9839; or by mail to the NIH Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985. All written comments received in response to this notice will be available for public inspection in the NIH Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland, weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional information about these proposed changes, please contact the NIH OBA by email at *oba@od.nih.gov* or telephone at 301–496–9838. Comments

can be submitted to the same email address or by fax to 301–496–9839 or mail to the NIH Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892–7985. Background information may be obtained by contacting the NIH OBA by email at *oba@od.nih.gov*.

SUPPLEMENTARY INFORMATION: Human gene transfer is a maturing field. There are currently over 1,200 gene transfer trials registered since 1988 with the OBA. While the majority of trials are still small safety studies, increasingly Phase II and III multisite trials are being initiated. IBCs play a critical role in the evaluation of human gene transfer trials. IBCs identify and manage biosafety issues raised by gene transfer agents, including safety issues that may arise due to the nature of the vector. The IBC assesses the risks of horizontal and vertical viral vector transmission and provides guidance on the safe handling and administration of the product in a context that considers the local clinical environment. The IBC also examines the preclinical data that support the safety of the vector as delivered. Finally, the IBC reviews the informed consent to ensure that the risks that arise from the biological nature of the vector are clearly stated.

Investigators have noted that repeated reviews by multiple IBCs of a multisite Phase II or III trial have often not resulted in new recommendations and such reviews can impose a cost on the research, including the cost of establishing IBCs at sites without pre-existing IBCs and the time required to complete multiple reviews. The NIH OBA recognizes that the biosafety profiles of many vectors are well characterized, and while the transgene may have an impact on the safety profile, an IBC may be able to identify most of the issues through the review of the initial trial. In addition, members of the RAC, some of whom have served on IBCs, also note that providing IBCs some discretion in whether to review certain low risk clinical trials is desirable.

In order to identify the type(s) of trials that might qualify for an exemption from further IBC review, the NIH OBA considered the types of vectors that have been frequently used in gene transfer protocols over a number of years. The NIH OBA concluded, with the advice of the RAC, that gene transfer products that employ plasmids or attenuated Risk Group (RG) 2 viruses that are not designed to integrate into the host genome are of sufficiently low biosafety risk to be considered for this exemption. The vectors OBA proposes to make eligible for this exemption are derived from the following viruses: Adenoviruses, serotypes 2 and 5; herpes simplex viruses 1 (HSV–1); adeno-associated viruses (AAV); and poxviruses, except for vaccinia. While AAV vectors do integrate, given the safety record to date with AAV vectors and the fact that they are more likely to remain episomal, including them in this exemption is appropriate. Research with vaccinia vectors was not considered eligible for the exemption because of the adverse events that were documented when vaccinia was used as a vaccine against smallpox and reports of skin pustules developing in some research participants receiving intravenous administration of vaccinia vectors in gene transfer protocols. Continued oversight by an IBC to ensure proper handling and administration of vaccinia vectors seems prudent. Clinical research with integrating vectors, including transposons, is not eligible for this exemption due to the need for long-term follow-up; therefore IBC oversight is again appropriate.

A list of viruses eligible for this exemption will be presented in a new section of Appendix B (Appendix B–V–2) that will be titled *Viruses used as Vectors for Human Gene Transfer that Present Low Biosafety Risk and are Eligible for Exemption from IBC Review under Section III–C–1.* This list can be updated by the NIH OBA, in consultation with the RAC chair and one or more RAC members as needed. (See Minor Actions in the *NIH Guidelines* Section IV–C–1–b–(2).) As experience grows with other vectors, they may also become eligible for this exemption and will be added to Appendix B–V–2.

Almost all viral vectors used in gene transfer are attenuated compared to the wild-type virus. To be exempt from IBC review, there must be data that the vector is attenuated compared to the wild type virus; this data should be provided from both animal models and the previous clinical trial. Attenuation may be achieved by gene deletions or irreversible mutations in genes required for cell-to-cell transmission or virulence.

In order to be exempt from IBC review, in addition to using one of the specified vectors, an initial clinical trial must have been conducted using the same gene transfer product. This initial trial may not be a single subject protocol or what is sometimes referred to as a ''compassionate use trial.'' An initial safety trial, or Phase I trial, may be used to support the exemption of a Phase II trial while an initial safety trial, Phase I, or a Phase II trial may be used to support the exemption of a Phase III trial. The design of the proposed trial should be comparable to the previous clinical study that is being used to justify an exemption from IBC review. This ensures that the safety data from the initial trial is applicable to the subsequent trials. Specifically, the dose(s) of the gene transfer agent to be used in the Phase II or III trial must be equal to or less than the dose administered in the safety trial and the delivery route must be identical, e.g., a trial using intramuscular delivery would not support exemption of a trial using intravenous administration, as the biodistribution of the product may be quite different. Chemotherapy, radiation, and other immune modulatory agents can also potentially alter the biodistribution and/or shedding of the vectors due to effects on the immune system. Consequently, if concomitant chemotherapy or radiotherapy will be administered with the gene transfer agent, the co-administration of these agents must have been tested in the initial safety trial.

Also the population enrolled in the initial trial must be comparable to the population in the proposed trial. The NIH OBA recognizes that there are many clinical factors that affect the safety of a product in a certain population, including co-morbidities and type of disease. However, in order to have an exemption that can be uniformly applied across IBCs, the proposed exemption focuses on two factors: The age of the subject and the infectious disease background. In drug development, it is recognized that children are not simply small adults. Children's immune systems are different and the pharmacokinetics of viral vectors in pediatric patients may be altered; therefore, an initial safety study must be conducted in a pediatric population before exempting subsequent studies in pediatric populations.

Another issue is whether the safety profile of a product will differ if the population has significantly different background exposure to infectious diseases, as many of the vectors proposed to be included in this exemption are viral vectors. Even within the U.S. there can be differences in the prevalence of certain infectious diseases; however, it is likely that those differences may be more pronounced between different countries, as certain infectious diseases are endemic in some countries but rarely observed in others. That is not to say that the infectious disease background is always significantly different across countries

(for example one would not expect significant differences between the U.S. and Canada), but in order to make this criterion easily interpretable by the IBC, the clinical protocol that will be the basis for exempting review of subsequent protocol(s) must have been conducted in the same country. This will also ensure that an IBC in the country in which the trial will be conducted has carried out a review of the product.

The main impetus for this proposed policy change is to facilitate multisite trials that follow an initial Phase I safety trial or a Phase II study by removing the requirement for multiple IBC reviews for a well-characterized agent. When a trial is only conducted at a single site, the burden of a single IBC review should not be significant or unduly delay the research. Therefore, the original intent was to limit this exemption to trials that would be conducted at more than one site, including at sites that might not already have an IBC. However, it is possible that one might conduct an initial safety study at a single site and conduct the next study with an identical design at a single site, perhaps because the available population in which to study the disease is limited. Given that there is no scientific rationale for limiting the IBC review exemption only to subsequent multisite trials, and since an IBC can still choose to review the trial, the NIH OBA concludes that the exemption should apply to all studies that meet the above criteria, be they single or multisite trials.

The NIH OBA has used the terms Phase II and Phase III in this notice to describe the type of trial that would be exempt under this new policy. These terms are used because they are typically the way studies are classified as they progress through the FDA regulatory process. However, the NIH OBA recognizes that such labels are not all inclusive and there may be Phase I/II trials that follow an initial safety study. Therefore, rather than limiting the exemption to just Phase II or Phase III trials, the policy focuses instead on having data from at least one comparable trial. The NIH OBA also recognizes that the initial study may be a small safety study of ten to 20 subjects, which is not unusual in gene transfer trials, and that such trials do not definitively establish the safety of the product. Indeed, safety data continue to emerge throughout the life cycle of a drug or biologic agent, including after licensing. Nonetheless, given the experience with the vectors eligible for an exemption, it is anticipated that the types of safety issues of most concern to an IBC will likely emerge during the review of the documentation submitted in support of the initial clinical trial and the clinical experience from the initial trial. Again, IBCs have the institutional prerogative to require registration of trials and can decide to review certain trials if new data emerges.

The determination of whether a trial meets this exemption from IBC review should be made by the local IBCs. The initial trial, whether done at one or more sites, requires IBC review. For the subsequent trials using the same agent, if they will be conducted only at sites that receive NIH funding for recombinant or synthetic nucleic acid research, then these sites should already have an IBC registered with the NIH OBA. If the sponsor or a site investigator concludes that their trial meets the exemption criteria, this should be confirmed by at least one IBC at one of the trial sites. Institutions with IBCs should establish a policy for how to handle protocols that are eligible for exemption. An IBC may require that the PI at that site or the sponsor register and provide an abbreviated summary of the data from the first trial to confirm that the trial indeed meets the exemption criteria. An institution may also decide to rely on a decision by another IBC that the protocol is eligible to be exempt. The NIH OBA has proposed exemption criteria that are objective to facilitate uniform decisions across IBCs. However, the NIH OBA is available to provide guidance and clarification upon request.

In some cases, a non-NIH-funded trial will be conducted both at sites that receive NIH funding for recombinant or synthetic nucleic acid research—and therefore have IBCs—and at non-NIH-funded sites that do not have IBCs. In this situation, the NIH OBA expects the individual responsible for the conduct of the trial to confirm with an established IBC at one of the institutions that their trial does not require IBC review before initiating the trial at a site that does not have an IBC. It is also possible that the trial could be funded by NIH, or by an NIH-funded Institution, but the trial will be conducted only at non-NIH-funded sites that do not have IBCs, for example clinics or community hospitals that do not receive NIH funding for recombinant or synthetic nucleic acid research. In this situation, because it is subject to the *NIH Guidelines,* the trial must be reviewed by an IBC at each trial site, even if the site does not receive funding from NIH for recombinant or synthetic nucleic acid research. However, there would not necessarily be IBCs established at the planned trial sites to make a determination regarding whether the trial meets the exemption criteria. It would not make sense to set up an IBC solely to determine if a trial is exempt from IBC review. The PI or sponsor should consult with the NIH OBA regarding whether the trial is exempt from review.

To implement this exemption, the following proposed changes will be made to Section III–C and to Appendices M–I–C–1, M–I–C–2, and B. The current Section III–C–1 states:

Section III–C–1. Experiments Involving the Deliberate Transfer of Recombinant or Synthetic Nucleic Acid Molecules, or DNA or RNA Derived from Recombinant or Synthetic Nucleic Acid Molecules, into One or More Human Research Participants

Human gene transfer is the deliberate transfer into human research participants of either:

1. Recombinant nucleic acid molecules, or DNA or RNA derived from recombinant nucleic acid molecules, or

2. Synthetic nucleic acid molecules, or DNA or RNA derived from synthetic nucleic acid molecules, that meet any one of the following criteria:

a. Contain more than 100 nucleotides; or

b. Possess biological properties that enable integration into the genome (e.g., *cis* elements involved in integration); or

c. Have the potential to replicate in a cell; or

d. Can be translated or transcribed.

No research participant shall be enrolled (see definition of enrollment in *Section I–E–7*) until the RAC review process has been completed (see *Appendix M–I–B, RAC Review Requirements*).

In its evaluation of human gene transfer proposals, the RAC will consider whether a proposed human gene transfer experiment presents characteristics that warrant public RAC review and discussion (See *Appendix M–I–B–2*). The process of public RAC review and discussion is intended to foster the safe and ethical conduct of human gene transfer experiments. Public review and discussion of a human gene transfer experiment (and access to relevant information) also serves to inform the public about the technical aspects of the proposal, meaning and significance of the research, and any significant safety, social, and ethical implications of the research.

Public RAC review and discussion of a human gene transfer experiment may be: (1) Initiated by the NIH Director; or (2) initiated by the NIH OBA Director following a recommendation to NIH OBA by: (a) Three or more RAC members; or (b) a Federal agency other than NIH. After a human gene transfer experiment is reviewed by the RAC at a regularly scheduled meeting, NIH OBA will send a letter, unless NIH OBA determines that there are exceptional circumstances, within 10 working days to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHS components, as appropriate, summarizing the RAC recommendations.

For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in *Section I–E–7*) at the clinical trial site until the following documentation has been submitted to NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.

The fifth paragraph of Section III–C–1 will be amended to add ''if required'' at the end of the statement regarding IBC approval in order to recognize that some trials will not need IBC review. In addition, a new final paragraph outlining the exemption will be added. The new proposed language is as follows:

For a clinical trial site that is added after the RAC review process, no research participant shall be enrolled (see definition of enrollment in Section I–E–7) at the clinical trial site until the following documentation has been submitted to the NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site), if required; (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.

Institutional Biosafety Committee review and approval will not be required for gene transfer protocols that meet *all* of the following criteria:

(1) A previous clinical trial using this investigational gene transfer agent (vector and transgene) enrolled more than one subject and was reviewed by an Institutional IBC and is now complete.

(2) The investigational gene transfer agent uses a plasmid or viral vector derived from a virus listed in Appendix B–V–2 that is: (a) Not designed to integrate, and (b) attenuated compared to the wild-type virus or is not known to have ever caused disease in humans.

(3) The previous clinical trial:

a. Was conducted in the same country as the proposed trial;

b. Enrolled a comparable population in terms of age (i.e. adult and/or pediatric); and

c. Tested a dose equal to or less than the dose proposed for the new trial, using the same administration route and, if concomitant interventions (e.g. radiation and/or chemotherapy) are proposed, they have been used in a prior trial with the same agent.

Appendix M–I–C–1 currently states:

Appendix M–I–C–1: Initiation of the Clinical Investigation

No later than 20 working days after enrollment (see definition of enrollment in Section I–E–7) of the first research participant in a human gene transfer experiment, the Principal Investigator(s) shall submit the following documentation to NIH OBA: (1) A copy of the informed consent document approved by the Institutional Review Board (IRB); (2) a copy of the protocol approved by the Institutional Biosafety Committee (IBC) and IRB; (3) a copy of the final IBC approval from the clinical trial site; (4) a copy of the final IRB approval; (5) a brief written report that includes the following information: (a) How the investigator(s) responded to each of the RAC's recommendations on the protocol (if applicable); and (b) any modifications to the protocol as required by FDA; (6) applicable NIH grant number(s); (7) the FDA Investigational New Drug Application (IND) number; and (8) the date of the initiation of the trial. The purpose of requesting the FDA IND number is for facilitating interagency collaboration in the Federal oversight of human gene transfer research.

Appendix M I–C–1 would be amended to again recognize that IBC approval may not be needed for every trial. The proposed Appendix M–I–C–1 is as follows:

Appendix M–I–C–1: Initiation of the Clinical Investigation

No later than 20 working days after enrollment (see definition of enrollment in Section I–E–7) of the first research participant in a human gene transfer experiment, the Principal Investigator(s) shall submit the following documentation to the NIH OBA: (1) A copy of the informed consent document approved by the Institutional Review Board (IRB); (2) a copy of the protocol approved by the Institutional Biosafety Committee (IBC) and/or IRB; (3) a copy of the final IBC approval from the clinical trial site, if required; (4) a copy of the final IRB approval; (5) a brief written report that includes the following information: (a) How the investigator(s) responded to each of the RAC's recommendations on the protocol (if applicable), and (b) any modifications to the protocol as required by FDA; (6) applicable NIH grant number(s); (7) the FDA Investigational New Drug Application (IND) number; and (8) the date of the initiation of the trial. The purpose of requesting the FDA IND number is for facilitating interagency collaboration in the federal oversight of human gene transfer research.

Appendix M–I–C–2 will likewise be revised to recognize that not all clinical trials will require IBC review. Appendix M–I–C–2 now states:

Appendix M–I–C–2: Additional Clinical Trial Sites

No research participant shall be enrolled (see definition of enrollment in Section I–E–7) at a clinical trial site until the following documentation has been submitted to NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site); (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.

The proposed Appendix M–I–C–2 is:

Appendix M–I–C–2: Additional Clinical Trial Sites

No research participant shall be enrolled (see definition of enrollment in Section I–E–7) at a clinical trial site until the following documentation has been submitted to the NIH OBA: (1) Institutional Biosafety Committee approval (from the clinical trial site), if required; (2) Institutional Review Board approval; (3) Institutional Review Board-approved informed consent document; (4) curriculum vitae of the Principal Investigator(s) (no more than two pages in biographical sketch format); and (5) NIH grant number(s) if applicable.

A new section will be added to Appendix B.

Appendix B–V–2. Viruses Used in Vectors for Human Gene Transfer That Present Low Biosafety Risk and Are Eligible for Exemption From IBC Review Under Section III–C–1

—Adenovirus, serotypes 2 and 5
—AAV, all serotypes
—Herpes Simplex virus 1
—Pox Viruses, with the exception of vaccinia

Dated: May 6, 2013.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2013–11222 Filed 5–10–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: 2013 National Survey on Drug Use and Health (NSDUH) Dress Rehearsal (OMB No. 0930–0334)—Revision

The National Survey on Drug Use and Health (NSDUH) is a survey of the civilian, non-institutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used

by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

In order to continue producing current data, SAMHSA's Center for Behavioral Health Statistics and Quality (CBHSQ) must update the NSDUH periodically to reflect changing substance abuse and mental health issues. CBHSQ is in the process of redesigning the NSDUH for the 2015 survey year. The goals of the overall redesign are to: (1) Revise the questionnaire to address changing policy and research data needs, and (2) modify the survey methodology to improve the quality of estimates and the efficiency of data collection and processing. To achieve these goals, a Questionnaire Field Test (QFT) was conducted in late 2012 to test revisions to the questionnaire, study materials, and procedures. A Dress Rehearsal (DR) is planned for September and October 2013 to further refine and test changes implemented in the QFT as well as test all additional changes that have been identified for the 2015 redesign. These additional changes include an assessment of a new lightweight laptop used to administer the questionnaire, the addition of a Spanish language interview that was not included in the QFT to control costs, and additional select changes to the NSDUH questionnaire. The vast majority of differences in questionnaire content between the QFT and the proposed DR are minor. Changes include: (a) The addition of two sexual orientation questions to be asked of adults; (b) routine updates to routing and logic; (c) minimal changes to question wording throughout the instrument to clarify intent; and (d) the deletion of a question in the Back-end Demographics module about the number of employees who work at the respondent's business.

The DR will consist of 2,000 English and Spanish-speaking respondents in the continental United States. The sample size of the survey will be large enough to detect differences in key estimates between data collected using the annual NSDUH compared to the redesigned procedures. The total annual burden estimate is shown below:

ESTIMATED BURDEN FOR 2013 NSDUH DRESS REHEARSAL

Instrument	Number of respondents	Responses per respondent	Hours per response	Total burden hours	Hourly wage rate	Annualized costs
Household Screening	3,673	1	0.083	305	$14.54	$4,435
Interview	2,000	1	1.000	2,000	14.54	29,080
Screening Verification	100	1	0.067	6.7	14.54	97
Interview Verification	300	1	0.067	20	14.54	291
Total	3,673				2,332	33,903

Written comments and recommendations concerning the proposed information collection should be sent by June 12, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–11250 Filed 5–10–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Regulations To Implement SAMHSA's Charitable Choice Statutory Provisions—42 CFR Parts 54 and 54a (OMB No. 0930–0242)—Extension

Section 1955 of the Public Health Service Act (42 U.S.C. 300x–65), as amended by the Children's Health Act of 2000 (Pub. L. 106–310) and Sections 581–584 of the Public Health Service Act (42 U.S.C. 290kk et seq., as added by the Consolidated Appropriations Act (Pub. L. 106–554)), set forth various provisions which aim to ensure that religious organizations are able to compete on an equal footing for federal funds to provide substance abuse services. These provisions allow religious organizations to offer substance abuse services to individuals without impairing the religious character of the organizations or the religious freedom of the individuals who receive the services. The provisions apply to the Substance Abuse Prevention and Treatment Block Grant (SABG), to the Projects for Assistance in Transition from Homelessness (PATH) formula grant program, and to certain Substance Abuse and Mental Health Services Administration (SAMHSA) discretionary grant programs (programs that pay for substance abuse treatment and prevention services, not for certain infrastructure and technical assistance activities). Every effort has been made to assure that the reporting, recordkeeping and disclosure requirements of the proposed regulations allow maximum flexibility in implementation and impose minimum burden.

No changes are being made to the regulations or the burden hours.

Information on how states comply with the requirements of 42 CFR part 54 was approved by the Office of Management and Budget (OMB) as part of the Substance Abuse Prevention and Treatment Block Grant FY 2012–2013 annual application and reporting requirements approved under OMB control number 0930–0168.

42 CFR Citation and purpose	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hours
Part 54—States Receiving SA Block Grants and/or Projects for Assistance in Transition From Homelessness (PATH)					
Reporting:					
96.122(f)(5) Annual report of activities the state undertook to comply 42 CFR Part 54 (SABG).	60	1	60	1	60
54.8(c)(4) Total number of referrals to alternative service providers reported by program participants to States (respondents).					
SABG	7	68 (avg.)	476	1	476
PATH	10	5	50	1	50
54.8(e) Annual report by PATH grantees on activities undertaken to comply with 42 CFR Part 54.	56	1	56	1	56
Disclosure:					
54.8(b) State requires program participants to provide notice to program beneficiaries of their right to referral to an alternative service provider.					
SABG	60	1	60	.05	3
PATH	56	1	56	.05	3
Recordkeeping:					
54.6(b) Documentation must be maintained to demonstrate significant burden for program participants under 42 U.S.C. 300x–57 or 42 U.S.C. 290cc–33(a)(2) and under 42 U.S.C. 290cc–21 to 290cc–35.	60	1	60	1	60
Part 54—Subtotal	116		818		708
Part 54a—States, local governments and religious organizations receiving funding under Title V of the PHS Act for substance abuse prevention and treatment services					
Reporting:					
54a.8(c)(1)(iv) Total number of referrals to alternative service providers reported by program participants to states when they are the responsible unit of government.	25	4	100	.083	8
54a(8)(d) Total number of referrals reported to SAMHSA when it is the responsible unit of government. (NOTE: This notification will occur during the course of the regular reports that may be required under the terms of the funding award.).	20	2	40	.25	10
Disclosure:					
54a.8(b) Program participant notice to program beneficiaries of rights to referral to an alternative service provider.	1,460	1	1,460	1	1,460
Part 54a—Subtotal	1,505		1,600		1,478
Total	1,621		2,418		2,186

Written comments and recommendations concerning the proposed information collection should be sent by June 12, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–11251 Filed 5–10–13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–1095]

U.S. Flag Compliance With MARPOL Annex VI International Energy Efficiency (IEE) Requirements

AGENCY: Coast Guard, DHS.

ACTION: Notice of International Standards.

SUMMARY: The Coast Guard announces that International Maritime Organization (IMO) Resolution MEPC.203(62) amended Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL). On July 15, 2011, the IMO formally adopted Resolution MEPC.203(62), which entered into force on January 1, 2013, and amends MARPOL Annex VI by adding Chapter 4 and amending existing regulations in Annex VI. These amendments require the issuance of an International Energy Efficiency Certificate and the preparation of a Ship Energy Efficiency Management Plan for both new and

existing ships. To obtain the certificate, (1) new ships, (2) new ships when they undergo a major conversion, and (3) existing ships that undergo a major conversion after January 1, 2013, so extensive that it is regarded as a newly constructed ship, must first have an Attained Energy Efficiency Design Index. These requirements apply to all U.S. flag ships 400 gross tonnage and above that engage in voyages to ports or offshore terminals under the jurisdiction of other Parties to MARPOL. The Coast Guard Office of Commercial Vessel Compliance has issued Policy Letter 13–02 to provide amplifying guidance on U.S. implementation of MARPOL Annex VI Chapter 4 and associated requirements.

DATES: The amendments in IMO Resolution MEPC.203(62) became effective on January 1, 2013. The requirements and implementation schedule for existing ships and new ships are provided below in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: To view the documents mentioned in this notice, go to *http://www.regulations.gov*. In the ''Search'' box, insert ''USCG–2012–1095'' and click ''Search.'' If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Timothy Brown, U.S. Coast Guard, Commercial Vessel Compliance Division (CG–CVC–1), telephone 202–372–2358 or email *CG-cvc-1@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Docket Operations at 202–366–9826.

SUPPLEMENTARY INFORMATION: The International Maritime Organization (IMO) established new MARPOL Annex VI requirements to improve the energy efficiency of ships. These new Annex VI standards were adopted on July 15, 2011, and are contained in IMO Resolution MEPC.203(62). The Act to Prevent Pollution from Ships (33 U.S.C. 1901, *et. seq.*) requires compliance with Annex VI, which now includes the new Annex VI energy efficiency requirements discussed below. The Coast Guard is currently developing regulations to facilitate compliance with the amendments in Resolution MEPC.203(62), which came into force for the U.S. on January 1, 2013. The lack of updated regulations does not exempt ships from meeting the requirements of the amended MARPOL Annex VI.

Effective as of January 1, 2013, IMO Resolution MEPC.203(62) amended MARPOL Annex VI and requires energy efficiency surveys and the issuance of an International Energy Efficiency (IEE) Certificate (Annex VI, Regs. 5.4 & 6.4), in addition to the preparation of a Ship Energy Efficiency Management Plan (SEEMP) for both new and existing ships (Annex VI, Reg. 22). Additionally, IMO Resolution MEPC.203(62) adds new Chapter 4 to Annex VI, establishing a set of efficiency performance standards intended to reduce air pollution emissions from ships burning fuel oil, including distillate and residual fuels, for purposes of propulsion or operation on board a ship. Also, new Annex VI Regulations 20 and 21 require an Energy Efficiency Design Index (EEDI) for (1) new ships, (2) new ships when they undergo a major conversion, and (3) existing ships that undergo a major conversion after January 1, 2013, so extensive that it is regarded as a newly constructed ship (see definition of ''major conversion'' in Regulation 2(24)). Regulations 5 and 6 make mandatory for new ships to which Chapter 4 of MARPOL Annex VI applies, the preparation of and issuance of an IEE Certificate which includes a Supplement. The Coast Guard or a recognized classification society (RCS) would issue the IEE Certificate.

New Regulation 6.4 requires the issuance of an IEE Certificate to ships 400 gross tonnage and above that have been surveyed in accordance with the provisions of Regulation 5.4. The tonnage referenced here is gross tonnage measured in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurements of Ships, 1969 or any successor Convention (GT ITC) (*see* Regulation 2.10). Regulation 6.4 also specifies that such ships not engage in voyages to ports or offshore terminals under the jurisdiction of other countries that are Parties to MARPOL before they obtain an IEE Certificate. For existing ships, the verification of the requirement to have a SEEMP on board according to new Regulation 22 will take place at the first intermediate or renewal International Air Pollution Prevention (IAPP) Certificate survey, whichever is first, on or after January 1, 2013. The SEEMP itself does not have to be approved by the Coast Guard or a RCS, but must follow the guidelines for preparation of a SEEMP in IMO Resolution MEPC.213(63) (*see* Regulation 22.2 and 33 U.S.C. 1908). RCSs will issue IEE Certificates to existing ships to which the RCS also issued an International Air Pollution Prevention (IAPP) Certificate after completion of the required surveys. All new ships as defined in Annex VI Regulation 2 should make arrangements with an RCS to complete the requirements for IEE Certificate issuance. Existing ships that received their IAPP Certificate from the Coast Guard should contact the cognizant Officer in Charge, Marine Inspection (OCMI) to obtain their IEE Certificate. Once issued, the IEE Certificate is valid for the life of the ship unless the ship is withdrawn from service, a new certificate is issued following a ''major conversion'' as defined in Annex VI Regulation 2, or the ship is transferred to the flag of another State (*see* Regulations 9.10 and 9.11).

The term ''new ship'' means a ship for which the building contract is placed on or after January 1, 2013; or in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction on or after July 1, 2013; or the delivery of which is on or after July 1, 2015 (*see* Regulation 2.23). The requirements for new ships also apply to ships that undergo a major conversion as defined in Annex VI Regulation 2. In addition to a SEEMP (Regulation 22), new ships and those that have undergone a major conversion must have an Attained Energy Efficiency Design Index (EEDI) (see Regulation 20). IMO Resolution MEPC.212(63) provides guidance to ship owners and designers regarding the calculation of the EEDI. An EEDI technical file should be prepared during the design of the ship and submitted to the Coast Guard or RCS for preliminary verification along with the rest of the ship's drawings and particulars during the existing plan approval process. Final verification of the EEDI technical file is conducted following RCS surveyor observance of a sea trial.

IMO Resolution MEPC.214(63) provides survey and certification guidelines. If the results of the sea trial are inconsistent with the preliminary contents of the EEDI technical file, the ship owner or designer may be required to revise the EEDI technical file prior to issuance of the IEE Certificate. Following the final verification of the EEDI technical file a Record of Construction Relating to Energy Efficiency (Supplement to the IEE Certificate) and IEE Certificate will be issued.

On December 10, 2012, the Coast Guard published a final rule to amend 46 CFR 8.320. That rule, which became

effective January 9, 2013, permits classification societies to apply to issue IEE Certificates on behalf of the Coast Guard (*see* 77 FR 73334, Dec. 10, 2012). We anticipate that classification societies that applied to issue IAPP Certificates will also apply to issue IEE Certificates. Because the Coast Guard has authorized RCSs to issue the Record of Construction Relating to Energy Efficiency (Supplement to the IEE Certificate), EEDI review and approval will not be completed directly by the Coast Guard (*see* 77 FR 73334, Dec. 10, 2012).

Annex VI exempts ships using diesel-electric, turbine or hybrid propulsion systems from the requirements to prepare an EEDI technical file and obtain an IEE Supplement regardless of build date. In addition, the Coast Guard may waive the requirements for new ships to prepare an EEDI technical file and obtain an IEE Supplement in certain cases described in Annex VI Regulation 19. Ship operator requests for waivers should be directed to the appropriate Officer in Charge, Marine Inspection; those requests will then be routed through the District Commander to CG–CVC–1 for approval. RCSs should submit requests for waivers directly to CG–CVC–1.

Authority

This notice is issued under the authority of 5 U.S.C. 552(a), 33 U.S.C. 1901(a)(5), 1903, and 1907(a).

Dated: May 5, 2013.

Paul F. Thomas,

Captain, U.S. Coast Guard, Director, Inspections and Compliance.

[FR Doc. 2013–11232 Filed 5–10–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Ship's Store Declaration

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0018.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Ship's Stores Declaration (CBP Form 1303). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 15031) on March 8, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 12, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Ship's Stores Declaration.

OMB Number: 1651–0018.

Form Number: CBP Form 1303.

Abstract: CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores (e.g. alcohol and tobacco products), controlled narcotic drugs, or bunker oil in a format that can be readily audited and checked by CBP. This form was developed as a single international standard ship's stores declaration form to replace the different forms used by various countries for the entrance and clearance of vessels. CBP Form 1303 collects information about the ship, the ports of arrival and departure, and the articles on the ship. It is pursuant to the provisions of section 432, Tariff Act of 1930 and provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85, & 4.87. This form is accessible at *http://forms.cbp.gov/pdf/CBP_Form_1303.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 8,000.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Total Annual Responses: 104,000.

Estimated Total Annual Burden Hours: 26,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., Washington, DC 20229–1177, at 202–325–0265.

Dated: May 8, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–11306 Filed 5–10–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification of the National Customs Automation Program Test (NCAP) Regarding Reconciliation for Filing Certain Post-Importation Claims

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces a modification to the Automated Commercial System (ACS) National Customs Automation Program (NCAP) Reconciliation prototype test to include the filing of post-importation

preferential tariff treatment claims arising under the United States-Oman Free Trade Agreement Implementation Act, the United States-Peru Trade Promotion Agreement Implementation Act, the United States-Korea Free Trade Agreement Implementation Act, the United States-Colombia Trade Promotion Agreement Implementation Act, and the United States-Panama Trade Promotion Agreement Implementation Act. Other than the modification in this notice, the test remains the same as set forth in previously published **Federal Register** notices.

DATES: The test is modified to allow Reconciliation of post–importation preferential tariff treatment claims to be filed on or after August 12, 2013 on those free trade agreements or trade promotion agreements listed in this notice. The Reconciliation prototype test commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in this test will be accepted throughout the duration of the test.

ADDRESSES: If interested in joining the on-going Reconciliation prototype test, please send either an email expressing interest to participate in this test to *OFO-RECONFOLDER@cbp.dhs.gov,* with a subject line identifier reading, ''Participation in Reconciliation Test'', or a letter addressed to Mr. Russell Morris, Entry Summary and Drawback Branch, Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street NW., 4th Floor, Washington, DC 20229–1143. Please note that comments concerning this test program may be submitted any time during the test via email, with a subject line identifier reading, ''Comment on NCAP test'', to *OFO-RECONFOLDER@cbp.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Russell Morris, Entry Summary and Drawback Branch, Trade Policy and Programs, Office of International Trade at (202) 863–6543.

SUPPLEMENTARY INFORMATION:

Background

This document announces a modification to the U.S. Customs and Border Protection's (CBP's) Automated Commercial System (ACS) Reconciliation prototype test by adding the processing of post-importation claims for certain free trade agreements and trade promotion agreements that permit an importer, who did not claim tariff benefits at the time of importation, to file a claim for a refund of any excess duties, taxes, and/or fees paid, at any time within one-year after the date of importation of the good. This modification works toward the goal of CBP's movement toward a paperless environment.

Purpose of the Test

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Public Law 103–182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by U.S. Customs and Border Protection (CBP) under the CBP Automated Commercial System (ACS) Prototype Test. CBP announced and explained the test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998. Clarifications and operational changes were announced in subsequent **Federal Register** notices: 63 FR 44303, published on August 18, 1998; 64 FR 39187, published on July 21, 1999; 64 FR 73121, published on December 29, 1999; 66 FR 14619, published on March 13, 2001; 67 FR 61200, published on September 27, 2002 (with a correction document published at 67 FR 68238 on November 8, 2002); 69 FR 53730, published on September 2, 2004; 70 FR 1730, published on January 10, 2005; 70 FR 46882, published on August 11, 2005 and 71 FR 37596, published on June 30, 2006. A **Federal Register** (65 FR 55326) notice published on September 13, 2000, extended the prototype indefinitely.

This document announces a modification to the Reconciliation test to expand Reconciliation to include post-entry importation preferential tariff treatment claims arising under the United States-Oman Free Trade Agreement Implementation Act, the United States-Peru Trade Promotion Agreement Implementation Act, the United States-Korea Free Trade Agreement Implementation Act, the United States-Colombia Trade Promotion Agreement Implementation Act, and the United States-Panama Trade Promotion Agreement Implementation Act which are permitted under 19 U.S.C. 1520(d). Aside from this modification, the test remains as set forth in the previously published **Federal Register** notices.

For application requirements, see the **Federal Register** notices published on February 6, 1998, and August 18, 1998. Additional information regarding the test can be found at *http://www.cbp.gov/xp/cgov/trade/trade_programs/reconciliation/participate.xml.*

Reconciliation Generally

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to CBP and to provide that outstanding information at a later date. The importer identifies the outstanding information by means of an electronic ''flag'' which is placed on the entry summary at the time the entry summary is filed and payment (applicable duty, taxes, and fees) is made. Previously published **Federal Register** documents have set forth that the issues for which an entry summary may be ''flagged'' (for the purpose of later reconciliation) are limited and relate to: (1) Value issues other than claims based on latent manufacturing defects; (2) classification issues, on a limited basis; (3) issues concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS) (9802 issues); and (4) issues concerning merchandise entered under the North American Free Trade Agreement (NAFTA issues/claims), under the United States-Chile Free Trade Agreement (CFTA or Chile issues/claims) and the Dominican Republic-Central America-United States Free

Trade Agreement (CAFTA–DR issues/claims) that are eligible for treatment under 19 U.S.C. 1520(d).

The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date relative to the flagged issues is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. Any adjustments in duties, taxes, and/or fees owed will be made at that time. (*See* the February 6, 1998 **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

CBP reminds test participants that the filing of a Reconciliation entry, like the filing of a regular consumption entry, is governed by 19 U.S.C. 1484 and can be done only by the importer of record as defined in that statute.

Test Modification

The Agreements and the Implementation Acts

United States-Oman Free Trade Agreement Implementation Act

The United States-Oman Free Trade Agreement (OFTA) was entered into by the governments of Oman and the United States. On September 26, 2006,

the United States Congress approved the OFTA in the United States-Oman Free Trade Agreement Implementation Act (the OFTA Act), Public Law 109–283; 120 Stat. 1191; 19 U.S.C. 3805 note. The OFTA Act allowed for OFTA to take effect on or after January 1, 2007, with the actual implementation date to be determined by the President. Sections 201 and 202 of the OFTA Act authorize the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods of Oman provided for under the OFTA.

Presidential Proclamation 8332, dated December 29, 2008 and published in the **Federal Register** on December 31, 2008, implemented the OFTA for goods entered or withdrawn from warehouse for consumption on or after January 1, 2009. The Proclamation incorporated, by reference, Publication 4050 of the United States International Trade Commission (USITC). Annex I of Publication 4050 of the USITC, amends the Harmonized Tariff Schedule (HTS) by adding a new General Note (GN) 31 containing specific information regarding the OFTA and a new Subchapter XVI to Chapter 99 to provide for temporary tariff rate quotas (TRQs) implemented by the OFTA. Annex II of Publication 4050 amends the HTS to provide for immediate and staged tariff reductions. The CBP regulations on the United States-Oman Free Trade Agreement were published in the **Federal Register** (76 FR 65365) on October 21, 2011. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.869–10.871, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

United States-Peru Trade Promotion Agreement Implementation Act

The United States-Peru Trade Promotion Agreement Implementation Act (PTPA) was entered into by the governments of Peru and the United States. On December 14, 2007, the United States Congress approved the PTPA in the United States-Peru Trade Promotion Agreement Implementation Act (the PTPA Act), Public Law 110–138; 121 Stat. 1455; 19 U.S.C. 3805 note. The PTPA Act allowed for the PTPA to take effect on or after January 1, 2008, with the actual implementation date to be determined by the President. Sections 201, 202, and 203 of the PTPA Act authorize the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for under the PTPA.

Presidential Proclamation 8341, dated January 16, 2009 and published in the **Federal Register** on January 22, 2009 (74 FR 4105), implemented the PTPA for goods entered, or withdrawn, from warehouse for consumption on or after February 1, 2009. The Proclamation incorporated, by reference, Publication 4058 of the USITC. Annex I of Publication 4058 amends the HTS by adding GN 32 containing specific information regarding the PTPA and a new Subchapter XVII to Chapter 99 to provide for temporary TRQs implemented by the PTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4058 amends the HTS to provide for immediate and staged tariff reductions. CBP published regulations on the United States-Peru Trade Promotion Agreement in the **Federal Register** (77 FR 64031) on October 18, 2012. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.910–10.912, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

United States-Korea Free Trade Agreement

The United States-Korea Free Trade Agreement (UKFTA) was entered into by the governments of Korea and the United States. On October 21, 2011, the United States Congress approved the UKFTA in the United States-Korea Free Trade Agreement Implementation Act (the UKFTA Act), Public Law No. 112–41, 125 Stat. 428 (codified at 19 U.S.C. 3805 note (2012)), and it was signed into law on October 21, 2011. The UKFTA Act allowed for the UKFTA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Section 201 of the UKFTA Act authorizes the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for in the UKFTA.

Presidential Proclamation 8783, dated March 6, 2012 and published in the **Federal Register** on March 9, 2012, implements the UKFTA for goods entered or withdrawn from warehouse for consumption, on or after March 15, 2012. The Proclamation incorporated, by reference, Publication 4308 of the USITC. Annex I of Publication 4308 amends the HTS by adding GN 33 containing specific information regarding the UKFTA and a new Subchapter XX to Chapter 99 to provide for TRQs implemented by the UKFTA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4308 amends the HTS to provide for immediate and staged tariff reductions. CBP published regulations on the United States-Korea Free Trade Agreement in the **Federal Register** (77 FR 15948) on March 19, 2012. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.1010–10.1012, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

United States-Colombia Trade Promotion Agreement

The United States-Colombia Trade Promotion Agreement (CTPA) was entered into by the governments of Colombia and the United States. On October 21, 2012, the United States Congress approved the CTPA in the United States-Colombia Trade Promotion Agreement Implementation Act (the CTPA Act), Public Law 112–42, 125 Stat. 462. The CTPA Act allowed for the CTPA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Section 201 of the CTPA Act authorizes the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for in the CTPA.

The President issued a Proclamation implementing the CTPA on May 14, 2012, for goods entered, or withdrawn from warehouse for consumption, on or after May 15, 2012. The Proclamation incorporated, by reference, Publication 4320 of the USITC. Annex I of Publication 4320 amends the HTS by adding GN 34 containing specific information regarding the CTPA and a new Subchapter XXI to Chapter 99 to provide for temporary TRQs implemented by the CTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4320 amends the HTS to provide for immediate and staged tariff reductions. CBP published interim final regulations on the United States-Columbia Trade Promotion Agreement in the **Federal Register** (77 FR59064) on September 26, 2012. By participating in the Reconciliation Test, the following regulatory provisions, namely, 19 CFR 10.3010–10.3012, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment,

are waived. This is to prevent duplicative filings for the same underlying entry summaries.

United States-Panama Trade Promotion Agreement

The United States-Panama Trade Promotion Agreement (PANTPA) was entered into by the governments of Panama and the United States. On October 21, 2011, the United States Congress approved the PANTPA in the United States-Panama Trade Promotion Agreement Implementation Act (the PANTPA Act), Public Law No. 112–43, 125 Stat. 497. The PANTPA Act allowed for the PANTPA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Sections 201 and 203 of the PANTPA Act authorize the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for under the PANTPA.

The President issued Proclamation 8894 implementing the PANTPA on October 29, 2012, for goods entered, or withdrawn from warehouse for consumption, on or after October 31, 2012. The Proclamation incorporated, by reference, Publication 4349 of the USITC. Annex I of Publication 4349 amends the HTS by adding GN 35 containing specific information regarding the PANTPA and a new Subchapter XXI to Chapter 99 to provide for temporary TRQs implemented by the PANTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4349 amends the HTS to provide for immediate and staged tariff reductions. Regulations are currently being drafted to implement the PANTPA, and like the other agreements, the applicable regulatory provisions covering paper procedures for filing a 1520(d) claim will be waived under the test.

Ordinary OFTA, PTPA, UKFTA, CTPA, and PANTPA Post-Importation Claim Under 19 U.S.C. 1520(d)

A claim for preferential tariff treatment for an originating OFTA, PTPA, UKFTA, CTPA, and PANTPA good, in accordance with their respective Act and applicable procedures as set forth above (*see also* Subparts P, Q, R, S, and T of 19 CFR Part 10), is made at the time of entry summary. (*See* respective GN, HTS, for rules of origin.) However, in some instances, an importer may not be able to make the claim at that time, usually because the importer does not possess all the information or documentation required. In those instances, an importer may make a post-importation OFTA, PTPA, UKFTA, CTPA, and PANTPA claim under 19 U.S.C. 1520(d) (section 1520(d)), pursuant to amendments to that section made by the respective free trade agreements Act. Under these amendments to section 1520(d), entries of goods qualifying under OFTA, PTPA, UKFTA, CTPA, and PANTPA rules of origin are eligible for re-liquidation when preferential tariff treatment under OFTA, PTPA, UKFTA, CTPA, and PANTPA is not claimed at the time of importation, notwithstanding that a protest under 19 U.S.C. 1514 (section 1514) is not timely filed. (A section 1514 protest is a means of objecting to, among other things, the liquidation of an entry by filing the protest within 180 days of the liquidation (or other protestable decision or action by CBP).) A claimant must file a claim under section 1520(d) within one year of the applicable importation and meet other requirements, such as applicable documentary requirements, including (when requested by CBP) the filing of a certification or information demonstrating that the entered goods are originating OFTA, PTPA, UKFTA, CTPA, and PANTPA goods.

Post-Importation OFTA, PTPA, UKFTA, CTPA, and PANTPA Claim Under Reconciliation

This notice announces that a post-importation claim for preferential tariff treatment under section 1520(d) for an entry filed pursuant to the OFTA, PTPA, UKFTA, CTPA, and PANTPA also may be made under the Reconciliation test, in the same way as a post-importation NAFTA, Chile or CAFTA–DR claim also may be made (*see,* respectively, notices published in the **Federal Register** on September 27, 2002, September 2, 2004, and June 30, 2006, cited previously). This alternative requires that an importer follow the Reconciliation test procedure which, in contrast to the ordinary section 1520(d) procedure described above, requires action at the time of entry. That action is to flag the entry summary for the OFTA, PTPA, UKFTA, CTPA, and PANTPA issue(s), which will be followed later by the filing of a Reconciliation entry within one year of the applicable importation. It is noted that OFTA, PTPA, UKFTA, CTPA and PANTPA Reconciliation entries cannot include other Reconciliation-eligible issues; *i.e.,* an OFTA, PTPA, UKFTA, CTPA, and PANTPA Reconciliation entry is limited to covering only OFTA, PTPA, UKFTA, CTPA, and PANTPA issues (claims). NAFTA, Chile or CAFTA–DR Reconciliation entries/claims are similarly limited.

This OFTA, PTPA, UKFTA, CTPA, and PANTPA Reconciliation alternative is available for eligible importations involving any eligible OFTA, PTPA, UKFTA, CTPA, and PANTPA country 90 days after the date this notice is published in the **Federal Register**.

Reconciliation OFTA, PTPA, UKFTA, CTPA, and PANTPA Claim Precludes Claims by Other Means

CBP emphasizes that once an importer flags an entry summary for OFTA, PTPA, UKFTA, CTPA, and PANTPA issues for Reconciliation, indicating that it is pursuing the post-importation, section 1520(d) claim through the Reconciliation process, the only means of perfecting the OFTA, PTPA, UKFTA, CTPA, and PANTPA claim is by completing the Reconciliation process by filing a timely Reconciliation entry. (*See* the September 27, 2002, **Federal Register** notice for an explanation of this same limitation relative to NAFTA and Chile issues.) By flagging the entry summary, the importer makes a commitment to perfect the claim only through the Reconciliation process—to, in effect, waive filing the claim any other way. Thus, once entries have been flagged for Reconciliation of OFTA, PTPA, UKFTA, CTPA, and PANTPA issues, CBP will not accept a claim filed for those entries under the ordinary section 1520(d) procedure. This will prevent dual filings for the same underlying entry summaries.

Benefits of Reconciliation

Finally, CBP recommends the use of the Reconciliation test procedure which provides the importer with several benefits. First, using the test procedure is a simpler means of filing claims: *i.e.,* the importer is able to make potentially thousands of OFTA, PTPA, UKFTA, CTPA, and PANTPA claims on one Reconciliation entry.

Second, the importer can receive one check from CBP rather than many (even up to thousands) upon CBP's liquidation of a Reconciliation entry and issuance of a refund. Third, because processing OFTA, PTPA, UKFTA, CTPA, and PANTPA claims under Reconciliation is simpler for CBP, the refund delivery system is more efficient.

Dated: May 7, 2013.

Allen Gina,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2013–11308 Filed 5–10–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–37]

Notice of Submission of Proposed Information Collection to OMB Enterprise Income Verification (EIV) System—Debts Owed to Public Housing Agencies and Terminations

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 12, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0266) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov*. or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Enterprise Income Verification (EIV) System—Debts owed to Public Housing Agencies and Terminations.

OMB Approval Number: 2577–0266.

Form Numbers: HUD 52675.

Description of the need for the information and proposed use: In accordance with 24 CFR 5.233, processing entities that administer the Public Housing, Section 8 Housing Choice Voucher, Moderate Rehabilitation programs are required to use HUD's Enterprise Income Verification (EIV) system to verify employment and income information of program participants and to reduce administrative and subsidy payment errors. The EIV system is a system of records owned by HUD, as published in the **Federal Register** on July 20, 2005 at 70 FR 41780 and updated on August 8, 2006 at 71 FR 45066. The Department seeks to identify families who no longer participate in a HUD rental assistance program due to adverse termination of tenancy and/or assistance, and owe a debt to a Public Housing Agency (PHA). In accordance with 24 CFR 982.552 and 960.203, the PHA may deny admission to a program if the family is not suitable for tenancy for reasons such as, but not limited to: Unacceptable past performance in meeting financial obligations, history of criminal activity, eviction from Federally assisted housing in the last five years, family has committed fraud, bribery, or any other corrupt or criminal act ion connection with a Federal housing program, or if a family currently owes rent or other amounts to the PHA or to another PHA in connection with a Federally assisted housing program under the U.S. Housing Act of 1937. Within the scope of this collection of information, HUD seeks to collect from all PHAs, the following information: 1. Amount of debt owed by a former tenant to a PHA; 2. If applicable, indication of executed repayment agreement; 3. If applicable, indication of bankruptcy filing; 4. If applicable, the reason for any adverse termination of the family from a Federally assisted housing program. This information is collected electronically from PHAs via HUD's EIV system. This information is used by HUD to create a national repository of families that owe a debt to a PHA and/or have been terminated from a federally assisted housing program. This national repository is available within the EIV system for all PHAs to access during the time of application for rental assistance. PHAs are able to access this information to determine a family's suitability for rental assistance, and avoid providing limited Federal housing assistance to families who have previously been unable to comply with HUD program requirements. If this information is not collected, the Department is at risk of paying limited Federal dollars on behalf of families who may not be eligible to receive rental housing assistance. Furthermore, if this information is not collected, the public will perceive that there are no consequences for a family's failure to comply with HUD program requirements.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 4,013 respondents; 303,766 average number of families annually, requiring monthly average of 25,314 responses; 0.08333 hours per response; 25,303.71 total burden hours.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 7, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–11290 Filed 5–10–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–36]

Notice of Submission of Proposed Information Collection to OMB Continuum of Care Homeless Assistance Grant Application-Technical Submission

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 12, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0183) and

should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov*. or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Continuum of Care Homeless Assistance Grant Application-Technical Submission.

OMB Approval Number: 2506–0183.

Form Numbers: HUD 40090–3B, HUD 40090–3A.

Description of the need for the information and proposed use: This submission is to request a reinstatement with revisions of an expired information collection for reporting burden associated with the Technical Submission phase of the Continuum of Care (CoC) Program Application. This submission is limited to the Technical Submission process under the CoC Program interim rule, formerly under the Supportive Housing Program and the Shelter Plus Care Program and changed to match the new program name created through the HEARTH Act. Applicants who are successful in the Continuum of Care Program Homeless Assistance Grant competition are required to submit more detailed technical information before grant agreement. The information to be collected will be used to ensure that technical requirements are met prior to the execution of a grant agreement. The technical requirements relate to a more extensive description of the budgets for supportive services and operations, as well as acquisition, rehabilitation, new construction, rental assistance, leasing, and sources of financing documentation. HUD will use this detailed information to determine if a project is financially feasible and whether all proposed activities are eligible.

All information collected is used to carefully consider conditional applicants for funding. If HUD collects less information, or collected it less frequently, the Department could not make a final determination concerning the eligibility of applicants for grant funds and conditional applicants would not be eligible to sign grant agreements and receive funding. To see the regulations for the new CoC Program and applicable supplementary documents, visit HUD's Homeless Resource Exchange CoC page at *http://www.hudhre.info/coc/*. The statutory provisions and the implementing interim rule (also found at 24 CFR part 587) that govern the program require the information provided by the Technical Submission.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Once a project is conditionally awarded, all applicants with new projects must complete the appropriate Technical Submission forms in e-snaps to receive funding. Each type of project will require a unique set of forms to meet compliance, and so the estimates below represent an average of applicants that have several forms to complete. We are anticipating a maximum of 750 responses this year, with each respondent completing only 1 technical submission at 8 hours per response for a total of 6,000 hours. While much of the content remains the same as in the previous collection, we have estimated that the move to an electronic collection will save a minimum average of 1 hour per response, for a total savings of 750 hours.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 7, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–11291 Filed 5–10–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2013–N010; 12560–0000–10137 S3]

Bandon Marsh, Nestucca Bay, and Siletz Bay National Wildlife Refuges, Coos, Tillamook, and Lincoln Counties, OR; Final Comprehensive Conservation Plans and Findings of No Significant Impact for Environmental Assessments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the final Comprehensive Conservation Plans (CCPs) and Findings of No Significant Impact (FONSIs) for the Environmental Assessments (EAs) for three Oregon refuges—Bandon Marsh, Nestucca Bay, and Siletz Bay National Wildlife Refuges (NWR or refuge). Each refuge's final CCP describes how we will manage that refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCPs and FONSIs by any of the following methods. You may request hard copies or a CD of the documents.

Agency Web site: Download the final CCPs and FONSIs at *www.fws.gov/oregoncoast/ccp_nes_slz_bdm.htm.*

Email: oregoncoastCCP@fws.gov. Include ''Bandon Marsh, Nestucca Bay, and Siletz Bay final CCPs and FONSIs'' in the subject line of the message.

U.S. Mail: Oregon Coast National Wildlife Refuge Complex, 2127 SE Marine Science Drive, Newport, OR 97365.

In-Person Viewing or Pickup: Call 541–867–4550 to make an appointment during regular business hours at the above address. For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Roy W. Lowe, Project Leader, Oregon Coast National Wildlife Refuge Complex, 2127 SE Marine Science Drive, Newport, OR 97365; phone (541) 867–4550 and fax (541) 867–4551.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Bandon Marsh, Nestucca Bay, and Siletz Bay National Wildlife Refuges in Coos, Tillamook, and Lincoln Counties, Oregon, respectively. We started this process through a notice in the **Federal Register** (75 FR 73121; November 29, 2010). We released the draft CCP/EAs to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (77 FR 57107; September 17, 2012). For more information about the history and purposes of the refuges, see that notice.

We announce our decision and the availability of the FONSIs for the CCPs for Bandon Marsh, Nestucca Bay, and Siletz Bay NWRs in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft CCP/EAs.

The final CCPs will guide us in managing and administering the refuges for the next 15 years. Alternative C, as described in the draft CCP/EAs, forms the basis of the final CCPs.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (together referred to as the Refuge Administration Act), 16 U.S.C. 668dd–668ee, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, our policies, and NEPA. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update each CCP at least every 15 years in accordance with the Refuge Administration Act. Implementing a CCP is subject to the availability of funding and any additional compliance requirements.

CCP Alternatives, Including Selected Alternatives

During our CCP planning process, we, other governmental partners, Tribes, and the public identified several issues. To address these issues, we developed and evaluated alternatives and identified the preferred alternatives for each refuge. The preferred alternatives are briefly summarized below. For full details of all the alternatives, please review the draft CCPs/EAs (see the Public Availability of Documents section for ways to view or obtain the CCPs/EAs).

Bandon Marsh NWR

Preferred Alternative (Alternative C): Enhanced Active Habitat Management and Restoration and Visitor Services

Active habitat management, monitoring, and restoration activities are part of this alternative. In addition to the existing waterfowl hunting program on the Bandon Marsh Unit, hunting would be allowed on 300 acres of the Ni-les'tun Unit 3 days per week. Fishing for cutthroat trout would be permitted in Redd, No Name, and Fahys Creeks south of North Bank Lane, in accordance with State regulations but with an additional refuge regulation of artificial lures or flies only. The start of the season would coincide with the Oregon Department of Fish and Wildlife's season for trout fishing; however, the season on the refuge would end on September 30 to avoid conflicts with the waterfowl hunting season. A portion of the Ni-les'tun Unit would be open to wildlife observation and photography daily except during the waterfowl hunting season. Additional trails and parking lots would be constructed. Some administrative and visitor facilities would be replaced. The refuge would focus on participation in partner- and community-based visitor information projects.

Nestucca Bay NWR

Preferred Alternative (Alternative C): Enhanced Active Habitat Management and Monitoring and Visitor Services

All lowland pastures would continue to be managed for wintering goose habitat through cooperative farming agreements. A hydrological study would be conducted and used to guide the future modification of the tsunami evacuation trail through Neskowin Marsh to improve hydrology and accessibility. The Neskowin Marsh Unit would be proposed for designation as a Research Natural Area. The 25-acre full restoration of former coastal prairie on Cannery Hill would be focused on specific life-history parameters needed by the threatened Oregon silverspot butterfly, with the goal of introducing a nonessential experimental population once habitat parameters specified in the Oregon Silverspot Butterfly Recovery Plan are reached. An additional 14 acres of upland grassland would also be restored to coastal prairie. New trails and an observation deck would be constructed on Cannery Hill. The Little Nestucca Restoration area would gain a trail, as well as graveled parking lots. Brooten Marsh would be opened to access for wildlife observation and photography year round. A waterfowl hunting program would be established on Brooten Marsh (108 acres) and the mouth of the Little Nestucca River (33 acres), and clamming access would be allowed through Brooten Marsh. To accommodate increasing visitation to the refuge, the current refuge volunteer residence would be replaced with a bunkhouse and small administrative office. The Service would also remodel the north bay of the maintenance shop to accommodate two offices: one for maintenance staff and a second for the refuge Friends Group.

Siletz Bay NWR

Preferred Alternative (Alternative C): Enhanced Active Habitat Management and Visitor Services

Active habitat management, monitoring, and restoration activities are part of this alternative. Seasonal interpreter-led paddle trips would continue and potentially expand with the development of the boat launch near Alder Island. A loop trail, viewing platform, and parking lot would be developed at Alder Island. Access to clamming would be allowed through Snag Alley, and walk-in bank fishing would be allowed from Alder Island only. A waterfowl hunting program would be allowed daily in season on 80 acres of refuge lands west of Highway 101 and 3 days per week on 97 acres of refuge lands south of Millport Slough and east of Highway 101. A small gravel parking lot and kiosk would be developed to support the Millport Slough waterfowl hunting access.

Comments

We solicited public comments on the draft CCP/EAs for 30 days, from September 17 to October 22, 2012 (77 FR 57107). We received comments from 38 entities on the Bandon Marsh NWR draft CCP/EA, comments from 9 entities on the Nestucca Bay NWR draft CCP/EA, and a comment from 1 entity on the Siletz Bay NWR draft CCP/EA. Comments from 9 entities addressed all

three draft CCP/EAs. All substantive comments regarding the separate Bandon Marsh NWR Land Protection Planning (LPP) process will be considered, addressed, and incorporated in draft LPP documents. To address public comments received on the draft CCP/EAs, responsive changes and clarifications were made to the final CCPs where appropriate. These changes are summarized in full within each FONSI. The major changes follow.

Bandon Marsh NWR

- The waterfowl hunting area acreage at the Ni-les'tun Unit has been changed from 300 to 299 acres.

Nestucca Bay NWR

- The objective related to upland coastal prairie restoration has been reworded to ''restore up to 25 acres of native prairie by 2028 through a phased restoration project.''
- Wording regarding bank fishing has been changed from ''actively pursuing opportunities'' to ''allow bank fishing on the east end of the Little Nestucca Restoration Area following development of access trail and gravel parking lot.''

Siletz Bay NWR

- The waterfowl hunting area acreage on refuge lands west of Highway 101 has been changed from 80 to 87 acres.
- The waterfowl hunting area acreage on refuge lands south of Millport Slough has been changed from 97 to 112 acres.

Selected Alternative

After considering the comments received, we have selected Alternative C within each CCP for implementation. The goals, objectives, and strategies under Alternative C best achieve the purpose and need for each CCP while maintaining balance among the varied management needs and programs. Alternative C within each CCP addresses the refuge purposes, issues, and relevant mandates and is consistent with principles of sound fish and wildlife management.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents by calling the refuge complex at 541–867–4550 or visiting our Web site at *http://www.fws.gov/oregoncoast/ccp_nes_slz_bdm.htm.* Printed copies will be available for review at the following libraries:

- Bandon Public Library, 1204 11th St. SW., Bandon, OR 97411.
- Coquille Public Library, 105 N. Birch St., Coquille, OR 97423.
- Newport Public Library, 35 NW Nye St., Newport, OR 97365.
- Driftwood Public Library, 801 SW Hwy 101 #201, Lincoln City, OR 97367.
- Pacific City Public Library, 6200 Camp Street, Pacific City, OR 97135.
- Tillamook County Library, 1716 3rd St., Tillamook, OR 97141.

Dated: February 12, 2013.

Robyn Thorson,

Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–10899 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Account Number GX13CN00B9D1000]

Notice of Request for Nominees for the Advisory Committee on Water Information

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice of request for nominees.

SUMMARY: The U.S. Department of the Interior (Interior) is seeking nominations for individuals to be considered as Committee members and/or alternates to serve on the Advisory Committee on Water Information (ACWI).

Membership represents a wide range of water resources interests and functions. The ACWI will have a maximum of 35 members. Members will represent the interests of water oriented organizations and will be selected from among, but not limited to the following groups: Federal agencies, professional water-related associations, State and country water-related associations, academia, private industry, water utility associations, civil engineering societies, watershed and land conservation associations, ecological societies, lake, coastal, and ocean associations, environmental and educational groups.

Member organizations designate their representatives and alternates. Membership rests not with the individual person but rather with the member organization, who names their representative, and sometimes an alternate.

Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the ACWI and permit the Department of the Interior to contact a potential member.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the ACWI.

The Committee functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Nominations for member organizations should be submitted to the Executive Secretary, at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy E. Norton (Executive Secretary), Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 417, Reston VA 20192. Telephone: 703–648–6810; Fax: 703–648–5644.

SUPPLEMENTARY INFORMATION: The ACWI has been established under the authority of the Office of Management and Budget and Budget Memorandum No. M–92–01 and the Federal Advisory Committee Act, as amended, (5 U.S.C. App. 2), and with the concurrence of the General Services Administration.

The purpose of the ACWI is to represent the interests of water-information users and professionals in advising the Federal Government on Federal water-information programs and their effectiveness in meeting the Nation's water-information needs. Member organizations help to foster communications between the Federal and non-Federal sectors on sharing water information.

Dated: May 5, 2013.

Jerad D. Bales,

Acting Associate Director for Water.

[FR Doc. 2013–11218 Filed 5–10–13; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14879–A, F–14879–A2; LLAK940000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the Bureau of Land Management (BLM) to Kotlik Yupik Corporation. The decision approves the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to Kotlik Yupik Corporation. The lands are in the vicinity of Kotlik, Alaska, and are located in:

Seward Meridian, Alaska

T. 33 N., R. 73 W.,
Secs. 4 and 5.
Containing 871.37 acres.
T. 34 N., R. 73 W.,
Secs. 34 and 35.
Containing 1,214.04 acres.
Aggregating 2,085.41 acres.

Notice of the decision will also be published once a week for four consecutive weeks in *The Delta Discovery.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 12, 2013 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *blm_ak_akso_public_room@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 BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Ralph L. Eluska, Sr.,

Land Transfer Resolution Specialist, Division of Alaska Lands and Cadastral.

[FR Doc. 2013–11267 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVC02000 L57000000.BX0000 241A; 13–08807; MO# 4500049228; TAS: 14X5017]

Notice of Temporary Closures of Public Land in Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Carson City District Office will temporarily close certain public land near Stead, Nevada, to all public use to provide for public safety during the 2013 Reno Air Racing Association Pylon Racing Seminar and the Reno National Championship Air Races.

DATES: Temporary closure periods are June 12 through June 15, 2013, and September 11 through September 15, 2013.

FOR FURTHER INFORMATION CONTACT: Leon Thomas, 775–885–6000, email: *l70thoma@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 race course for the Reno Pylon Racing Seminar and the Reno National Championship Air Races is laid out on private land north of the Reno-Stead Airport. Flyovers by racing aircraft may occur over adjacent public land during the events. The public lands affected by this closure are described as follows:

Mount Diablo Meridian

T. 21 N., R. 19 E.,
Sec. 8, E½E½, NW¼NE¼;
Sec. 16, SW¼SW¼NE¼, NW¼, W½SE¼.

The area described contains 450 acres, more or less, in Washoe County, Nevada.

The closure notice and map of the closure area will be posted at the BLM Carson City District Office, 5665 Morgan Mill Road, Carson City, Nevada and on the BLM Web site: *http://www.blm.gov/nv/st/en/fo/carsoncity_field.html.* Roads leading into the public lands under the closure will be posted to notify the public of the closure. Under the authority of Section 303(a) of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.9–7 and 43 CFR 8364.1, the BLM will enforce the following rules in the area described above: All public use, whether motorized, on foot, or otherwise, is prohibited.

Exceptions: Closure restrictions do not apply to event officials, medical and rescue personnel, law enforcement, and agency personnel monitoring the events.

Penalties: Any person who fails to comply with the closure orders is subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisonment for not more than 12 months under 43 CFR 8360.0–7. Violations may also be subject to the provisions of Title 18, U.S.C. 3571 and 3581.

Authority: 43 CFR 8360.0–7 and 8364.1.

Leon Thomas,

Field Manager, Sierra Front Field Office.

[FR Doc. 2013–11284 Filed 5–10–13; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12883; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office has corrected an inventory of human remains and associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** on November 5, 2001. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Land Management, New Mexico State Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Land Management, New Mexico State Office, at the address in this notice by June 12, 2013.

ADDRESSES: Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Bureau of Land Management, New Mexico State Office, Santa Fe, NM. The human remains and associated funerary objects were removed from Cibola County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (66 FR 55955, November 5, 2001). A re-inventory and reassessment of collection resulted in a reduction of the minimum number of individuals and discovery of additional associated funerary objects from the site listed in this notice. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (66 FR 55955, November 5, 2001), paragraph 4, sentence 1 is corrected by substituting the following sentence:

In 1981, human remains representing five individuals were recovered from site LA 31848 in New Mexico during legally authorized excavations and collections conducted by the Archeological Field School of Simon Fraser University.

In the **Federal Register** (66 FR 55955, November 5, 2001), paragraph 4, sentence 4 is corrected by substituting the following sentence:

The 21 associated funerary objects are six ceramic sherds, one piece of chipped stone debitage, nine non-human bone/faunal remains, two bone awls, one land snail gastropod shell, one charcoal sample, and one botanical macrofloral sample.

In the **Federal Register** (66 FR 55955, November 5, 2001), paragraph 7, sentences 1 and 2 are corrected by substituting the following sentences:

Based on the above mentioned information, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of five individuals of Native American ancestry. Officials of the New Mexico State Office of the Bureau of Land Management also have determined that, pursuant to 43 CFR 10.2(d)(2), the 21 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov* by June 12, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Pueblo of Acoma, New Mexico, may proceed.

The Bureau of Land Management, New Mexico State Office, is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: April 19, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–11228 Filed 5–10–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12884; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office has corrected an inventory of human remains and associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** on March 20, 2001. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Land Management, New Mexico State Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Land Management, New Mexico State Office, at the address in this notice by June 12, 2013.

ADDRESSES: Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Bureau of Land Management, New

Mexico State Office, Santa Fe, NM. The human remains and associated funerary objects were removed from Rio Arriba County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (66 FR 15743–15744, March 20, 2001). A re-inventory and reassessment of collections resulted in the discovery of additional human remains and associated funerary objects from one site listed in this notice. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (66 FR 15743–15744, March 20, 2001), paragraph 7, sentence 1 is corrected by substituting the following sentence:

Between 1979 and 1981, human remains representing ten individuals were recovered from site LA 297 in New Mexico during legally authorized excavations and collections by Occidental College.

In the **Federal Register** (66 FR 15743, March 20, 2001), paragraph 7, sentence 4 is corrected by substituting the following sentence:

The 97 associated funerary objects include 1 whole ceramic vessel; 1 lot of burial matting; 3 lots of corn cobs; 1 turquoise fragment; 2 turquoise chips; 1 lot of turquoise, shell, and mineral chips; 1 obsidian drill; 67 pieces of lithic debitage; 11 ceramic sherds; 2 pebbles; 2 lithic cores; 1 soil sample; and 4 faunal remains.

In the **Federal Register** (66 FR 15743, March 20, 2001), paragraph 10, sentences 1 and 2 are corrected by substituting the following sentences:

Based on the above mentioned information, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 13 individuals of Native American ancestry. Officials of the New Mexico State Office of the Bureau of Land Management also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 97 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov* by June 12, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; and the Pueblo of Tesuque, New Mexico, may proceed.

The Bureau of Land Management, New Mexico State Office, is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico &Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: April 19, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–11229 Filed 5–10–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12882: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; Correction.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office has corrected an inventory of human remains and associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** on February 21, 2001. This notice corrects the minimum number of individuals and number of associated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Bureau of Land Management, New Mexico State Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Bureau of Land Management, New Mexico State Office, at the address in this notice by June 12, 2013.

ADDRESSES: Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Bureau of Land Management, New Mexico State Office, Santa Fe, NM. The human remains and associated funerary objects were removed from McKinley and Catron Counties, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of

associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (66 FR 11044–11045, February 21, 2001). A re-inventory and reassessment of collections resulted in the discovery of additional human remains and additional associated funerary objects from the sites listed in this notice. Some of the associated funerary objects published in the original notice could not be located. Finally, an Archaeological Resources Protection Act investigation resulted in the confiscation and transfer of additional human remains from the sites listed in this notice to the Bureau of Land Management, New Mexico State Office. Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), paragraph 4, sentence 1 is corrected by substituting the following sentence:

Between 1966 and 1967, human remains representing eight individuals were recovered from site LA 8779 in New Mexico during legally authorized excavations and collections conducted by the Cottonwood Gulch Foundation.

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), paragraph 4, sentence 4 is corrected by substituting the following sentence:

The 28 associated funerary objects are 20 ceramic sherds, two gastropod shells, one duck effigy pot, one pottery pitcher fragment, two ceramic bowls (one nearly whole whiteware bowl and one reconstructed redware bowl), one ceramic ladle, and one lot of burned cottonwood fragments. The jet bead and yucca cord fragments previously inventoried could not be located.

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), insert the following paragraph after paragraph 4:

During the 1960s, human remains representing two individuals were illegally removed from site LA 8779 during excavations by an unauthorized collector. These remains were confiscated by the Federal Bureau of Investigation in 2010 and their control transferred to the Bureau of Land Management, New Mexico State Office. These human remains are currently curated at the Maxwell Museum of Anthropology, University of New Mexico. No known individuals were identified. No associated funerary objects were present.

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), paragraph 8, sentence 4 is corrected by substituting the following sentence:

The 13 associated funerary objects are one pottery bowl, one pottery pitcher, 10 *olivella* shell beads, and one projectile point.

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), paragraph 10, sentence 1 is corrected by substituting the following sentence:

In 1987, human remains representing six individuals were recovered from site LA 50364 in New Mexico during legally authorized excavations and collections by Complete Archaeological Service Associates.

In the **Federal Register** (66 FR 11044–11045, February 21, 2001), paragraph 13, sentences 1 and 2 are corrected by substituting the following sentences:

Based on the above mentioned information, officials of the New Mexico State Office of the Bureau of Land Management have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 20 individuals of Native American ancestry. Officials of the New Mexico State Office of the Bureau of Land Management also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 41 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Signa Larralde, Deputy Preservation Officer and NAGPRA Coordinator, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508, telephone (505) 954–2179, email *slarrald@blm.gov* by June 12, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, may proceed.

The Bureau of Land Management, New Mexico State Office, is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: April 19, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–11231 Filed 5–10–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12785; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Lake Texoma, OK, in the Possession of the United States Army Corps of Engineers, Tulsa District, Tulsa, OK; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The U.S. Army Corps of Engineers, Tulsa District, has corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on September 24, 1997. This notice corrects the number of associated funerary objects from site 34JN30, Lake Texoma, Johnston County, OK. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the U.S. Army Corps of Engineers, Tulsa District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the U.S. Army Corps of Engineers, Tulsa District, at the address in this notice by June 12, 2013.

ADDRESSES: Ms. Michelle Horn, U.S. Army Corps of Engineers, 1645 S. 101st E. Ave., Tulsa, OK 74128, telephone (918) 669–7642.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the U.S. Army Corps of Engineers, Tulsa District, OK. The human remains and associated funerary objects were removed from Lake Texoma, Johnston County, OK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects from site 34JN30, published in a Notice of Inventory Completion in the **Federal Register** (62 FR 49993, September 24, 1997). Transfer of control of the items in this correction notice has not occurred.

Correction

In the **Federal Register** (62 FR 49993, September 24, 1997), paragraph three is corrected by substituting the following paragraph:

In 1971, human remains representing a minimum of two individuals were removed from site 34JN30, Lake Texoma, in Johnston County, OK. The human remains were excavated by the Oklahoma Archaeological Society and were originally curated at the Oklahoma Museum of Natural History (OMNH). After transfer to the U. S. Army Corps of Engineers, Tulsa District, in 1995, the human remains were inventoried for NAGPRA. At that time, no associated objects were located. In 2003, the collection was re-inventoried at LopezGarcia Group, Dallas, TX, and then transferred to OMNH, under the control of the U.S. Army Corps of Engineers, Tulsa District. In addition to human remains, associated funerary objects were located during the 2003 inventory. No known individuals were identified. The 228 associated funerary objects are 7 metal tools, 5 metal buttons, 15 metal fragments, 14 red glass beads, 16 glass bottle fragments, 29 historic ceramic sherds, 1 prehistoric ceramic sherd, 128 unmodified faunal bone fragments, 1 modified deer rib, 3 bone buttons, 4 chipped stone flakes, 2 wooden buttons, 1 historic clay pipe bowl fragment, 1 bark sample, and 1 unmodified mussel shell fragment.

In the **Federal Register** (62 FR 49992, September 24, 1997) paragraph seven, sentence two is corrected by substituting the following paragraph:

Officials of the U.S. Army Corps of Engineers, Tulsa District, have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 239 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Ms. Michelle Horn, U.S. Army Corps of Engineers, 1645 S. 101st E. Ave, Tulsa, OK 74128, telephone (918) 669–7642, by June 12, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Chickasaw Nation may proceed.

The U.S. Army Corps of Engineers, Tulsa District is responsible for notifying the Chickasaw Nation that this notice has been published.

Dated: April 8, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–11230 Filed 5–10–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–12724: PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Robert S. Peabody Museum of Archaeology. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Robert S. Peabody Museum of Archaeology at the address in this notice by June 12, 2013.

ADDRESSES: Ryan J. Wheeler, Ph.D., Director, Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA 01810, telephone (978) 749–4490.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1930, four unassociated funerary objects were removed by the Gila Pueblo Foundation from the site of Pozos de Sonoqui (Sacaton 2:6 and Sacaton 2:7; AZ U:14:49 [ASM]), also known as Queen Creek Ruin and Sun Temple Ruin, in the Salt River Basin in Pinal and Maricopa Counties, AZ. Records indicate the four items were removed from cremation burials, though the human remains are not present. The objects are two ceramic bowls, one ceramic scoop, and one shell bracelet.

Between 1927 and 1928, one unassociated funerary object was removed by the Gila Pueblo Foundation from the Adamsville site (Florence 7: 6 (GP); AZ U:15:1 [ASM]) in Pinal County, AZ. Records indicate that this item likely was associated with a cremation burial, although no specific burial is listed. The object is one ceramic bowl.

In 1940, the Robert S. Peabody Museum of Archaeology received these five unassociated funerary objects as part of an exchange with the Gila Pueblo Foundation. Archaeological evidence indicates the sites of Adamsville and Pozos de Sonoqui are from the archeologically defined Hohokam tradition. The occupation of the Adamsville site was approximately between A.D. 900 and 1450. The occupation of the Pozos de Sonoqui site was approximately between A.D. 950 and 1450. Mortuary practices, ethnographic materials, and technology indicate a cultural affiliation of these Hohokam settlements with present-day O'odham (Piman) and Puebloan cultures. An August 2000 cultural

affiliation study, submitted by the Gila River Indian Community of the Gila River Indian Reservation, Arizona, addresses continuities between the Hohokam and the O'odham tribes.

Determinations Made by the Robert S. Peabody Museum of Archaeology

Officials of the Robert S. Peabody Museum of Archaeology have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the five cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Ryan J. Wheeler, Ph.D., Director, Robert S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA 01810, telephone (978) 749–4490, by June 12, 2013. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Robert S. Peabody Museum of Archaeology is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: April 2, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–11221 Filed 5–10–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Leo A. Farmer, M.D.; Decision and Order

On July 12, 2011, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Leo A. Farmer, M.D. (Applicant), of Baton Rouge, Louisiana. The Show Cause Order proposed the denial of Applicant's application for a DEA Certificate of Registration as a practitioner on the ground that his ''registration would be inconsistent with the public interest.'' GX 2, at 1 (citing 21 U.S.C. 823(f)).

The Show Cause Order specifically alleged that Applicant had previously held a practitioner's registration, which had expired on March 31, 2010, and that ''[f]rom April 1 to November 5, 2010, [he had] authorized 3,497 controlled substances prescriptions'' for various schedule III and IV controlled substances including phentermine, diethylpropion, and phendimetrazine. *Id.* at 1–2. The Show Cause Order further alleged that because his registration had expired, Applicant violated 21 U.S.C. 841(a)(1) and 843(a)(2), as well as 21 CFR 1306.03. *Id.* at 1.

Next, the Show Cause Order alleged that on August 18, 2010, Applicant had issued prescriptions for Adipex-P 37.5mg, a schedule IV controlled substance, to two confidential sources. *Id.* at 2. The Show Cause Order alleged that Applicant had acted outside of the usual course of professional practice and lacked a legitimate medical purpose because each of the two confidential sources did not have a Body Mass Index (BMI) which met ''the medically recognized criteria for [being] 'overweight' or 'obese.' '' *Id.* (citing 21 U.S.C. 841(a)(1) and 21 CFR 1306.04). With respect to the first confidential source, the Order further alleged that his/her BMI was 17.4 and that the source had said that ''he/she was not interested in weight loss, merely weight maintenance.'' *Id.*

The Show Cause Order also notified Applicant of his right to either request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for electing either option, and the consequences of failing to do either. *Id.* at 2–3. On July 15, 2011, the Government accomplished service by Certified Mail addressed to him at the address he listed on his application. GX 3. Since the date of service of the Order, thirty days have now passed and neither Applicant, nor any one purporting to represent him, has filed a request for a hearing or submitted a written statement in lieu of a hearing. I therefore find that Applicant has waived his right to a hearing or to submit a written statement in lieu of a hearing and issue this Decision and Final Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings.

Findings

Applicant is a physician who practices at a clinic in Baton Rouge, Louisiana. GX 7, at 1. Applicant previously held a DEA Certificate of Registration as a practitioner; however, on March 31, 2010, Applicant allowed his registration to expire. GX 4. Applicant did not file an application for a new DEA registration until October 5, 2010. *Id.*

According to the affidavit of a DEA Task Force Officer (TFO), Applicant came to the attention of the Agency during the investigation of a person who was suspected of obtaining controlled substances through fraud. GX 7, at 1. According to the TFO, between August 2009 and April 2010, this person went to Applicant's clinic eight times and ''[o]n seven of those occasions . . . was prescribed weight-loss medications despite clear indications that she was not in need of the medications.'' *Id.* However, when on the eighth occasion, clinic personnel, who had determined that this person was also obtaining prescriptions for weight loss drugs from another physician, confronted her with this information, she fled ''and never returned.'' *Id.*

Subsequently, on August 18, 2011, two confidential sources (hereinafter, CS1 and CS2) conducted undercover visits at Applicant's clinic during which they wore recording devices. *Id.* at 2. According to the TFO's affidavit, Applicant asked CS1: '' '[w]hy are you so skinny?' '' *Id.* CS1 told Applicant that ''he/she did not wish to lose weight, but just to maintain his/her current weight.'' *Id.* After noting that his clinic was primarily for weight loss, Applicant stated, ''but I guess we can handle

maintenance.'' *Id.* Applicant issued CS1 a prescription for Adipex-P 35mg tablets. *Id.*

In his affidavit the TFO further stated that ''CS1 is 5'7'' tall, weighs 111 pounds and has a BMI of 17.4.'' *Id.* The TFO also asserted that ''CS1 does not meet the generally recognized criteria as overweight or obese and is, in fact, underweight according to her BMI.'' *Id.*

As for CS2's visit, according to the TFO's affidavit, Applicant told him/her that his/her weight was normal and asked ''why he/she believed he/she [wa]s overweight?'' *Id.* CS2 told applicant that ''he/she wanted to lose weight around his/her stomach.'' *Id.* Again according to the TFO, Applicant told CS2 ''that losing five pounds would not do much good and weight loss would not be targeted at a specific area of the body.'' *Id.* Applicant issued CS2 a prescription for Adipex-P 35mg. *Id.* at 3.

According to the TFO, ''CS2 is 4′11″ tall, weighs 104 pounds and has a BMI of 21.'' *Id.* at 2. The TFO further asserted that ''CS2 does not meet the generally recognized criteria as overweight or obese.'' *Id.* at 2–3.[1]

During the course of the investigation, a DEA Diversion Investigator (DI) also determined that Applicant had allowed his registration to expire on March 31, 2010. Affidavit of DI, at 1. According to the DI, the Louisiana Board of Pharmacy has granted DEA access to its Prescription Monitoring Program (PMP) database through a dedicated computer located in a different office. *Id.* at 2. The DI then requested that a DI with access to the PMP obtain a printout of the prescriptions issued by Applicant between March 1 and November 20, 2010; a copy of the printout was submitted as part of the record as GX 5. *Id.*

According to the DI, the PMP data show ''that from April 1, 2010 until November 5, 2010, [Applicant] issued 3,497 prescriptions for controlled substances.'' *Id.* However, as found above, Applicant had allowed his registration to expire on March 31, 2010. The PMP data show that Applicant prescribed such drugs as diethylpropion, phentermine, Adipex-P (also phentermine), each of which is a schedule IV stimulant, as well as phendimetrazine, a schedule III stimulant. *See* GX 5; *see also* 21 CFR 1308.13(b), 1308.14(e).

Discussion

Section 303(f) of the Controlled Substances Act (CSA) provides that an application for a practitioner's registration may be denied upon a determination ''that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination in the case of a practitioner, Congress directed that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''[T]hese factors are considered in the disjunctive.'' *Robert A. Leslie,* 68 FR 15227, 15230 (2003). I may rely on any one or a combination of factors and may give each factor the weight I deem appropriate in determining whether * * * to deny an application. *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005) (citing *Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005)).

In this matter, while I have considered all of the factors,[2] I conclude that the Government's evidence with respect to Applicant's experience in dispensing controlled substances (factor two) and his compliance with applicable laws related to controlled substances (factor four) establishes that issuing a registration to Applicant ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f). Accordingly, the application will be denied.

Factors Two and Four—The Applicant's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

As noted above, in the Show Cause Order, the Government alleges two separate bases for concluding that Applicant's registration would be inconsistent with the public interest. First, it alleges that Respondent violated the CSA by prescribing controlled substances without a DEA registration. Second, it alleges that Respondent acted outside of the usual course of professional practice and lacked a legitimate medical purpose when he prescribed Adipex-P (phentermine) to the two CSs. I address the latter contention first.

Under a longstanding DEA regulation, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.'' *Id.*; *see also* 21 U.S.C. 802(10) (defining the term ''dispense'' as meaning ''to deliver a controlled substance to an ultimate user by, or pursuant to *the lawful order of, a practitioner,* including the prescribing and administering of a controlled substance'') (emphasis added); *see also* La. Rev. Stat. Ann. § 40:961(33) (2008);[3] La. Rev. Stat. Ann. § 40:1238.2(A) (2008).[4]

[1] In his affidavit, the TFO further stated that ''[a]ccording to guidelines published by the American Medical Association, the U.S. Department of Health and Human Services, the Centers for Disease Control, the National Institute for Health [sic], the National Heart, Lung and Blood Institute and the North American Association for the Study of Obesity, pharmacotherapy should be used on patients with a Body Mass Index (BMI) over 30 or with a BMI over 27 when certain risk factors for disease or concomitant obesity exist.'' GX 7, at 2.

[2] The Government produced no evidence (other than Applicant's application for a DEA registration) regarding his state licensure status; this document suggests that he possessed a Louisiana medical license at the time he submitted his application. GX 1, at 1. It also produced no evidence as to whether he has been convicted of an offense related to the distribution or dispensing of controlled substances. However, even assuming that Applicant currently holds a valid state license which authorizes him to dispense controlled substances, this factor is not dispositive of the public interest determination ''because the DEA has [a] separate oversight responsibility with respect to controlled substances.'' *MacKay* v. *DEA,* 2011 WL 6739420, *9 (10th Cir. Dec. 23, 2011). So too, even assuming that Applicant has not been convicted of a felony related to the distribution or dispensing of controlled substances, this is not dispositive because there are multiple reasons why a person many not have been convicted (or even prosecuted) for such an offense. *Id.*

[3] Louisiana law defines the term ''prescription'' to mean ''a written request for a drug . . . issued by a licensed physician . . . for a legitimate medical purpose, for the purpose of correcting a physical, mental, or bodily ailment, and acting in good faith in the usual course of his professional practice.'' La. Rev. Stat. Ann. § 40.961(33).

[4] This statute provides that:

A prescription, in order to be effective in legalizing the possession of legend drugs, shall be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. An order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this Section. Any person who knows or should know that he or she is filling such a prescription

As the Supreme Court has explained, ''the [CSA's] prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)).

Under the CSA, it is fundamental that a practitioner must establish and maintain a bonafide doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Laurence T. McKinney,* 73 FR 43260, 43265 n.22 (2008). The CSA generally looks to state law to determine whether a doctor and patient have established a bonafide doctor-patient relationship. *See Kamir Garces-Mejias,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007); *but see* 21 U.S.C. § 829(e)(2)(B) (providing federal standard for prescribing over the internet). *See also United States* v. *Smith,* 573 F.3d 639, 647–48 (8th Cir. 2009) (noting that even after *Gonzales* v. *Oregon,* 546 U.S. 243 (2006), courts of appeals ''have applied a general-practice standard when determining whether the practitioner acted in the 'usual course of professional practice' ''); *United States* v. *Merrill,* 513 F.3d 1293, 1306 (11th Cir. 2008) (''The appropriate focus is not on the subjective intent of the doctor, but rather it rests upon whether the physician prescribed medicine 'in accordance with a standard of medical practice generally recognized and accepted in the United States.' '') (quoting *Moore,* 423 U.S. at 139 (1975)).

In support of its contention that Applicant acted outside of the usual course of professional practice and lacked a legitimate medical purpose when he prescribed phentermine to the two CSs, the Government notes that neither CS's BMI met ''medically recognized criteria for [being] 'overweight' or 'obese.' '' Request for Agency Action at 6. With respect to CS1, it further contends that the CS stated that ''he/she was not interested in weight loss, merely weight maintenance.'' *Id.*

The Government's contention that the prescriptions violated 21 CFR 1306.04(a) and were unlawful distributions under the CSA thus appears to rest on the theory that this drug can only be lawfully prescribed to a person who meets the criteria for being overweight or obese. Notably, the Government does not cite to any standards adopted by the Louisiana Board of Medical Examiners which govern the prescribing of medications in the treatment of weight loss.[5] Nor does the Government contend that the evaluation conducted by Applicant on the two CSs was medically inadequate to support the prescribing of Adipex-P. Finally, the Government provided no evidence establishing what indications Adipex-P is approved for, nor evidence that it is medically inappropriate to prescribe this drug to a person who does not meet the criteria for being overweight or obese but who seeks to maintain a particular weight.[6]

In *Gonzales,* the Supreme Court explained that the CSA and its case law ''amply support the conclusion that Congress regulates medical practice insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood. Beyond this, however, the statute manifests no intent to regulate the practice of medicine generally.'' 546 U.S. at 270. Thus, even if Adipex-P has not been approved by the Food and Drug Administration for marketing for the indication of weight maintenance, this alone would not establish a violation of the CSA's prescription requirement because a physician can lawfully prescribe a drug, including a controlled substance, for an off-label use as long as the physician acts in the usual course of professional practice and has a legitimate medical purpose for doing so. Rather, as set forth in a legion of Agency cases, what establishes a violation of this provision (in a proceeding under section 303 or 304) is proof by substantial evidence that a prescription was issued outside of the usual course of professional practice and lacked a legitimate medical purpose. 21 CFR 1306.04(a). As to this, the Government's evidence is lacking. Accordingly, the allegations related to the prescriptions Applicant issued to the CSs are not supported by substantial evidence.

The allegation that Applicant issued numerous prescriptions after he allowed his registration to expire is, however, supported by substantial evidence. Under Federal law, ''[e]very person who dispenses . . . any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him,'' 21 U.S.C. 822(a)(2), and ''[e]xcept as authorized by'' the CSA, it is ''unlawful for any person knowingly or intentionally . . . to distribute[] or dispense . . . a controlled substance.'' *Id.* § 841(a)(1); *see also* 21 CFR 1301.11(a), *id.* 1306.03(a)(2). Moreover, it ''unlawful for any person knowingly or intentionally . . . to use in the course of the . . . dispensing of a controlled substance . . . a registration number which is . . . expired[.]'' 21 U.S.C. 843(a)(2). *See also* 1301.13(a) (''No person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued. . . .'').

As found above, the Government produced a printout from the Louisiana Board of Pharmacy's Prescription Monitoring Program showing that from April 1, 2010, the day after Applicant's registration expired, through November 5, 2010, he issued nearly 3,500 prescriptions for schedule III and IV controlled substances including phendimetrazine, diethylproprion, and phentermine. The issuance of each prescription is a separate violation of the CSA and DEA regulations. *See* 21 U.S.C. 822(a)(2), 841(a)(1), 843(a)(2); 21 CFR 1301.11(a); *id.* 1306.03(a)(2). Accordingly, I hold that the evidence pertaining to Applicant's experience in dispensing controlled substances (factor two) and compliance with applicable laws related to controlled substances (factor four) establishes that the issuance of a registration to him ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f). Accordingly, I will deny the application.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b), I order that the application of Leo A. Farmer, M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective June 12, 2013.

or order to a drug abuser or habitual user of legend drugs, as well as the person issuing the prescription, may be charged with a violation of this Section.

La. Rev. Stat. Ann. § 40:1238.2(A).

[5] While in his affidavit, the TFO asserted that under various guidelines, ''pharmacotherapy should be used on patients with a [BMI] over 30 or with a BMI over 27 when certain risk factors for disease or concomitant obesity exist,'' this does not establish the truth of the converse, *i.e,* that it is medically unjustified to use pharmacotherapy for patients who have lower BMIs or who wish to maintain a certain weight. Moreover, in his affidavit, the TFO did not set forth any evidence that he possesses medical expertise and is thus competent to opine on the medical appropriateness of the prescriptions Applicant issued to the CSs.

[6] Furthermore, the Government produced no evidence that either CS made clear to Applicant that they were seeking the drugs for the purpose of abusing them or selling them to others.

Dated: May 4, 2013.

Michele M. Leonhart,

Administrator.

[FR Doc. 2013–11268 Filed 5–10–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. 552b)

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:00 a.m., on Tuesday, May 7, 2013, at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss original jurisdiction cases pursuant to 28 CFR 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Jr., Cranston J. Mitchell, Patricia K. Cushwa, J. Patricia Wilson Smoot and Charles T. Masserone.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: May 7, 2013.

Isaac Fulwood, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 2013–11332 Filed 5–9–13; 11:15 am]

BILLING CODE 4410–31–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by June 12, 2013. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. Permit Application: 2014–002

Applicant, Celia Lang, Program Director, Lockheed Corporation, Information Systems & Global Solutions (I&GS) Engineering Services Segment, 7400 South Tucson Way, Centennial, CO 80112.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas (ASPA's). The applicant intends to provide support to scientists working at field camps in the Antarctic Peninsula area, some of which are located within ASPA's. The routine sites supported are: ASPA 117-Avian Island, ASPA 128 Cape Copacabana, western shore of Admiralty Bay, and ASPA 149-Cape Shirreff. Future science activities may necessitate the need for other field camps which may take place within other ASPA's. Activities include: movement of personnel and supplies from ship to shore via zodiac or small boat, opening and closing tasks for the research facilities ashore, and maintenance and servicing of on-shore facilities and equipment.

Location

Antarctic Peninsula region, ASPA 117-Avian Island, ASPA 128 Cape Copacabana, western shore of Admiralty Bay, and ASPA 149-Cape Shirreff.

Dates

May 1, 2013 to April 30, 2018.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2013–11265 Filed 5–10–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0317; Docket Nos. 50–382; License No. NPF–38]

Entergy Louisiana, LLC and Entergy Operations, Inc.; Waterford Stream Electric Station, Unit No. 3; Order Approving Direct and Indirect Transfers of License

I

Entergy Louisiana, LLC (ELL) and Entergy Operations, Inc. (EOI) (the licensees), are co-holders of Facility Operating License No. NPF–38. The ELL is the owner and EOI is authorized to possess, use, and operate Waterford Steam Electric Station, Unit No. 3 (Waterford). Waterford is located in St. Charles Parish, Louisiana.

II

By application dated September 27, 2012, as supplemented by letters dated January 29 and April 16, 2013, EOI requested on behalf of itself, ELL, and their parent companies (together, the applicants), pursuant to § 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the direct transfer of Waterford, and associated Independent Spent Fuel Storage Installation, to a new limited liability company also named Entergy Louisiana, LLC (New ELL). In addition, the applicants requested the NRC's consent to approve associated indirect license transfers to the extent such would be affected by the formation of a new intermediary holding company. Entergy Corporation (Entergy) will remain as the ultimate parent company, but a new intermediate company, Entergy Utilities Holdings, LLC, a Delaware limited liability company, will be created, which will be the direct parent company of New ELL and EOI. Ultimately, New ELL will acquire ownership of the facility and EOI will remain responsible for the operation

and maintenance of Waterford. The license transfers are necessary to support a proposed separation of the Entergy transmission system in Arkansas, Louisiana, Mississippi, Missouri, and Texas. Currently, the utility operating company subsidiaries of Entergy (e.g., ELL) own the respective transmission assets. Following the proposed transactions, each of the Entergy subsidiaries will become a new limited liability company with the same assets except that the transmission assets will be owned by ITC Holdings Corp. and operated by Midwest Independent Transmission System Operator, Inc.

No physical changes to the facilities or operational changes are being proposed in the application. The interconnections that provide offsite power to Waterford do not change as a result of the proposed direct and indirect license transfers.

Approval of the direct and indirect transfers of the facility operating license was requested by EOI, acting on behalf of ELL, as well as their parent companies and itself. A notice entitled, ''Consideration of Approval of Application Regarding Proposed Creation of a Holding Company and Transfer of Facility Operating License and Opportunity for a Hearing,'' was published in the **Federal Register** on January 3, 2013 (78 FR 323). No comments or hearing requests were received.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the licensees' application, and other information before the Commission, the NRC staff has determined that the proposed indirect license transfer of control of the subject license held by the licensees to the extent such will result from the proposed formation of the intermediary holding company in conjunction with the planned direct transfer of ELL to New ELL to the extent effected in order to support transfer of the Entergy transmission assets as described in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The findings set forth above are supported by a safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect and direct license transfers related to the proposed corporate restructuring in connection with the separation of the Entergy transmission system is approved, subject to the following conditions:

1. Before completion of the proposed transaction, EOI shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that New ELL has obtained the appropriate amount of insurance required of the licensees under 10 CFR part 140 of the Commission's regulations.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, EOI shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing, no later than 1 business day before the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 27, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12275A013), as supplemented by letters dated January 29 and April 16, 2013 (ADAMS Accession Nos. ML13030A204 and ML13107A010, respectively), and the safety evaluation dated the same date as this Order (ADAMS Accession No. ML13077A237), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 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 PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov*.

Dated at Rockville, Maryland, this 3rd day of May 2013.

For The Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–11261 Filed 5–10–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0318; Docket Nos. 50–458; License No. NPF–47]

In the Matter of Entergy Gulf States Louisiana, LLC., and Entergy Operations, Inc., River Bend Station, Unit 1; Order Approving Direct and Indirect Transfers of License

I

Entergy Gulf States Louisiana, LLC. (EGS–LA) and Entergy Operations, Inc. (EOI) (the licensees) are co-holders of Facility Operating License No. NPF–47. The EGS–LA is the owner and EOI is authorized to possess, use, and operate River Bend Station, Unit 1 (RBS). The RBS is located in West Feliciana Parish, Louisiana.

II

By application dated September 27, 2012, as supplemented by letters dated January 29 and April 16, 2013, EOI requested on behalf of itself, EGS–LA, and their parent companies (together, the applicants), pursuant to § 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the direct transfer of RBS, and associated Independent Spent Fuel Storage Installation, to a new limited liability company also named Entergy Gulf States Louisiana, LLC. (New EGS–LA). In addition, the applicants requested the NRC's consent to approve associated indirect license transfers to the extent such would be affected by the formation of a new intermediary holding company. Entergy Corporation (Entergy) will remain as the ultimate parent company, but a new intermediate company, Entergy Utilities Holdings, LLC, a Delaware limited liability company, will be created, which will be the direct parent company of New EGS–LA and EOI. Ultimately, New EGS–LA will acquire ownership of the facility and EOI will remain responsible for the operation and maintenance of RBS. The license transfers are necessary to support a proposed separation of the Entergy transmission system in Arkansas, Louisiana, Mississippi, Missouri, and Texas. Currently, the utility operating company subsidiaries

of Entergy (e.g., EGS–LA) own the respective transmission assets. Following the proposed transactions, each of the Entergy subsidiaries will become a new limited liability company with the same assets except that the transmission assets will be owned by ITC Holdings Corp. and operated by Midwest Independent Transmission System Operator, Inc.

No physical changes to the facilities or operational changes are being proposed in the application. The interconnections that provide offsite power to RBS do not change as a result of the proposed direct and indirect license transfers.

Approval of the direct and indirect transfers of the facility operating license was requested by EOI, acting on behalf of EGS–LA, as well as their parent companies and itself. A notice entitled, ''Consideration of Approval of Application Regarding Proposed Creation of a Holding Company and Transfer of Facility Operating License and Opportunity for a Hearing,'' was published in the **Federal Register** on January 3, 2013 (78 FR 320). No comments or hearing requests were received.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the licensees' application, and other information before the Commission, the NRC staff has determined that the proposed indirect license transfer of control of the subject license held by the licensees to the extent such will result from the proposed formation of the intermediary holding company in conjunction with the planned direct transfer of EGS–LA to New EGS–LA to the extent affected in order to support transfer of the Entergy transmission assets as described in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The findings set forth above are supported by a safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It is hereby ordered* that the application regarding the indirect and direct license transfers related to the proposed corporate restructuring in connection with the separation of the Entergy transmission system is approved, subject to the following conditions:

1. Before completion of the proposed transaction, EOI shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that New EGS–LA has obtained the appropriate amount of insurance required of the licensees under 10 CFR part 140 of the Commission's regulations.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, EOI shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing, no later than 1 business day before the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 27, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12275A013), as supplemented by letters dated January 29 and April 16, 2013 (ADAMS Accession Nos. ML13030A204 and ML13107A010, respectively), and the safety evaluation dated the same date as this Order (ADAMS Accession No. ML13077A237), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 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 PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov*.

Dated at Rockville, Maryland, this 3rd day of May 2013.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–11262 Filed 5–10–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0319; Docket No. 50–416; License No. NPF–29]

In the Matter of South Mississippi Electric Power Association, System Energy Resources, Inc., Grand Gulf Nuclear Station, Units No. 1; Order Approving Direct and Indirect Transfers of License and Approving Conforming Amendment

I

South Mississippi Electric Power Association, System Energy Resources, Inc. (SERI), Entergy Mississippi, Inc. (EMI), and Entergy Operations, Inc. (EOI) (the licensees), are co-holders of Facility Operating License No. NPF–29. South Mississippi Electric Power Association and SERI are the owners and EOI is authorized to possess, use, and operate Grand Gulf Nuclear Station, Unit No. 1 (GGNS). The EMI has anti-trust responsibilities imposed in the license. The GGNS is located in Claiborne County, Mississippi.

II

By application dated September 27, 2012, as supplemented by letters dated January 29 and April 16, 2013, EOI requested on behalf of itself, SERI, and their parent companies (together, the applicants), pursuant to § 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the direct transfer of GGNS, and associated Independent Spent Fuel Storage Installation, to a new limited liability company, System Energy Resource, LLC (SERL). The applicants also requested approval of a conforming license amendment that would replace references to SERI in the license with references to SERL to reflect the transfer of ownership. The EMI has anti-trust responsibilities in the license and the application requested references to EMI in the license be replaced with the new limited liability company, Entergy Mississippi, LLC (EML). In addition, the applicants requested the NRC's consent to approve associated indirect license transfers to the extent such would be affected by the formation of a new intermediary holding company. Entergy Corporation (Entergy) will remain as the ultimate parent company, but a new intermediate company, Entergy Utilities Holdings, LLC, a Delaware limited liability company, will be created, which will be the direct parent company of SERL, EML, and EOI. Ultimately, SERL and South Mississippi

Electric Power Association will acquire ownership of the facility and EOI will remain responsible for the operation and maintenance of GGNS. The license transfers are necessary to support a proposed separation of the Entergy transmission system in Arkansas, Louisiana, Mississippi, Missouri, and Texas. Currently, the utility operating company subsidiaries of Entergy (e.g. EMI) own the transmission assets. Following the proposed transactions, each of the Entergy subsidiaries will become a new limited liability company with the same assets except that the transmission assets will be owned by ITC Holdings Corp. and operated by Midwest Independent Transmission System Operator, Inc.

No physical changes to the facilities or operational changes are being proposed in the application. The interconnections that provide offsite power to GGNS do not change as a result of the proposed direct and indirect license transfers.

Approval of the direct and indirect transfers of the facility operating license was requested by EOI, acting on behalf of SERI, as well as their parent companies and itself. A notice entitled, ''Consideration of Approval of Application Regarding Proposed Creation of a Holding Company and Transfer of Facility Operating License and Conforming Amendment and Opportunity for a Hearing,'' was published in the **Federal Register** on January 3, 2013 (78 FR 325). No comments or hearing requests were received.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the licensees' application, and other information before the Commission, the NRC staff has determined that the proposed indirect license transfer of control of the subject license held by the licensees to the extent such will result from the proposed formation of the intermediary holding company in conjunction with the planned direct transfer of SERI to SERL, and EMI to EML, to the extent affected in order to support transfer of the Entergy transmission assets as described in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by a safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect and direct license transfers related to the proposed corporate restructuring in connection with the separation of the Entergy transmission systems is approved, subject to the following conditions:

1. Before completion of the proposed transaction, EOI shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that SERL has obtained the appropriate amount of insurance required of the licensees under 10 CFR part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), the license amendment that makes a change, as indicated in Enclosure 5 to the cover letter forwarding this Order (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13077A237), to reflect the subject direct transfer, is approved. The amendment shall be issued and made effective at the time the proposed direct transfer action is completed.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, EOI shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing, no later than 1 business day before the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 27, 2012 (ADAMS Accession No. ML12275A013), as supplemented by letters dated January 29 and April 16, 2013 (ADAMS Accession Nos. ML13030A204 and ML13107A010, respectively), and the safety evaluation dated the same date as this Order (ADAMS Accession No. ML13077A237), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 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 PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of May 2013.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–11263 Filed 5–10–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0320; Docket Nos. 50–313 and 50–368; License Nos. DPR–51 and NPF–6]

In the Matter of Entergy Arkansas and Entergy Operations, Arkansas Nuclear One, Units 1 and 2; Order Approving Direct and Indirect Transfers of Licenses and Approving Conforming Amendments

I

Entergy Arkansas, Inc. (EAI), and Entergy Operations, Inc. (EOI) (the licensees), are co-holders of Renewed Facility Operating License Nos. DPR–51 and NPF–6. The EAI is the owner and EOI is authorized to possess, use, and operate Arkansas Nuclear One, Units. 1 and 2 (ANO–1 and ANO–2); located in Pope County, Arkansas.

II

By application dated September 27, 2012, as supplemented by letters dated January 29 and April 16, 2013, EOI requested on behalf of itself, EAI, and their parent companies (together, the applicants), pursuant to § 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the direct transfer of ANO–1 and ANO–2, and associated Independent Spent Fuel Storage Installations, to a new limited liability company, Entergy Arkansas, LLC (EAL). The applicants also requested approval of conforming license amendments that would replace references to EAI in the license with references to EAL to reflect the transfer of ownership. In addition, the applicants requested the NRC's consent to approve associated indirect license transfers to the extent such would be affected by the formation of a new intermediary holding company. Entergy Corporation (Entergy) will remain as the ultimate parent company, but a new intermediate company, Entergy Utilities Holdings, LLC, a Delaware limited liability company, will be created, which will be the direct parent company of EAL and EOI. Ultimately, EAL will acquire ownership of the facility and EOI will remain responsible for the operation and maintenance of ANO–1 and ANO–2. The license transfers are necessary to support a proposed separation of the Entergy transmission system in Arkansas, Louisiana, Mississippi, Missouri, and Texas. Currently, the utility operating company subsidiaries of Entergy (e.g., EAI) own the respective transmission assets. Following the proposed transactions, each of the Entergy subsidiaries will become a new limited liability company with the same assets except that the transmission assets will be owned by ITC Holdings Corp. and operated by Midwest Independent Transmission System Operator, Inc.

No physical changes to the facilities or operational changes are being proposed in the application. The interconnections that provide offsite power to ANO–1 and ANO–2 do not change as a result of the proposed direct and indirect license transfers.

Approval of the direct and indirect transfers of the facility operating license was requested by EOI, acting on behalf of EAI, as well as their parent companies and itself. A notice entitled, ''Consideration of Approval of Application Regarding Proposed Creation of a Holding Company and Transfer of Renewed Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing,'' was published in the **Federal Register** on January 3, 2013 (78 FR 328). No comments or hearing requests were received.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Upon review of the information in the licensees' application, and other information before the Commission, the NRC staff has determined that the proposed indirect license transfer of control of the subject licenses held by the licensees to the extent such will result from the proposed formation of the intermediary holding company in conjunction with the planned direct transfer of EAI to EAL to the extent affected in order to support transfer of the Entergy transmission assets as described in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by a safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect and direct license transfers related to the proposed corporate restructuring in connection with the separation of the Entergy transmission system is approved, subject to the following conditions:

1. Before completion of the proposed transaction, EOI shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that EAL has obtained the appropriate amount of insurance required of the licensees under 10 CFR Part 140 of the Commission's regulations.

It is further ordered that consistent with 10 CFR 2.1315(b), the license amendments that make a change, as indicated in Enclosures 2 and 3 to the cover letter forwarding this Order (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13077A237), to reflect the subject direct transfer, is approved. The amendments shall be issued and made effective at the time the proposed direct transfer action is completed.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, EOI shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing, no later than 1 business day before the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 27, 2012 (ADAMS Accession No. ML12275A013), as supplemented by letters dated January 29 and April 16, 2013 (ADAMS Accession Nos. ML13030A204 and ML13107A010, respectively), and the safety evaluation dated the same date as this Order (ADAMS Accession No. ML13077A237), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 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 PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov*.

Dated at Rockville, Maryland, this 3rd day of May 2013.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–11264 Filed 5–10–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0003; Docket Nos. 52–009; Permit No. ESP–002]

System Energy Resources, Inc.; Grand Gulf Nuclear Station; Order Approving Direct and Indirect Transfers of Early Site Permit and Approving Conforming Amendment

I

System Energy Resources, Inc. (SERI), is the permit holder of Grand Gulf Early Site Permit (ESP) No. ESP–002. The ESP–002 is for a site adjacent to Grand Gulf Nuclear Station (GGNS). The GGNS is located in Claiborne County, Mississippi.

II

By application dated September 27, 2012, as supplemented by letters dated January 29 and April 16, 2013, Entergy Operations, Inc. (EOI), requested on behalf of itself, SERI, and their parent companies (together, the applicants), pursuant to § 50.80 and § 52.28 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the U.S. Nuclear Regulatory Commission (NRC) consent to certain license transfers to permit the direct transfer of Grand Gulf ESP Site, to a new limited liability company, System Energy Resource, LLC (SERL). The applicants also requested approval of conforming ESP amendment that would replace references to SERI in the ESP with references to SERL to reflect the transfer of ownership. In addition, the applicants requested the NRC consent to approve associated indirect license transfers to the extent such would be affected by the formation of a new intermediary holding company. Entergy Corporation (Entergy) will remain as the ultimate parent company, but a new intermediate company, Entergy Utilities Holdings, LLC, a Delaware limited liability company, will be created, which will be the direct parent company of SERL. Ultimately, SERL will hold the ESP. The license transfers are necessary to support a proposed transaction whereby the transmission assets of Entergy in Arkansas, Louisiana, Mississippi, Missouri, and Texas will become owned by ITC Holdings Corp. and operated by Midwest Independent Transmission System Operator, Inc.

Approval of the direct and indirect transfers of the ESP was requested by EOI, acting on behalf of SERI, as well as their parent companies and itself. A notice entitled, ''Consideration of Approval of Application Regarding Proposed Creation of a Holding Company and Transfer of Early Site Permit and Conforming Amendment and Opportunity for a Hearing,'' was published in the **Federal Register** on January 11, 2013 (78 FR 2451). No hearing requests or petitions to intervene were received. The NRC received comments from a member of the public in Webster, Texas, on February 8, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13044A011). The comments did not provide any information in addition to that in the application, nor did they provide any information contradictory to that provided in the application.

Under 10 CFR 50.80 and 52.28, no license or permit, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the ESP, unless the NRC shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that the proposed indirect transfer of control of the subject ESP held by SERI to the extent such will result from the proposed formation of the intermediary holding company in conjunction with the planned direct transfer of SERI to SERL to the extent affected in order to support transfer of the Entergy transmission assets as described in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed ESP amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed ESP amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed ESP amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by a safety evaluation dated the same day as this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 10 CFR 52.28, *it is hereby ordered* that the application regarding the indirect and direct ESP transfers related to the proposed corporate restructuring in connection with the separation of the Entergy transmission system is approved.

It is further ordered that consistent with 10 CFR 2.1315(b), the ESP amendment that makes a change, as indicated in Enclosure 7 to the cover letter forwarding this Order (ADAMS Accession No. ML13077A237), to reflect the subject direct transfer, is approved. The amendment shall be issued and made effective at the time the proposed direct transfer action is completed.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, EOI shall inform the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of New Reactors in writing of such receipt, and of the date of closing, no later than 1 business day before the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 27, 2012 (ADAMS Accession No. ML12275A013), as supplemented by letters dated January 29 and April 16, 2013 (ADAMS Accession Nos. ML13030A204 and ML13107A010, respectively), and the safety evaluation dated the same date as this Order (ADAMS Accession No. ML13077A237), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 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 PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of May 2013.

For the Nuclear Regulatory Commission.

Glenn M. Tracy,

Director, Office of New Reactors.

[FR Doc. 2013–11249 Filed 5–10–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Reemployment of Annuitants

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0211, Reemployment of Annuitants. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on November 2, 2012 at Volume 77 FR 66189 allowing for a 60-day public comment period. No comments were received for this information collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until June 12, 2013. This process is conducted in accordance with 5 CFR 1320.1.

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, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: 5 CFR 837.103, Reemployment of Annuitants, requires agencies to collect information from retirees who become employed in Government positions. Agencies need to collect timely information regarding the type and amount of annuity being received so the correct rate of pay can be determined. Agencies provide this information to OPM so a determination can be made whether the reemployed retiree's annuity must be terminated.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: 5 CFR 837.103, Reemployment of Annuitants.

OMB Number: 3206–0211.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,000.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: 250.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11301 Filed 5–10–13; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0194, Annuity Supplement Earnings Report, RI 92–22

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0194, Annuity Supplement Earnings Report, RI 92–22. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on August 15, 2012 at Volume 77 FR 49029 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until June 12, 2013. This process is conducted in accordance with 5 CFR 1320.1.

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, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel

Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: RI 92–22, Annuity Supplement Earnings Report, is used each year to obtain the earned income of Federal Employees Retirement System (FERS) annuitants receiving an annuity supplement. The annuity supplement is paid to eligible FERS annuitants who are not retired on disability and are not yet age 62. The supplement approximates the portion of a full career Social Security benefit earned while under FERS and ends at age 62. Like Social Security benefits, the annuity supplement is subject to an earnings limitation.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Annuity Supplement Earnings Report.

OMB Number: 3206–0194.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 13,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 3,250.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11303 Filed 5–10–13; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Federal Employees' Group Life Insurance (FEGLI) Implementation Questionnaire for Tribal Employers

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Planning and Policy Analysis, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR) 3206–NEW, FEGLI Implementation Questionnaire for Tribal Employers. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until July 12, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Planning and Policy Analysis, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Cristin Kane or sent via email to *cristin.kane@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Planning and Policy Analysis, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Cristin Kane or sent via email to *cristin.kane@opm.gov.*

SUPPLEMENTARY INFORMATION: As part of the Affordable Care Act, section 409 of the Indian Health Care Improvement Act (IHCIA) authorizes Tribes and Tribal organizations carrying out programs under the Indian Self Determination and Educational Assistance Act or urban Indian organizations carrying out programs under Title V of IHCIA to purchase coverage, rights, and benefits under Federal Employees Health Benefits (FEHB) and FEGLI for their employees. At this time, OPM wishes to issue the FEGLI Implementation questionnaire in order to effectively facilitate FEGLI coverage for Tribes and urban Indian organizations.

Analysis

Agency: Planning and Policy Analysis, Office of Personnel Management.

Title: FEGLI Implementation Questionnaire for Tribal Employers.

OMB Number: _____.

Frequency: One time.

Affected Public: Tribes and urban Indian Organizations.

Number of Respondents: Approximately 700.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: Approximately 58.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11300 Filed 5–10–13; 8:45 am]

BILLING CODE 6325–63–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Representative Payee Application (RI 20–7) and Information Necessary for a Competency Determination (RI 30–3)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0140, Representative Payee Application (RI 20–7) and Information Necessary for a Competency Determination (RI 30–3). As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on November 29, 2012 at Volume 77 FR 71200 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until June 12, 2013. This process is conducted in accordance with 5 CFR 1320.1.

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, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: RI 20–7, Representative Payee Application, is used by the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) to collect information from persons applying to be fiduciaries for annuitants or survivor annuitants who appear to be incapable of handling their own funds or for minor children. RI 30–3, Information Necessary for a Competency Determination, collects medical information regarding the annuitant's competency for OPM's use in evaluating the annuitant's condition.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Representative Payee Application and Information Necessary for a Competency Determination.

OMB Number: 3206–0140.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: RI 20–7 = 12,480; RI 30–3 = 250.

Estimated Time per Respondent: 90 minutes.

Total Burden Hours: 6,490.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11304 Filed 5–10–13; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, May 16, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 8, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–11358 Filed 5–9–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69527; File No. SR–NYSEArca–2013–45]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.11(a)(6)(C) To Add Inside Limit Orders as Eligible for Repricing Instructions

May 7, 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 23, 2013, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

The Exchange proposes to amend NYSE Arca Equities Rule 7.11(a)(6)(C) to add Inside Limit Orders as eligible for repricing instructions. 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] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Arca Equities Rule 7.11 (''Rule 7.11''), which implements the Limit Up—Limit Down Plan,[3] the first phase of which became effective on April 8, 2013, to add Inside Limit Orders as eligible for repricing. Under Rule 7.11, buy or sell interest that is priced or could be executed above or below the Price Bands, as that term is used in the Rule, would be canceled, with one exception. That exception, set out in sub-paragraph (a)(6) of the Rule, permits an ETP Holder to instruct the Exchange to reprice eligible limit orders that are priced above or below the Price Bands, rather than cancel such orders. Eligible limit orders would be repriced to the Price Bands.

The Exchange proposes to amend Rule 7.11(a)(6)(C) to add another limit order type that is eligible for repricing instructions. Specifically, the Exchange proposes to add Inside Limit Orders, which are defined in Rule 7.31(d),[4] to the list of orders eligible for repricing instructions. The Exchange proposes to announce by Trader Update when the functionality associated with repricing instructions for Inside Limit Orders will be made available and anticipates that such instructions will be made available to ETP Holders before the roll out of the implementation of Phase I of the Plan has been completed.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5),[6] 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that adding Inside Limit Orders to the list of orders eligible for repricing instructions removes impediments to and perfects the mechanism of a free and open market because it provides greater choice to ETP Holders of how to instruct the Exchange to handle their orders under the Plan.

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 proposed amendment will reduce burdens on competition by giving ETP Holders greater flexibility to add repricing instructions for additional limit orders, specifically, Inside Limit Orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] 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 immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange immediately to provide that Inside Limit Orders will be treated similar to other limit orders eligible for repricing instructions under the recently implemented Limit Up—Limit Down Plan. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2013–45 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.

[3] As defined in Rule 7.11, ''Plan'' means the Plan to Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS under the Securities Exchange Act of 1934, Exhibit A to Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012), as it may be amended from time to time.

[4] An Inside Limit Order is a Limit Order, which, if routed away pursuant to NYSE Arca Equities Rule 7.37(d), will be routed to the market participant with the best displayed price. Any unfilled portion of the order will not be routed to the next best price level until all quotes at the current best bid or offer are exhausted. Once each current best bid or offer is exhausted, Exchange systems reevaluate the next best displayed price and route to that single price point and continue such assessment at each new best displayed price level until the order is filled or no longer marketable. If the order is no longer marketable it will be ranked in the NYSE Arca Book pursuant to Rule 7.36.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

All submissions should refer to File Number SR–NYSEArca–2013–45. 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–NYSEArca–2013–45 and should be submitted on or before June 3, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11224 Filed 5–10–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of 30 day Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

[12] 17 CFR 200.30–3(a)(12).

DATES: Submit comments on or before June 12, 2013. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: Program Income Report, and Narrative Program Report.

Frequency: On Occasion.

SBA Form Number: 2113.

Description of Respondents: SBDC's.

Responses: 126.

Annual Burden: 7,056.

Curtis Rich,

Management Analyst.

[FR Doc. 2013–11120 Filed 5–10–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8320]

Issuance of an Amendment to the Presidential Permit for the City of Eagle Pass International Bridge Board Regarding the Port of Entry Known as Eagle Pass II

SUMMARY: The Department of State issued an amendment to the Presidential Permit to the City of Eagle Pass International Bridge Board on May 2, 2013, eliminating the requirement that it provide land to the federal government free of charge, so that it may begin to collect payment for the use of the bridge's temporary inspection facilities located on land leased to the federal government if certain conditions in the permit are satisfied. In making this determination, the Department provided public notice of the proposed amendment (75 FR 39089, July 10, 2010), offered the opportunity for comment and consulted with other federal agencies, as required by Executive Order 11423, as amended.

FOR FURTHER INFORMATION CONTACT: Peter Marigliano, Mexico Border Affairs Officer, via email at *WHA-BorderAffairs@state.gov,* by phone at 202–647–9895 or by mail at Office of Mexican Affairs—Room 1329, Department of State, 2201 C St. NW., Washington, DC 20520. Information about Presidential permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: The following is the text of the issued permit amendment:

By virtue of the authority vested in me as Under Secretary of State for Economic Growth, Energy and the Environment, including those authorities under Executive Order 11423, 33 FR 11741, as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511, Executive Order 13284 of January 23, 2003, 68 FR 4075, and Executive Order 13337 of April 30, 2004, 69 FR 25299; and Department of State Delegation of Authority 118–2 of January 26, 2006; I hereby amend as set forth herein the permission granted in Presidential Permit Number 96–01, signed on April 12, 1996, to the City of Eagle Pass International Bridge Board (hereinafter referred to as ''permittee'') to construct, connect, operate, and maintain a new international vehicular and pedestrian bridge between the City of Eagle Pass, Maverick County, Texas and Piedras Negras, Coahuila, Mexico, at about mile 495.71 on the Rio Grande.

* * * * *

1. Article 10 of the Presidential Permit Number 96–01, signed on April 12, 1996, is amended and replaced in its entirety with the following provisions:

Article 10. (1) The permittee shall provide to the General Services Administration (GSA) for the use and benefit of the United States Customs and Border Protection (CBP) and to other Federal Inspection Agencies, as appropriate, temporary inspectional facilities, at a mutually agreed upon site that are adequate and acceptable to the Federal Inspection Agencies. In providing the inspection facilities, including selection of the site, the permittee shall fully comply with all National Environmental Policy Act and National Historic Preservation Act mitigation provisions and stipulations.

(2) The permittee shall negotiate with the GSA agreements to provide the inspection facilities with such terms, conditions, covenants, and agreements mutually acceptable to the parties covering the following matters:

(i) An agreement providing for payment retroactively to July 11, 2010, until the Closing Date described in Article 10(2) (ii) for the use of all of the inspection facilities;

(ii) A Donation Agreement and Special Warranty Deed between permittee and GSA conveying a portion of the inspection facilities in fee simple to the United States of America, in satisfaction of the permittee's obligations under Article 14 of this Presidential Permit, which conveyance shall take place on or before May 31, 2013 (the ''Closing Date''); and,

(iii) a lease agreement covering all remaining real property comprising the

inspection facilities not covered by the Donation Agreement and the Special Warranty Deed, commencing on the Closing Date.

2. If for any reason permittee and GSA fail to execute and deliver any of the instruments called for under the amended Article 10(2), above, by the Closing Date, the amendment to Article 10 shall be null and void, and permittee shall continue to provide to the CBP and to other Federal Inspection Agencies, as appropriate, the inspection facilities at no cost to the Federal Government in accordance with the provisions of the original Presidential Permit.

3. Aside from the amendments to Article 10 detailed above, Presidential Permit Number 96–01, signed on April 12, 1996, remains unaltered and in effect.

IN WITNESS WHEREOF, I, Robert D. Hormats, Under Secretary of State for Economic Growth, Energy and the Environment, have hereunto set my hand this 2nd day of May, 2013 in the City of Washington, District of Columbia.

Robert D. Hormats,

Under Secretary of State for Economic Growth, Energy and the Environment.

Kevin M. O'Reilly,

Director, Office of Mexican Affairs, Bureau of Western Hemisphere Affairs, U.S. Department of State.

[FR Doc. 2013–11277 Filed 5–10–13; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0015]

2013 Temporary Closure of I–395 Just South of Conway Street in the City of Baltimore to Vehicular Traffic To Accommodate the Construction and Operation of the Baltimore Grand Prix

AGENCIES: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and Request for Comment.

SUMMARY: The Maryland Transportation Authority (MDTA) has requested FHWA approval of MDTA's proposed plan to temporarily close a portion of I–395 in Maryland (just south of Conway Street in Baltimore City) from approximately 7 p.m. on Wednesday, August 28, 2013, until approximately 6 a.m. on Tuesday, September 3, 2013. The closure is requested to accommodate the construction and operation of the Baltimore Grand Prix (BGP), which will use the streets of downtown Baltimore as a race course. The request is based on the provisions in 23 CFR 658.11 which authorizes the deletion of segments of the federally designated routes that make up the National Network designated in Appendix A of 23 CFR part 658 upon approval by the FHWA.

The FHWA seeks comments from the general public on this request submitted by the MDTA for a deletion in accordance with section 658.11(d) for the considerations discussed in this notice.

DATES: Comments must be received on or before 30 days after date of publication in the **Federal Register**.

ADDRESSES: The letter of request along with justifications can be viewed electronically at the docket established for this notice at *http://www.regulations.gov*. Hard copies of the documents will also be available for viewing at the DOT address listed below.

Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, or fax comments to (202) 493–2251. Alternatively, comments may be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov* (follow the on-line instructions for submitting comments). All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. All comments received into any docket may be searched in electronic format by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Persons making comments may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78), or you may view the statement at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Crystal Jones, Office of Freight Management and Operations, Office of Operations, (202) 366–2976, Mr. Bill Winne, Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, and Mr. Gregory Murrill, FHWA Division Administrator-DELMAR Division, (410) 962–4440. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours 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.*

Background

The FHWA is responsible for enforcing the Federal regulations applicable to the National Network of highways that can safely and efficiently accommodate the large vehicles authorized by provisions of the Surface Transportation Assistance Act of 1982, as amended, designated in accordance with 23 CFR part 658 and listed in Appendix A. In accordance with section 658.11, the FHWA may approve deletions or restrictions of the Interstate System or other National Network routes based upon specified justification criteria in section 658.11(d)(2). These deletions are then published in the **Federal Register** for notice and comment.

The MDTA has submitted a request to the FHWA for approval of the temporary closure of I–395 just south of Conway Street in the city of Baltimore from the period beginning Wednesday, August 28, 2013, at approximately 7 p.m. through Tuesday, September 3, 2013, at around 6 a.m., encompassing the Labor Day holiday. The incoming request and supporting documents, including maps, may be viewed electronically at the docket established for this notice at *http://www.regulations.gov.* This closure will be undertaken in support of the BGP which will use the streets of downtown Baltimore as a race course. The MDTA is the owner and operator of I–395 and I–95 within the city of Baltimore.

The 2013 event is expected to attract 160,000 spectators over a 3–4 day period, not including the event organizer workforce and volunteers, the racing organizations and their respective personnel, or media and vendors. Event planners expect spectators from within a 400-mile radius of the city, with a large portion traveling the I–95 corridor. It is anticipated that the attendance for the peak day (Sunday) will reach 70,000 people with most arriving by private vehicle.

The construction and operation of the race course will create safety concerns by obstructing access from the I–395 northern terminus to the local street system including Howard Street, Conway Street, and Lee Street. However, an existing connection from I–395 to Martin Luther King Jr. Boulevard will remain open throughout the event. In addition, access to and from I–95 into and out of the city along alternative access routes, including US 1, US 40, Russell Street, and Washington Boulevard will be maintained. The BGP and the city plan to update the 2012 signing plan to inform and guide motorists to, through, and around the impacted downtown area. The statewide transportation operations system, the Coordinated Highways Action Response Team will provide real-time traffic information to motorists through dynamic message signs and highway advisory radio. The MDTA states that the temporary closure of this segment of I–395 to general traffic should have no impact on interstate commerce. The I–95 is the main north-south Interstate route in the region, and will remain open during the time period of the event. There are five additional I–95 interchanges, just to the north or south of I–395, with connections to the local street system including the arterials servicing the city's downtown area. A sign and supplemental traffic control systems plan was developed as part of the 2011 event's Traffic Management Plan (TMP). In addition, I–695 (Baltimore Beltway) will provide motorists traveling through the region the ability to bypass the impact area by circling around the city.

Commercial motor vehicles of the dimensions and configurations described in 23 CFR 658.13 and 658.15 which serve the impacted area, may use the alternate routes listed above. Vehicles servicing the businesses bordering the impacted area will still be able to do so by also using the alternative routes noted above to circulate around the restricted area. In addition, vehicles not serving businesses in the restricted area but, currently using I–395 and the local street system to reach their ultimate destinations, will be able to use the I–95 interchanges north and south of I–395 to access the alternative routes. A map depicting the alternative routes is available electronically at the docket established for this notice at *http://www.regulations.gov.* The MDTA has reviewed these alternative routes and determined the routes to generally be capable of safely accommodating the diverted traffic during the period of temporary restriction. As mentioned previously, the sign and supplemental traffic control system plan is also being updated as part of the event's TMP. Commercial vehicles as well as general traffic leaving the downtown area will also be able to use the alternative routes to reach I–95 and the rest of the Interstate System. The BGP and the city are working closely with businesses, including the hotels and restaurants located within the impact area, to schedule deliveries prior to the proposed I–395 closure to the extent feasible. The BGP is also working with affected businesses to schedule delivery services during the event period. The original plan proposed a credentialing process for access through designated gates with access to specific loading areas.

This request to temporarily close I–395 was prepared for the MDTA by the BGP and the city. In addition, the city has reached out to the Federal, State, and local agencies to collaborate and coordinate efforts to address the logistical challenges of hosting the BGP. The BGP and the city have worked extensively with the businesses and residential communities in the city that could be affected by the event. These efforts include the formation of Task Forces and event Sub-Committees, to guide the development of plans for event security, transportation management, public safety and more.

The FHWA seeks comments on this request for temporary deletion from the National Network for considerations in accordance with 23 CFR 658.11(d).

Authority: 23 U.S.C. 127, 315 and 49 U.S.C. 31111, 31112, and 31114; 23 CFR Part 658.

Issued on: May 3, 2013.

Victor M. Mendez,

Federal Highway Administrator.

[FR Doc. 2013–11243 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Tier One Environmental Impact Statement for the Rochester, Minnesota to Twin Cities, Minnesota Passenger Rail Corridor

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA is issuing this notice to advise the public that FRA, the Olmsted County (Minnesota) Regional Railroad Authority (OCRRA), and the Minnesota Department of Transportation (MnDOT) will jointly prepare a Tier One Environmental Impact Statement (EIS) to evaluate potential passenger rail alternatives for the Rochester, Minnesota to Twin Cities, Minnesota Passenger Rail Corridor (the Corridor) in Olmsted, Dodge, Goodhue, Rice, Dakota, Ramsey, and Hennepin Counties in compliance with the National Environmental Policy Act of 1969 (NEPA).

The Tier One EIS will analyze environmental impacts for reasonable corridor-level passenger rail route alternatives between Rochester and the Twin Cities. The Tier One EIS will also examine passenger rail service levels, including variations in train frequency, and trip time.

FRA is issuing this Notice to invite interested parties, including the public and resource agencies, to comment about the proposed scope of the EIS; to provide information on the nature of the proposed action, including the purpose and need for the proposed action; and to invite public participation in the Tier One EIS process.

DATES: OCRRA and MnDOT will host a series of public scoping meetings beginning in Spring 2013. These meetings will occur at various locations within the Corridor and will be advertised through the project Web site, direct mailings, and press releases.

FOR FURTHER INFORMATION CONTACT: Colleen Vaughn, Environmental Protection Specialist, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., (Mail Stop 20), Washington, DC 20590, Phone: (202) 493–6096; or Dan Krom, Minnesota Department of Transportation, Passenger Rail Office, 395 John Ireland Boulevard, MS 480, St. Paul, MN 55155, Phone: (651) 366–3193. In addition, a project Web site has been established (*www.goziprail.org*), and is available to provide project related information to the general public.

SUPPLEMENTARY INFORMATION: The FRA, in cooperation with OCRRA and MnDOT, will prepare a Tier One EIS to evaluate passenger rail service improvements from Rochester, Minnesota to Twin Cities, Minnesota. The agencies will use a tiered process, as provided for in 40 CFR 1508.28 and in accordance with FRA's Procedures for Considering Environmental Impacts (64 FR 28546) (Environmental Procedures), in the completion of the environmental review. Tiering is a staged environmental review process applied to environmental reviews for

complex projects. The proposed Tier One EIS described in this Notice is a service level analysis that will examine a range of reasonable corridor route alternatives between Rochester, Minnesota and Twin Cities, Minnesota. It is anticipated that the route alternative analysis will involve a screening process to identify reasonable and feasible alternatives for evaluation in the Tier One EIS. The study has recently begun to identify conceptual alternatives for consideration. Alternatives under preliminary consideration will include an alignment of the Trunk Highway 52 corridor from Rochester to the Twin Cities; an alternative running west from Rochester and then north in the vicinity of Trunk Highway 56; and multiple alignments in both the Rochester and the Twin Cities metro areas depending on the termini identified at both ends of the corridor. Alternatives will be analyzed and made available for public comment as they are refined and more precise information can be provided. The No-Action (or No-Build) Alternative will also be considered.

The Tier One EIS will also appropriately address Section 106 of the National Historic Preservation Act (see 36 CFR part 800), Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 U.S.C. 303) and other applicable Federal and state laws and regulations. The Tier One NEPA document addresses broad overall issues of concern for corridor decisions including, but not limited to:

- Describing the purpose and need for the proposed action.
- Describing the study area appropriate to assess reasonable alternatives.
- Describing the environment potentially affected by the proposed action.
- Developing evaluation criteria to identify route alternatives that meet the purpose and need of the proposed action and those that do not.
- Identifying the range of reasonable route alternatives that satisfy the purpose and need for the proposed action.
- Developing the no-build alternative to serve as a baseline for comparison.
- Describing and evaluating the potential environmental impacts and mitigation strategies associated with the reasonable route alternatives.
- Identifying component projects for Tier Two NEPA evaluation as described below.

The Tier Two assessment(s) would address component projects of the overall rail corridor alternative selected in the Tier One EIS, and would incorporate by reference the data and evaluations included in the Tier One EIS. Subsequent Tier Two NEPA evaluations would: Concentrate on the site-specific issues and alternatives relevant to implementing component projects of the selected Tier One alternative; and identify the environmental consequences and measures necessary to mitigate environmental impacts at a site-specific level of detail.

Project Background and Study Area: Based upon travel demand and growth between the two regional centers, previous feasibility studies for the proposed Corridor have supported its independent utility to support high speed intercity passenger rail. Currently, between Rochester and the Minneapolis/St. Paul Metropolitan Area (Twin Cities), the proposed Corridor has no existing rail infrastructure south of Dakota County. OCRRA would develop new rail infrastructure with an emphasis on existing public and railroad rights-of-way utilized to the maximum extent feasible and practicable. The Corridor would be planned to be consistent with an eventual high speed intercity passenger rail connection between the Twin Cities and Chicago.

The *Minnesota Comprehensive Statewide Freight and Passenger Rail Plan* outlines steps that should be taken to accomplish the vision of a robust intrastate and interstate intercity passenger rail system. One of the steps includes developing an intrastate intercity passenger rail network connecting the Twin Cities with viable service to major outlying regional centers. The Corridor was identified as a Phase I corridor in the State Rail Plan for high-speed rail development. Significant growth in Rochester and Olmsted County has occurred over the past 50 years—long after the majority of existing rail corridors in the region had been established. The number of jobs currently supported by Rochester employers exceeds the available adult working population in the urban area, making it an economic driver for an area of roughly 2,300 square miles in southeast Minnesota, northeast Iowa, and western Wisconsin, and impacting employment as far away as the Twin Cities area. Based in Rochester, Mayo Clinic patients and visitors account for nearly 3 million visits per year, with many arriving via the Twin Cities, and travelling via US 52. Rochester also ranks as the fastest growing metropolitan area in the state, with a low unemployment rate and a relatively high per capita and household income compared to other regional centers in Minnesota.

US 52 is the main highway that connects Rochester to the Twin Cities. Further to the west, I–35 is the closest interstate highway. A traveler would need to utilize an east-west route, such as US 14, to access I–35 to make the connection to the Twin Cities. A trip by automobile between the Twin Cities and Rochester is approximately 1 hour and 30 minutes. The proposed Rochester—Twin Cities Passenger Rail service would need to offer intercity travelers a reasonable alternative to automobile travel.

Project Purpose and Need: The purpose of the project is to provide a reliable and safe passenger rail transportation alternative that will meet forecasted population and economic growth mobility demands in the Southeast Minnesota corridor between Rochester and the Twin Cities area. The system is to connect the Twin Cities and Rochester providing convenient and cost effective transportation. The project is being developed to:

- Provide intercity passenger rail service linking the regional economic center of Rochester and the Twin Cities Metropolitan Area economic hub
- Provide options for the growing population and accessibility to population centers
- Improve safety, convenience and time of travel
- Complement the plans of the Midwest Regional Rail Initiative and Minnesota Comprehensive Statewide Freight and Passenger Rail Plan

The need for expanded transportation options in this corridor is based on the following elements:

- Increase in population and employment in Rochester, the Twin Cities Metropolitan Area, and Southeast Minnesota
- Future travel demand
- Limited direct connection opportunities for the Corridor between Rochester and the Twin Cities

The development of world-class and internally recognized medical facilities in Rochester, along with its agribusiness and high-tech industrial base, makes the city a significant economic engine in the north central United States. The Twin Cities, also a base of high-tech industry, and the main transportation hub in the north central states, marks the importance of economic intercourse between these cities. Transportation connecting these cities is primarily based on the private automobile with limited commercial transportation

options. The Mayo Clinic in Rochester draws patients and their companions from around the nation and the world, and constitutes a primary need for transportation options not based on the private automobile. There is a growing need for travel, connectivity, and transportation capacity between Rochester and the Twin Cities from current and future economic growth.

Scoping Process: To ensure issues related to this proposal are addressed and any significant impacts identified, comments and suggestions regarding the scope of the Tier One EIS are invited from all interested parties. Comments and suggestions concerning the proposed action and the Tier One EIS should be directed to MnDOT at the addresses above. Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State and local agencies, Native American tribes and to private organizations who might have previously expressed or who are known to have an interest in this proposal. Federal agencies with jurisdiction by law or special expertise with respect to potential environmental issues will be invited to act as a Cooperating Agency in accordance with 40 CFR 1501.6.

MnDOT will lead the outreach activities, including public meetings, newsletters, advisory group meetings, a project Web site (*www.goziprail.org*), public open houses, stakeholder group meetings, and other methods to solicit and incorporate public input throughout the Tier One EIS process. Opportunities for public participation will be announced through the Web site, mailings, notices, advertisements, and press releases.

Issued in Washington, DC, on: May 7, 2013.

Corey Hill,

Director, Passenger and Freight Programs, Federal Railroad Administration.

[FR Doc. 2013–11307 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–06–P

FEDERAL TRANSIT ADMINISTRATION

FTA Supplemental Fiscal Year 2013 Apportionments, Allocations, and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice; Request for Comments on State Safety Oversight Apportionment.

SUMMARY: On October 16, 2012 the Federal Transit Administration (FTA) published in the **Federal Register** a Notice of FTA Transit Program Changes, Authorized Funding Levels, Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP–21) and Fiscal Year (FY) 2013 Apportionments, Allocations and Interim Guidance. The initial Notice apportioned and allocated funding pursuant to the Continuing Appropriations Resolution, 2013 (CR) that provided funds through March 27, 2013. This subsequent FY 2013 Apportionment Notice apportions the full FY 2013 funding available pursuant to the Consolidated and Further Continuing Appropriations Act, 2013 (FY 2013 Appropriations) and sequestration of funds triggered by the Balanced Budget and Emergency Deficit Control Act of 2011. This notice also provides and seeks comment on an illustrative apportionment for the State Safety Oversight (SSO) grant program and provides information on FTA's discretionary programs and forthcoming program guidance.

DATES: Comments on the SSO Grant Program must be received by June 12, 2013. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Jamie Pfister, Director, Office of Transit Programs, at (202) 366–2053 or email, *Jamie.Pfister@dot.gov*. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. A list of FTA regional offices and contact information is available on the FTA Web site under the heading ''Regional Offices'' at *http://www.fta.dot.gov*.

For SSO Grant Program information, please contact Rick Gerhart, Acting Director, Office of Safety, 1200 New Jersey Ave. SE., Washington, DC 20590, phone (202) 366–8970, or email, *Richard.Gerhart@dot.gov*.

ADDRESSES: Comments are limited to the SSO Grant Program and should be submitted by one of the methods, identifying your submissions by docket number FTA–2013–0022:

1. *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site.

2. *Fax:* (202) 493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Transit Administration'' and include docket number FTA–2013–0022. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov*.

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A. Overview

On October 1, 2012, MAP–21 (Pub. L. 112–141) authorized FTA's Public Transportation Assistance Programs for FYs 2013–2014. On October 16, 2012, FTA published an apportionments notice that apportioned the FY 2013 formula funds in an amount of approximately one-half of the FY 2012 funding level among potential program recipients pursuant to both the authorization statute and the Continuing Appropriations Resolution, 2013 (Pub. L. 112–175). (See 77 FR 63670). A copy

of the October 16, 2012 notice and accompanying tables can be found on the FTA Web site at *http://www.fta.dot.gov/apportionments*. This notice apportions funds based on the Consolidated and Further Continuing Appropriations Act, 2013 (FY 2013 Appropriations) (Pub. L. 113–6), which provides funds for the full fiscal year, and as applicable, reflects sequestration triggered by the Balanced Budget and Emergency Deficit Control Act of 2011. For FTA's formula programs, the FY 2013 Appropriations provides obligation limitation authority of $8.461 billion, $17 million less than the contract authority provided by MAP–21 in FY 2013, due to a 0.2 percent across-the-board rescission mandated by the FY 2013 full-year Appropriations Act. These funds were not subject to sequestration. The FY 2013 Appropriations also provides $142 million in FY 2013 for grants to the Washington Metropolitan Area Transportation Authority; $1.855 billion for the Capital Investment Grant Program; and $41.7 million for the Research Programs after sequestration and a 0.2 percent across-the-board rescission. In addition, this notice includes the State Safety Oversight (SSO) grant program's illustrative apportionments. FTA is seeking comment on the proposed methodology for apportioning SSO funds. It also provides additional funding information for FTA's FY 2013 discretionary programs, including the FY 2013 Capital Investment Grant (CIG) allocations.

B. FY 2013 Available Funding for FTA Programs

1. Funding Based on the Consolidated and Further Continuing Appropriations Act, 2013

The FY 2013 Appropriations Act provides $10.597 billion for FTA programs and administrative expenses in FY 2013, of which $8.461 billion is the obligation limitation available for formula programs after subtraction of an across-the-board rescission of 0.2 percent required by the appropriations act. FTA's obligation limitation is derived from the Mass Transit Account of the Highway Trust Fund and is exempt from sequestration triggered by the Balanced Budget and Emergency Deficit Control Act of 2011.

However, sequestration and 0.2 percent across-the-board rescission required by P.L. 113–6 further reduces discretionary budget authority in FY 2013 for programs funded from the General Fund of the United States Treasury by approximately 5 percent. This resulted in a $100.0 million reduction in Fixed Guideway Capital Investment Grants (CIG); a $2.3 million reduction in Research Program funds; and a $544.7 million reduction in Public Transportation Emergency Relief Program funds.[1] The specific amounts available for the CIG Program and the Research Programs are discussed in Section C below.

In order to conduct program oversight activities in accordance with 49 U.S.C. 5338(i), 0.5 percent is set aside from the amounts available to carry out the Planning Programs (section 5305); the Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program (section 5310); and the Rural Areas Formula Grants Program (section 5311). In addition, 0.75 percent is set aside from amounts made available to carry out the Urbanized Area Formula Grants Programs, and the High Intensity Fixed Guideway State of Good Repair Formula Program (section 5337(c)). Additionally, one percent of the amounts made available to carry out the CIG Program (section 5309) is set aside for oversight activities.

2. FY 2013 Formula Apportionments

FTA is publishing apportionment tables on its Web site for each program that reflects the full year less the sequestration reductions, across-the-board rescissions and oversight take-downs, as applicable. FTA is continuing to use, as it did in the partial year apportionments published in October, urbanized area and demographic data from the 2010 Census. Tables displaying the funds available to eligible states, tribes, and urbanized areas have been posted on FTA's Web site at *http://www.fta.dot.gov/apportionments*. Additional information about the specific Census data used in FTA's full year formula apportionments will be posted to FTA's Web site.

Two new formula program apportionment tables are included that previously were not available in the partial year notice. The first is the Tribal Transit Formula Program apportionments (Table 10). The full-year Tribal Transit apportionments are available for obligation. A separate **Federal Register** notice is expected to be published on May 9, 2013 that responds to comments received, provides more guidance on the Tribal Transit Program, and solicits proposals for the FY 2013 Tribal Transit Discretionary program.

The second is the illustrative State Safety Oversight (SSO) apportionments (Table 13). For FTA's SSO program under its new safety authority (section 5329), $21,945,771 (0.5 percent take-down of the amount available for urbanized areas (UZAs) under section 5307) is available for apportionment. This amount will be apportioned according to a formula for SSO grants as determined by FTA. FTA is soliciting comments on the proposed formula in response to this notice. Specific questions on which FTA is soliciting comment can be found in Section III.B.iii of this notice. These funds will be available for obligation once the final formula is established to apportion them. FTA will respond to comments and publish the final formula allocations in a subsequent notice.

In addition, FTA updated Table 3A, ''Section 5307 Operating Assistance Special Rule Operator Caps,'' for the systems in large urbanized areas. The calculation of the operating assistance caps in Table 3–A has been updated to include additional information received since the original table was published. First, additional qualifying agencies have been identified based on fixed route bus service that was not previously included in the calculations. Second, FTA is attributing vehicle revenue hours reported by private transit operators that receive funding from an eligible FTA grantee toward the calculation of an operating cap for the relevant grantee. Third, FTA has refined the availability and allocation of formerly rural public transportation service within the new 2010 Census urbanized area boundaries, resulting in modifications to the overall service data used in the calculations of operating caps. This may increase or decrease the share of a UZA's vehicle revenue hours attributed to a particular agency. For questions about these calculations, contact Adam Schildge at *adam.schildge@dot.gov*.

3. FY 2013 Discretionary Program Funds

i. Notices of Funding Availability

Pursuant to the information published in the October 16 **Federal Register** notice, MAP–21 authorized several discretionary grant programs, such as the Transit-Oriented Development (TOD) Planning Pilot Program, Low or No Emissions Bus and Facilities Program, Tribal Transit Discretionary Program, and Passenger Ferry Program. FTA will publish individual Notices of Funding Availability (NOFAs) for these programs in the coming months now that the full-year appropriations are available. NOFAs will be posted in

[1] MAP–21 authorized a new Public Transportation Emergency Relief Program beginning in FY 2013. The Disaster Relief Appropriations Act, 2013, (Pub. L. 113–2) provided appropriations for that program for the purpose of funding emergency response and recovery activities in the wake of Hurricane Sandy.

Grants.Gov and on FTA's Web site once published in the **Federal Register**.

ii. Research Program Funding

After taking into consideration sequestration and the 0.2 percent across-the board rescission, the FY 2013 Appropriations provides approximately $41.7 million for Research program activities of which $33.2 million are available to carry out Research, Development, Demonstration, and Development projects under 49 U.S.C. 5312, as amended by MAP–21.

iii. FY 2013 Fixed Guideway Capital Investment Grant Program Allocations

The Fixed Guideway Capital Investment Grant (CIG) Program (49 U.S.C. 5309), which historically authorizes the New and Small Starts Programs and now includes the Core Capacity Improvement Program, is excluded from the NOFA process because the program has an ongoing project development and review process, and funding is allocated consistent with information already available to FTA. By way of this notice, however, FTA is publishing the FY 2013 CIG Allocations table (Table 7) to its Web site. Subsequent to sequestration and the 0.2 percent across-the-board rescission and after the oversight take-down, $1.836 billion is available for the CIG Program. These allocations were also published in the FY 2014 Annual Report on Funding Recommendations CIG Program (formerly referred to as the Annual New Starts Report) on April 12, 2013.

iv. Washington Metropolitan Area Transportation Authority (WMATA) Allocation

FY 2013 Appropriations also provides a discretionary allocation of $142.2 million in FY 2013 for grants to the Washington Metropolitan Area Transportation Authority after taking into consideration sequestration and the 0.2 percent across-the board rescission.

v. FY 2012 Transit in the Parks Allocations

FTA also recently posted a revised FY 2012 Transit in the Parks discretionary allocation table to its Web site (*www.fta.dot.gov/apportionments*) to correct the table printed in the **Federal Register** on February 18, 2013, which inadvertently left off selected projects.

C. State Safety Oversight (SSO) Program

1. Available Funding

Section 5336(h)(4) of 49, U.S.C., provides that 0.5 percent of amounts made available to provide financial assistance for urbanized areas under 49 U.S.C. 5307 shall be apportioned to eligible States under the FTA SSO Program. Therefore, $21,945,771 is available to be used by eligible States to develop or carry out SSO program activities described in 49 U.S.C. 5329(e). Grant funds may be used for program operational and administrative expenses, including employee training activities.

2. Proposed Formula Apportionment

Congress directed FTA to develop a formula to apportion the SSO Program funds to States that takes into account fixed guideway vehicle revenue miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway public transportation systems (operator) not subject to regulation by the Federal Railroad Administration (FRA) within each eligible State.

i. Proposed Tiers

The proposed formula incorporates these service measures in a ''Service Tier'' and also includes the use of two other tiers, a ''Base Tier'' and an ''Oversight Complexity Tier.'' FTA proposes to apportion the majority of funds, sixty percent (60%), through the Service Tier: Fifteen percent (15%) based on vehicle passenger miles (PMT), fifteen percent (15%) based on vehicle revenue miles (VRM), and thirty percent (30%) based on directional route miles (DRM) for rail modes not regulated by FRA as reported to the National Transit Database (NTD). The proposed Base Tier allocates twenty percent (20%) of program funding equally among the eligible States and is designed to ensure that each eligible State receives a minimum funding level for its SSO program. FTA proposes to apportion the remaining twenty percent (20%) of funds through an Oversight Complexity Tier, which reflects the additional oversight activities and technical complexity associated with overseeing each distinct rail mode at each operator. The proposed Oversight Complexity Tier measure is the number of rail modes (e.g., light rail, heavy rail, etc.) not regulated by the FRA as reported to the NTD or in the engineering or construction phase of development by each operator.

Additionally, FTA proposes to apply a fifteen percent cap to each Service Tier factor to ensure a fair and equitable distribution of funds so that no State receives more than fifteen percent of the funds available for any Service Tier factor.

A flow chart to explain the illustrative formula is available here: *http://www.fta.dot.gov/12853_14910.html.* Additionally, the following table depicts the basic tier structure and the amounts apportioned through each factor.

TABLE 1—PROPOSED FORMULA FACTORS AND PERCENT APPORTIONED THROUGH EACH FACTOR

Service tier factors (60%) [1]	Base tier factor (20%)	Oversight complexity tier factor (20%)
PMT Factor (15%) ..... VRM Factor (15%). DRM Factor (30%) as reported to the NTD.	Equal amount per eligible State	Number of Rail Modes at each Rail Fixed Guideway Public Transportation System not regulated by FRA as reported to the NTD or in the engineering or construction phase of development.

[1] FTA proposes a 15 percent cap on each factor within the Service Tier.

ii. Proposed Apportionments To Oversee Multi-State Rail Fixed Guideway Public Transportation Systems (Operators)

Where an operator serves multiple States, FTA proposes that the funding be apportioned to the eligible State where the operator is headquartered. The amount apportioned to each eligible State in the Base Tier, however, would be unaffected by multi-state operators. The eligible State to which funds are apportioned would be responsible for carrying out the grant program responsibilities. States served by the multi-state operator are expected to support the oversight program as specified in the States' existing local funding and oversight agreement, which is necessary to support the local match

requirements and other needs of the served States.

The proposed approach would reduce the number of grant agreements, lessen the eligible States' grant administration burden, ensure all Federally-funded SSO program activities are in one grant and eliminate the possibility of duplication. FTA seeks comment on this approach.

iii. Soliciting Comments

In establishing the SSO Program, FTA is proposing to use a formula to allocate the funds to eligible States as described in the preceding sections. While the proposed formula is primarily driven by the Service Tier factors, it also seeks to support even the smallest SSO programs. The proposed formula also recognizes that both the number of operators and the number of rail modes affects SSO Program activity and technical capability demands. As such, FTA seeks comment on the following six questions:

a. Should FTA include a Base Tier Factor, and is this share appropriate?

b. Should FTA include an Oversight Complexity Tier Factor as presented?

c. Should FTA include rail fixed guideway public transportation systems in the engineering or construction phase of development in the Oversight Complexity Tier?

d. Are the Service Tier factors appropriately weighted?

e. Should FTA include a 15 percent cap on each Service Tier factor, and are they weighted appropriately?

f. Should FTA apportion multi-state operator funding to the eligible State in which the operator is headquartered?

Instructions for submitting comments to the FTA docket for the SSO program illustrative apportionment are found in the beginning of this notice in the ''Addresses'' section. Comments must be filed by June 12, 2013. Late-filed comments will be considered to the extent practicable.

3. Steps To Enhance Readiness for SSO Grant Application and Certification Processes

There are steps that the eligible States and existing State Safety Oversight Agencies (SSOAs) should take to enhance their readiness for the forthcoming grant application and certification processes. FTA strongly encourages eligible States and existing SSOAs begin this process now. To support eligible States and SSOAs in this process, FTA offers the following recommendations:

- *Identify State grant recipient:* FTA must make SSO program grants to eligible States. Governors will need to identify the State agency that will be the recipient for these program funds. This will be accomplished through a letter to the appropriate FTA Regional Administrator. A listing of FTA Regional Offices and full contact information is available at *http://www.fta.dot.gov/.*
- *Coordinate with the FTA Regional Office:* If the identified grant recipient is not an existing FTA recipient, it will be necessary for the identified grant recipient to work with the appropriate FTA Regional Office to be established as a new FTA recipient. The FTA Regional Office will identify the specific activities necessary to become established as an FTA recipient. If the identified grant recipient is an existing FTA recipient, the existing recipient should also coordinate with the FTA Regional Office to determine if any additional information or activities are required in relation to the new SSO grant program.
- *Identify sufficient and appropriate matching funds:* Eligible States are required to provide a twenty percent (20%) match for FTA-funded SSO program activities. While the formula provided in this notice is merely illustrative, each eligible State should be prepared to identify its matching funds. Federal funds, funds received from a public transportation agency, and revenues earned by a public transportation agency may not be used to satisfy this match.
- *Complete FTA's Self-Assessment and Gap Analysis Form:* To help eligible States identify the activities necessary to meet MAP–21 statutory requirements, FTA has prepared a self-assessment and gap analysis form, which is available on FTA's Web site at *http://www.fta.dot.gov/tso.html.* While completion of this form is currently optional, FTA strongly urges each eligible State to complete and upload the form and any supporting materials to the link posted on FTA's Web site. This information will assist FTA and the eligible State to identify issues to be resolved through the 49 U.S.C. 5329(e)(7)(A) certification process. The gaps identified will assist the eligible State and/or existing SSOA to develop a preliminary plan with strategies for achieving a clear and workable transition to meeting the new SSO Program requirements. FTA will review these plans and make grants that support each State's transitional and existing SSOA activities. The plan will need to demonstrate how the State will meet statutory requirements, including those related to adequate staffing and technical capabilities, as well as the safety enforcement authority and legal and financial independence of the SSOAs. FTA's grant application process will require States to identify completion milestones and a project budget for each grant activity. As such, FTA strongly encourages eligible States and existing SSOAs to begin to identify likely timeframes and budgets for these transitional activities.

4. Certification of State Safety Oversight (SSO) Programs

As required by MAP–21 and as part of FTA's new safety authority, FTA must determine by October 1, 2013 whether each SSO Program is in compliance with the statutory requirements for oversight of the rail fixed guideway public transportation systems within that eligible State, and whether that eligible State's program ''is adequate to promote the purposes of safety in public transportation.'' *See* 49 U.S.C. 5329(e)(7)(A). FTA must issue a certification for the eligible State's program or if the program is not adequate, FTA must issue a denial of certification for the eligible State's program. If FTA issues a denial of certification, FTA must explain in writing the reasons and allow the eligible State an opportunity to modify and resubmit its program for certification. *See* 49 U.S.C. 5329(e)(7)(B), (C).

The grant award and certification processes are considered separate and distinct from each other. While grants may be awarded prior to certification to support initial development and implementation of enhanced SSO programs, States will need to provide explicit transition plans that include milestones to receive these funds.

To continue to receive future SSO program funding, States will need to demonstrate satisfactory progress towards meeting MAP–21 requirements as described in their own transition plans. FTA will issue or deny certification based on a rigorous review of progress made on the SSO transition milestones. FTA plans to work individually with each eligible State on the preparation of adequate transition plans which must be completed to receive grant funding.

An SSOA currently in compliance with FTA's regulations at 49 C.F.R. Part 659 may use its existing SSO Plan as a basis for seeking an FTA certification of an eligible State's program. However, it is the sole prerogative of FTA to determine whether that plan will suffice for purposes of meeting the new and more stringent requirements of 49 U.S.C. 5329(e). Although an existing SSOA may be the most likely agency to be chosen to meet the new statutory

requirements, an eligible State may choose to create a new agency, or make other arrangements, for purposes of strengthening its oversight of rail public transportation systems and complying with the requirements of MAP–21. These possibilities will be the subject of discussion between FTA and each of the eligible States obliged to comply with 49 U.S.C. 5329(e).

D. FTA Program Guidance and Requirements FY 2013

As a result of the MAP–21 authorization and in addition to regulatory activities, FTA is in the process of updating program circulars to reflect MAP–21 changes and provide guidance for new and existing programs. Below is a chart of expected publication dates for the program circulars. FTA will be publishing the circulars for notice and comment, with final publication expected by the beginning of FY 2014. In the interim, existing program circulars combined with the interim guidance in the October 16, 2012 apportionment notice can be used to administer the programs. FTA's electronic grant management system and financial systems have both been updated to reflect new programs and new codes provided by MAP–21. If there are additional questions about the major formula programs or grants, please contact your regional office.

Program	Expected publication date (for notice and comment)
Urbanized Area Formula Grant Program (Section 5307)	*April 22, 2013 (actual).*
Enhanced Mobility for Seniors and Individuals With Disabilities (Section 5310)	Spring 2013.
Rural Areas Formula Program (Section 5311)	Spring 2013.
State of Good Repair Formula Program (Section 5337)	Summer 2013.
Bus and Bus Facilities Formula Program (Section 5339)	Summer 2013.

E. Corrections

In the October 16, 2012 **Federal Register**, there was a typo in the State of Good Repair (49 U.S.C. 5337) program-specific section (*section IV, ''Program Specific Information, P. 3. Basis for Formula Apportionment''*) regarding how FTA intended to apportion funds for this program. The section accidentally included a reference to 5339. The corrected sentence should read: ''. . . *FTA will apportion section correction: 5337 funds to the section 5307 Designated Recipient for the UZA) with fixed guideway transportation systems operating at least 7 years.*''

In addition, FTA published an incorrect period of availability for the Formula Grants to Rural Areas Program (49 U.S.C. 5311) *(section IV. ''Program Specific Information, F–I., 5. Period of Availability''*). The correct period of availability for this program is three years, including the year in which the funds are apportioned. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2015 will revert to FTA for reapportionment under the Formula Grants to Rural Areas Program.

This period of availability applies to all of the section 5311 formula apportionments (e.g. Rural Technical Assistance Program, Appalachian Development Assistance Program, and Tribal Transit Formula program) that are within the Rural Areas program.

Issued in Washington, DC, this 8th day of May 2013.

Peter Rogoff,

Administrator.

[FR Doc. 2013–11258 Filed 5–10–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full Nissan North America, Inc.'s (Nissan) petition for exemption of the Infiniti QX60 (formerly known as the Infiniti JX) vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

DATES: The exemption granted by this notice is effective beginning with the 2014 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–302, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: In a petition dated November 29, 2012, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541) for the MY 2014 QX60 vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one vehicle line per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Infiniti QX60 vehicle line. Nissan will install its passive transponder-based, electronic immobilizer antitheft device as standard equipment on its Infiniti QX60 vehicle line beginning with MY 2014. Major components of the antitheft device will include a body control module/immobilizer control (BCM), an immobilizer antenna, security indicator light, electronic immobilizer and an engine control module (ECM). Nissan will also install an audible and visible alarm system on the Infiniti QX60 as standard equipment. Nissan stated that activation of the immobilization device occurs when the ignition is turned to the ''OFF'' position and all the doors are closed and locked through the use of the key or the remote control mechanism. Deactivation occurs when all the doors are unlocked with the key or remote control mechanism. Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Nissan stated that the immobilizer device prevents normal operation of the vehicle without use of a special key.

Specifically, Nissan stated that when the brake switch or clutch switch is on and the vehicle's key fob is near the engine start switch, the body control module generates an electric field between the immobilizer antenna and the microchip incorporated in the ignition key. The microchip then transmits the ''key-ID'' by radio wave and is received by the antenna, amplified and transmitted to the BCM. The ECM then requests the BCM to start the encrypted communication. If the encrypted code is correct, the BCM sends an ''OK-code'' and encrypted code to the ECM. If the code is not correct, the immobilizer control unit sends a ''NG-code'' to the ECM. The ECM then correlates the received encrypted code with the previously determined encrypted code. If the code is correct, the ECM allows the engine to keep running and if the code is incorrect, the ECM will render the engine inoperable.

Nissan further stated that incorporation of the theft warning alarm system into its device is designed to protect the belongings within the vehicle and the vehicle itself from being stolen when the back door and all of the side doors are closed and locked. If any of the doors are unlocked through an inside door lock knob or any attempts are made to reconnect the device after it has been disconnected, the device will also activate the alarm. Nissan stated that upon alarm activation, the head lamps will flash and the horn will sound, and deactivation of the alarm can occur only by unlocking the driver's side door with the key or the remote control device.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of the device. Nissan stated that its antitheft device is tested for specific parameters to ensure its reliability and durability. Nissan provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test. Nissan further stated that its immobilizer device satisfies the European Directive ECE R116, including tamper resistance, and that all control units for the device are located inside the vehicle, providing further protection from unauthorized accessibility of the device from outside the vehicle.

Nissan provided data on the effectiveness of the antitheft device installed on its Infiniti QX60 vehicle line in support of the belief that its antitheft device will be highly effective in reducing and deterring theft. Nissan referenced the National Insurance Crime Bureau's data which it stated showed a 70% reduction in theft when comparing the MY 1997 Ford Mustang (with a standard immobilizer) to the MY 1995 Ford Mustang (without an immobilizer). Nissan also referenced the Highway Loss Data Institute's data which reported that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Additionally, Nissan stated that theft rates for its Pathfinder vehicle experienced reductions from model year (MY) 2000 to 2001 with implementation of the engine immobilizer device as standard equipment and further significant reductions subsequent to MY 2001. Specifically, Nissan noted that the agency's theft rate data for MY's 2001 through 2006 (with immobilizer device) showed a theft rate experience for the Nissan Pathfinder of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474 respectively.

In support of its belief that its antitheft device will be as effective as compliance with the parts marking requirements in reducing and deterring vehicle theft, Nissan compared its device to other similar devices previously granted exemptions by the agency. Specifically, it referenced the agency's grant of full exemptions to General Motors Corporation for its Buick Riviera and Oldsmobile Aurora vehicle lines (58 FR 44872, August 25, 1993) and its Cadillac Seville vehicle line (62 FR 20058, April 24, 1997) from the parts-marking requirements of the theft prevention standard. Nissan stated that it believes that since its device is functionally equivalent to other comparable manufacturers' devices that have already been granted parts-marking exemptions by the agency, along with the evidence of reduced theft rates for vehicle lines equipped with similar devices and advanced technology of transponder electronic security, the Nissan immobilizer device will have the potential to achieve the level of effectiveness equivalent to those vehicles already exempted the agency.

Based on the supporting evidence submitted by Nissan on the device, the agency believes that the antitheft device for the Infiniti QX60 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device for the Nissan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Nissan Infiniti QX60 vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2014 model year vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft

device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 6, 2013.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–11191 Filed 5–10–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Form 2032

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 2032, Contract Coverage Under Title II of the Social Security Act.

DATES: Written comments should be received on or before July 12, 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 Kerry Dennis at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 927–9368, or through the internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Contract Coverage Under Title II of the Social Security Act.

OMB Number: 1545–0137.

Form Number: 2032.

Abstract: U.S. citizens and resident aliens employed abroad by foreign affiliates of American employers are exempt from social security taxes. Under Internal Revenue Code section 3121(l), American employers may file an agreement on Form 2032 to waive this exemption and obtain social security coverage for U.S. citizens and resident aliens employed abroad by their foreign affiliates. The American employers can later file Form 2032 to cover additional foreign affiliates as an amendment to their original agreement.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 160.

Estimated Time per Respondent: 6 hours, 48 minutes.

Estimated Total Annual Burden Hours: 973.

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: May 1, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11217 Filed 5–10–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Form 5498.

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 5498, IRA Contribution Information.

DATES: Written comments should be received on or before July 12, 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 Kerry Dennis, (202) 927–9368, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRA Contribution Information.

OMB Number: 1545–0747.

Form Number: 5498.

Abstract: Form 5498 is used by trustees and issuers to report contributions to, and the fair market value of, an individual retirement arrangement (IRA). The information on the form will be used by IRS to verify

compliance with the reporting rules under regulation section 1.408–5 and to verify that the participant in the IRA has made the contribution for which he or she is taking a deduction.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Number of Responses: 114,900,000.

Estimated Time per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 47,109,000.

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 30, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11207 Filed 5–10–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Health and Human Services

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa-10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated her responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at Section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa-12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Due to an administrative delay, set forth below is a list of petitions received by HRSA on October 1, 2008 through December 31, 2008 and April 1, 2009 through March 13, 2013. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Vaccine Injury Compensation Program, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (*Petitioner's Name* v. *Secretary of Health and Human Services*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: May 6, 2013.

Mary K. Wakefield,

Administrator.

List of Petitions Filed

1. Teri and Jesse Taylor on behalf of Jacob Lee Taylor, Garden City, New York, Court of Federal Claims No: 08–0698V.

2. Tawnya Mason on behalf of Taylor Mason, Kansas City, Missouri, Court of Federal Claims No: 08–0699V.

3. Lorine Johnson on behalf of Aidan Johnson, Reno, Nevada, Court of Federal Claims No: 08–0701V.

4. Linda Valdez on behalf of Kaitlynn Valdez, Austin, Texas, Court of Federal Claims No: 08–0702V.

5. Kristie Tauer, Sleepy Eye, Minnesota, Court of Federal Claims No: 08–0703V.

6. Misty Thompson on behalf of Isaiah Thompson, Louisville, Kentucky, Court of Federal Claims No: 08–0704V.

7. Jacklyn Brownell, Syracuse, New York, Court of Federal Claims No: 08–0705V.

8. Joann and Jay Clemmons on behalf of Christopher Clemmons, Covington, Kentucky, Court of Federal Claims No: 08–0706V.

9. Coleen Clark on behalf of Ryan Clark, Williamsville, New York, Court of Federal Claims No: 08–0707V.

10. Lisa and Tom Driscoll, Maplewood, New Jersey, Court of Federal Claims No: 08–0712V.

11. William Bond, Aberdeen, Maryland, Court of Federal Claims No: 08–0713V.

12. Joyce and Greg Wiatt on behalf of Emily Wiatt, Prescott, Arizona, Court of Federal Claims No: 08–0714V.

13. Rosanne Funk, Juneau, Alaska, Court of Federal Claims No: 08–0715V.

14. Kerrie and James W. Lloyd on behalf of James Lloyd, Irvine, California, Court of Federal Claims No: 08–0716V.

15. Ann Dalsin and Gary Mintz on behalf of Declan Mintz, Walnut Creek, California, Court of Federal Claims No: 08–0719V.

16. Alysia and David Peddy on behalf of David Pierce Peddy, Lakeland, Florida, Court of Federal Claims No: 08–0720V.

17. Patricia Davis, Haleiwa, Hawaii, Court of Federal Claims No: 08–0722V.

18. Lisa Marks-Smith, Cincinnati, Ohio, Court of Federal Claims No: 08–0723V.

19. Ida Mosley, Sebring, Florida, Court of Federal Claims No: 08–0724V.

20. Susan and Greg Walczyk on behalf of Nolan Anthony Walczyk, Orchard Park, New York, Court of Federal Claims No: 08–0725V.

21. Ella and James Hall on behalf of Gabriel Hall, Sebring, Florida, Court of Federal Claims No: 08–0727V.

22. Wilber Raymond on behalf of David Raymond, Arlington, Texas, Court of Federal Claims No: 08–0728V.

23. Nichole Shook and Odlin Odige, Sr. on behalf of Odlin Odige, Jr., Deceased, Tampa, Florida, Court of Federal Claims No: 08–0732V.

24. Nadezhda Petrovna Schwartz on behalf of David Michael Schwartz, Canton, Illinois, Court of Federal Claims No: 08–0733V.

25. Donna J. Bumbalough, Oliver Springs, Tennessee, Court of Federal Claims No: 08–0735V.

26. Brian McIntosh, New York, New York, Court of Federal Claims No: 08–0736V.

27. Myron B. Goldstein on Behalf of Gordon K. Rosenberg, Deceased, Lincolnwood, Illinois, Court of Federal Claims No: 08–0739V.

28. David Glover, Charlotte, North Carolina, Court of Federal Claims No: 08–0740V.

29. Aimee Pellegran, Riverview, Florida, Court of Federal Claims No: 08–0741V.

30. Richard Williams-O'Banion, Boston, Massachusetts, Court of Federal Claims No: 08–0743V.

31. Sandra Stinson, Benson, Arizona, Court of Federal Claims No: 08–0744V.

32. Kara McLaughlin, Austin, Texas, Court of Federal Claims No: 08–0747V.

33. Charlene Y. Vaughn, Pasadena, California, Court of Federal Claims No: 08–0748V.

34. Enjoli Graves on behalf of Emma Olivia Graves, Alexandria, Louisiana, Court of Federal Claims No: 08–0750V.

35. Patricia Dandurand, West Springfield, Massachusetts, Court of Federal Claims No: 08–0751V.

36. Jane Doe/83, Stony Brook, New York, Court of Federal Claims No: 08–0753V.

37. Mariah and Lewis Sauls on behalf of Kaden Sauls, Brooklyn, New York, Court of Federal Claims No: 08–0755V.

38. Christal Scott on behalf of Tristan Fronterhouse, Irving, Texas, Court of Federal Claims No: 08–0756V.

39. Petra Murry on behalf of Tyler Paige Lacy, Bayside, California, Court of Federal Claims No: 08–0759V.

40. James and Barbara Majeski on behalf of Maxwell Augustus Majeski, Princeton, New Jersey, Court of Federal Claims No: 08–0760V.

41. John B. Barrett, Wichita, Kansas, Court of Federal Claims No: 08–0761V.

42. Wendy N. Strand on behalf of Amaya Rebecca Covin, Brick, New Jersey, Court of Federal Claims No: 08–0763V.

43. Rechelle Decker on behalf of Kyah Decker, Wysox, Pennsylvania, Court of Federal Claims No: 08–0764V.

44. Melissa and Daniel Dalgety on behalf of Robert Dalgety, East Syracuse, New York, Court of Federal Claims No: 08–0765V.

45. Betty and Dan Blaha on Behalf of Aidan Blaha, Cleveland, Ohio, Court of Federal Claims No: 08–0766V.

46. Margaret and Scott Heit on behalf of Ryan Heit, Philadelphia, Pennsylvania, Court of Federal Claims No: 08–0772V.

47. Patrick Sherritt, Logan, Ohio, Court of Federal Claims No: 08–0773V.

48. Betty and Dan Blaha on behalf of Zachary Blaha, Cleveland, Ohio, Court of Federal Claims No: 08–0774V.

49. William Hobbs, Bay Pines, Florida, Court of Federal Claims No: 08–0775V.

50. Dennis Harborth, New Braunfels, Texas, Court of Federal Claims No: 08–0777V.

51. Mr. and Mrs. Charley Jacobs on behalf of Makai Alexander Jacobs, Richmond, Virginia, Court of Federal Claims No: 08–0780V.

52. Melissa D. Parsley on behalf of Corey Parsley, Prestonsburg, Kentucky, Court of Federal Claims No: 08–0781V.

53. Lyn McMahon, Shawnee Mission, Kansas, Court of Federal Claims No: 08–0785V.

54. John Gerard, Muskegon, Michigan, Court of Federal Claims No: 08–0786V.

55. Nancy Ferguson, Marion, Indiana, Court of Federal Claims No: 08–0789V.

56. Suzanne and Michael A. LeBrun on behalf of Alexander J. LeBrun, Laguna Niguel, California, Court of Federal Claims No: 08–0790V.

57. Kimberly and Brian Long on behalf of Brennan Connor Long, Louisville, Kentucky, Court of Federal Claims No: 08–0792V.

58. Margaret and Douglas Colafella on behalf of Jack D. Colafella, Pittsburgh, Pennsylvania, Court of Federal Claims No: 08–0793V.

59. Melissa B. and Bryan K. Wood on behalf of Mathew William Wood, Keller, Texas, Court of Federal Claims No: 08–0794V.

60. Becky Edwards, Grand Rapids, Minnesota, Court of Federal Claims No: 08–0796V.

61. Augustus Motta, Norristown, Pennsylvania, Court of Federal Claims No: 08–0797V.

62. David P. Welsh, Atlantic City, New Jersey, Court of Federal Claims No: 08–0798V.

63. Rebecca Crosby on behalf of Ethan Crosby, Pullman, Washington, Court of Federal Claims No: 08–0799V.

64. David Panzirer on behalf of Morgan Panzirer, Mount Kisco, New York, Court of Federal Claims No: 08–0800V.

65. Tracy Rose on behalf of Carter Rose, Collinsville, Illinois, Court of Federal Claims No: 08–0801V.

66. Amy McKenzie on behalf of Grant McKenzie, Clinton TWP, Michigan, Court of Federal Claims No: 08–0803V.

67. Lauren Lynch, LVN, Weatherford, Texas, Court of Federal Claims No: 08–0805V.

68. Lisa Flynn on behalf of Brock Flynn, Mokena, Illinois, Court of Federal Claims No: 08–0807V.

69. Carlette and Andre Lesure on behalf of Demetrius Lesure, Lawrenceville, Georgia, Court of Federal Claims No: 08–0809V.

70. Sanford Betz, Lakeland, Florida, Court of Federal Claims No: 08–0810V.

71. Cynthia Brownell, Amsterdam, New York, Court of Federal Claims No: 08–0814V.

72. Stuart Prindle, Salisbury, Connecticut, Court of Federal Claims No: 08–0815V.

73. Viletta and Richard Coombs on behalf of Richard Wayne Coombs, III Tallahassee, Florida, Court of Federal Claims No: 08–0818V.

74. Jessica Mura, Savannah, Georgia, Court of Federal Claims No: 08–0819V.

75. Alp Can and June Sayali on behalf of Matthew Can, Union City, New Jersey, Court of Federal Claims No: 08–0823V.

76. David Roca, Fremont, Ohio, Court of Federal Claims No: 08–0824V.

77. David Joseph Fey, Twentynine Palms, California, Court of Federal Claims No: 08–0828V.

78. Neda Abdelhamid on behalf of Hatem F. Abdeljaber, Loma Linda, California, Court of Federal Claims No: 08–0829V.

79. Janet Leger, Irvine, California, Court of Federal Claims No: 08–0831V.

80. Nancy L. Ellis, Owensboro, Kentucky, Court of Federal Claims No: 08–0833V.

81. Tamara Capriola on behalf of Charles Capriola, Deceased, Albany, New York, Court of Federal Claims No: 08–0835V.

82. Alexandra and Thomas H. Ripley on behalf of America Elizabeth Ripley,

Annapolis, Maryland, Court of Federal Claims No: 08–0836V.

83. Alexandra and Thomas H. Ripley on behalf of Morgan Starr Ripley, Annapolis, Maryland, Court of Federal Claims No: 08–0837V.

84. Sharyn Schroepfer on behalf of Marvin Schroepfer, Deceased, Minneapolis, Minnesota, Court of Federal Claims No: 08–0838V.

85. Sidney Ginsberg, Delray Beach, Florida, Court of Federal Claims No: 08–0843V.

86. Tracy Lara on behalf of Carlos Lara, Enfield, Connecticut, Court of Federal Claims No: 08–0845V.

87. Amy and Livio Saimovici on behalf of Kara Saimovici, Larchmont, New York, Court of Federal Claims No: 08–0846V.

88. Emily and David Steinau on behalf of Zoey Ann Steinau, Orange Park, Florida, Court of Federal Claims No: 08–0849V.

89. Melissa and Daniel Dalgety on behalf of Charles Dalgety, East Syracuse, New York, Court of Federal Claims No: 08–0854V.

90. Donna and Joseph Bersani, West Bridgewater, Massachusetts, Court of Federal Claims No: 08–0855V.

91. Linda Valdez on behalf of Jennifer Valdez, Austin, Texas, Court of Federal Claims No: 08–0856V.

92. Brennen C. Lee, San Diego, California, Court of Federal Claims No: 08–0857V.

93. Mary and Aaron Bornstein on behalf of Cameron Bornstein, Manchester, Connecticut, Court of Federal Claims No: 08–0858V.

94. Barbara Jenkins Spires and Dereck Spires on behalf of Jaren Spires, Bronx, New York, Court of Federal Claims No: 08–0859V.

95. Jacqueline and Mark Smith on behalf of Kaylea E. Smith, Baraboo, Wisconsin, Court of Federal Claims No: 08–0863V.

96. Lisa Smith, Asheboro, North Carolina, Court of Federal Claims No: 08–0864V.

97. Anthony Calise on behalf of Lisa Calise, Deceased, Greenville, North Carolina, Court of Federal Claims No: 08–0865V.

98. Terri S. and Michael D. Holliday on behalf of Joshua Jason Holliday, Bloomington, Illinois, Court of Federal Claims No: 08–0866V.

99. Dana and Kelly Hall on behalf of James Cameron Hall, Park City, Kentucky, Court of Federal Claims No: 08–0867V.

100. Timothy P. Boisvert on behalf of Colin Boisvert, Plantation, Florida, Court of Federal Claims No: 08–0868V.

101. Edna and Keith Knott on behalf of William H. Knott, Tuolumne, California, Court of Federal Claims No: 08–0873V.

102. Violet Smith, Lemoore, California, Court of Federal Claims No: 08–0874V.

103. Laura and Kenneth J. Ashman on behalf of S. A., Glenview, Illinois, Court of Federal Claims No: 08–0880V.

104. Martha Sue Bradley, Harrison, Tennessee, Court of Federal Claims No: 08–0881V.

105. Jackeline Mora Angarita and Luis Vergara on behalf of John Alejandro Vergara, Miami, Florida, Court of Federal Claims No: 08–0882V.

106. Sonia Hylton on behalf of Valencia Hylton, Bronx, New York, Court of Federal Claims No: 08–0885V.

107. Tammy and Tony Goettl on behalf of Spencer Goettl, Waupaca, Wisconsin, Court of Federal Claims No: 08–0886V.

108. Chelvi Selvanayagam and Kengatharan Sivalingam on behalf of Deepan Sivalingam, Dunwoody, Georgia, Court of Federal Claims No: 08–0891V.

109. Timothy Lloyd Knight on behalf of Timothy James Knight, Greenwood, Indiana, Court of Federal Claims No: 08–0893V.

110. Marvel Morgan, Ottawa, Kansas, Court of Federal Claims No: 08–0894V.

111. Jodie and William Fedorka on behalf of Abagail Fedorka, Lexington, South Carolina, Court of Federal Claims No: 08–0897V.

112. Eric Witten, Ft. Worth, Texas, Court of Federal Claims No: 08–0900V.

113. Dawn Baily, Somers Point, New Jersey, Court of Federal Claims No: 08–0901V.

114. Aurthline Sylvia Ivey, Douglasville, Georgia, Court of Federal Claims No: 08–0903V.

115. Jessica Neff, St. Charles, Missouri, Court of Federal Claims No: 08–0906V.

116. Ndu and Mgbedinihu Ukaegbu on behalf of Patrick Ukaegbu, New Rochelle, New York, Court of Federal Claims No: 08–0908V.

117. Chameka Taylor on behalf of L.T., Memphis, Tennessee, Court of Federal Claims No: 08–0909V.

118. Michelle and Joseph Amabile on behalf of a minor child, Chicago, Illinois, Court of Federal Claims No: 08–0912V.

119. Laura and Louie Bruening on behalf of Michael Bruening, New York, New York, Court of Federal Claims No: 08–0913V.

120. Kenneth Chappell, Lubbock, Texas, Court of Federal Claims No: 08–0914V.

121. Laura A. and Chad A. Aeschlimann on behalf of Tanner Reed Aeschlimann, Okinawa, Japan, Court of Federal Claims No: 08–0915V.

122. Kristy and Sean LeFever on behalf of Emma LeFever, Grosse Point, Michigan, Court of Federal Claims No: 08–0916V.

123. Robyn J. Griffith on behalf of Michael J. Griffith, Sparks, Nevada, Court of Federal Claims No: 08–0918V.

124. Christina Bellon on behalf of Brittany LeClair, Dunnellon, Florida, Court of Federal Claims No: 08–0919V.

125. William Thomas Boykin on behalf of his wife, Jean D. Boykin, Deceased, Jacksonville, North Carolina, Court of Federal Claims No: 08–0921V.

126. Jamie M. Swenson and Randy R. Stewart on behalf of Joseph H. Stewart, Garden City, New York, Court of Federal Claims No: 08–0927V.

127. Milica Stijepovic and Frolian Iniguez on behalf of Miliana Iniguez, Downey, California, Court of Federal Claims No: 09–0195V.

128. Fredena Rachelle Warren, Arnold, Missouri, Court of Federal Claims No: 09–0196V.

129. Dawn Jones on behalf of Brennar Jones, St. Joseph, Missouri, Court of Federal Claims No: 09–0197V.

130. Vernica and Edward Hippensteel on behalf of Andrew Hippensteel, Glenn Burnie, Maryland, Court of Federal Claims No: 09–0206V.

131. Adrienne L. Johnson, East Point, Georgia, Court of Federal Claims No: 09–0210V.

132. Irvine Alma Edgar, Lower Burrell, Pennsylvania, Court of Federal Claims No: 09–0213V.

133. John Doe/61 and Jane Doe/61 on behalf of Child Doe/61, Champaign, Illinois, Court of Federal Claims No: 09–0217V.

134. Meena Sharma and Sat Dev Batish on behalf of Diksha Batish, Manhattan, New York, Court of Federal Claims No: 09–0221V.

135. Daniel Nole, Jr. and Julie Nole on behalf of Daniel Nole, III Jersey City, New Jersey, Court of Federal Claims No: 09–0222V.

136. Daniel Nole, Jr. and Julie Nole on behalf of Rocco Nole, Jersey City, New Jersey, Court of Federal Claims No: 09–0223V.

137. Nicole and Darrin MacMillan on behalf of Caiden MacMillan, Glen Mills, Pennsylvania, Court of Federal Claims No: 09–0232V.

138. Ruth J. Garza and Ryan I. Vair on behalf of Mason Vair, Irvine, California, Court of Federal Claims No: 09–0233V.

139. Jennifer and Jeffrey Hardesty on behalf of Jordan Lee Hardesty, Marion, Kentucky, Court of Federal Claims No: 09–0244V.

140. Jane Doe/73, Rochester, New York, Court of Federal Claims No: XX–XXXXV.

141. Leonard L. Parmeter, Mauston, Wisconsin, Court of Federal Claims No: 09–0248V.

142. Tina and Richard Suthers on behalf of Cody Suthers, Baraboo, Wisconsin, Court of Federal Claims No: 09–0252V.

143. John Thompson, Granite City, Illinois, Court of Federal Claims No: 09–0253V.

144. John Doe/83 and Jane Doe/83 on behalf of Child Doe/83, Dallas, Texas, Court of Federal Claims No: 09–0256V.

145. Lisa M. Tovar, Portland, Texas, Court of Federal Claims No: 09–0257V.

146. Shabnam Ferdosi and Hooman Mohammadpour on behalf of Ryan Mohammadpour, San Diego, California, Court of Federal Claims No: 09–0260V.

147. Rosemary DiLascio on behalf of Matthew DiLascio, Mineola, New York, Court of Federal Claims No: 09–0266V.

148. Ivan Woodley, New York, New York, Court of Federal Claims No: 09–0269V.

149. Paul Griglock. Executor of the Estate of Sophie Griglock, Deceased, Wilkes-Barre, Pennsylvania, Court of Federal Claims No: 09–0275V.

150. April Riley, Lancaster, Pennsylvania, Court of Federal Claims No: 09–0276V.

151. Kaitlin Ann Smith, Orlando, Florida, Court of Federal Claims No: 09–0277V.

152. Bethany and Kenneth Walz on behalf of Sabrina Walz, Middletown, New York, Court of Federal Claims No: 09–0278V.

153. Anthony Perez, Albuquerque, New Mexico, Court of Federal Claims No: 09–0281V.

154. Colleen Chee and Marco James on behalf of Marqiano James, Phoenix, Arizona, Court of Federal Claims No: 09–0284V.

155. Tara and Jeffrey Barber on behalf of Mikayla Barber, San Diego, California, Court of Federal Claims No: 09–0285V.

156. Ravinder Dhillon on behalf of Inder M. Dhillon, Wilson, North Carolina, Court of Federal Claims No: 09–0286V.

157. Kelly Webber Black on behalf of N. W., Lakeland, Florida, Court of Federal Claims No: 09–0290V.

158. Elaine M. and Joseph M. Minogue on behalf of Joseph F. Minogue, Mooresville, North Carolina, Court of Federal Claims No: 09–0292V.

159. Rachel McCulloch on behalf of Asia McCulloch, Naples, Florida, Court of Federal Claims No: 09–0293V.

160. James Tidwell, Pulaski, Tennessee, Court of Federal Claims No: 09–0294V.

161. Nancy Davis, Houston, Texas, Court of Federal Claims No: 09–0295V.

162. Debra E. Appleby, Baltimore, Maryland, Court of Federal Claims No: 09–0296V.

163. Kim and Richard Castaldi on behalf of Vincent Castaldi, Chickasha, Oklahoma, Court of Federal Claims No: 09–0300V.

164. Sara E. Sotomayor, Somerset, Pennsylvania, Court of Federal Claims No: 09–0304V.

165. Waldon Jewett, Pierre, South Dakota, Court of Federal Claims No: 09–0307V.

166. Veronica and Justin Rawnsley on behalf of Francis Rawnsley, Deceased, Wolfeboro, New Hampshire, Court of Federal Claims No: 09–0308V.

167. Erica and Jeremy Henicke on behalf of Keaton Henicke, Houston, Texas Court of Federal Claims No: 09–0309V.

168. Maedot Teka on behalf of Tibebu Abebe, New York, New York Court of Federal Claims No: 09–0310V.

169. Crystal Gaide and her unborn baby, Deerfield Beach, Florida, Court of Federal Claims No: 09–0312V.

170. Deborah Piscione and Dino Piscione on behalf of Dominick Piscione, Reston, Virginia, Court of Federal Claims No: 09–0313V.

171. Heather Narmore, Florence, Alabama, Court of Federal Claims No: 09–0316V.

172. Kelly Arango on behalf of Isabela Orozco, Stamford, Connecticut, Court of Federal Claims No: 09–0318V.

173. Carol James, Tulsa, Oklahoma, Court of Federal Claims No: 09–0321V.

174. Marina Melnikova on behalf of Paramon Alexei Yevstigneyev, Portland, Oregon, Court of Federal Claims No: 09–0322V.

175. Luis F. Lamboy, San Juan, Puerto Rico, Court of Federal Claims No: 09–0328V.

176. Louis F. Friedman, Baltimore, Maryland, Court of Federal Claims No: 09–0331V.

177. James D. Bryant on behalf of George S. Schlazer, Deceased, Florence, South Carolina, Court of Federal Claims No: 09–0336V.

178. Michelle Hamman, Melbourne, Florida, Court of Federal Claims No: 09–0341V.

179. Krystyna Waszkiewicz on behalf of Adam Waszkiewicz, Massapequa, New York, Court of Federal Claims No: 09–0342V.

180. James Bell, Mars, Pennsylvania, Court of Federal Claims No: 09–0344V.

181. Sonyia Fayal on behalf of Brandon Fayal, Murfreesboro, Tennessee, Court of Federal Claims No: 09–0345V.

182. Leonard R. Davis, Camden, New York, Court of Federal Claims No: 09–0346V.

183. Teri and James Griffin on behalf of James Marshall Griffin, Columbia, South Carolina, Court of Federal Claims No: 09–0353V.

184. Gilbert W. Johnson, Sr., Philadelphia, Pennsylvania, Court of Federal Claims No: 09–0360V.

185. Yung Jen Kuo, Covina, California, Court of Federal Claims No: 09–0361V.

186. Donna Alexander, Tifton, Georgia, Court of Federal Claims No: 09–0362V.

187. Claudia and Robert Dirk Johnson on behalf of Cason Skye Johnson, Huntington Beach, California, Court of Federal Claims No: 09–0365V.

188. Richard D. Hummel, Lebanon, Pennsylvania, Court of Federal Claims No: 09–0373V.

189. Karen Enman, Presque Isle, Maine, Court of Federal Claims No: 09–0381V.

190. Leonard Goldstein, Philadelphia, Pennsylvania, Court of Federal Claims No: 09–0382V.

191. Lori Hessler on behalf of Forrest Q. Spahn, Chicago, Illinois, Court of Federal Claims No: 09–0386V.

192. Jill Barrett on behalf of Kylie Barrett, Pittsburgh, Pennsylvania, Court of Federal Claims No: 09–0389V.

193. Rachel Campbell, Vernon, Indiana, Court of Federal Claims No: 09–0390V.

194. Bryce G. Milne, Jr., Saco, Maine, Court of Federal Claims No: 09–0391V.

195. Janet Ann Le Grand Rice and Edward Gordon Rice on behalf of Colin Matthew Rice, Oak Lawn, Illinois, Court of Federal Claims No: 09–0394V.

196. Jessica and Tyler Harrison on behalf of Emily Harrison, San Diego, California, Court of Federal Claims No: 09–0395V.

197. Lisa Tindal on behalf of Cooper Lee Tindal, Omaha, Nebraska, Court of Federal Claims No: 09–0396V.

198. Angelica Driggs, Sarasota, Florida, Court of Federal Claims No: 09–0402V.

199. Jennifer M. Groves on behalf of S. M. G., Naugatuck, Connecticut, Court of Federal Claims No: 09–0405V.

200. Julianne Scherzinger, San Antonio, Texas, Court of Federal Claims No: 09–0407V.

201. Douglas Probert, Boston, Massachusetts, Court of Federal Claims No: 09–0408V.

202. Jessica and Phillip Allen on behalf of Logan Stewart Allen, Danville, Kentucky, Court of Federal Claims No: 09–0409V.

203. Windy Clark on behalf of B. K. P., Sarasota, Florida, Court of Federal Claims No: 09–0410V.

204. John Doe/47, Philadelphia, Pennsylvania, Court of Federal Claims No: 09–0417V.

205. Renada Cerniglia, Denver, Colorado, Court of Federal Claims No: 09–0418V.

206. Virginia Thomas, Collins, Colorado, Court of Federal Claims No: 09–0422V.

207. Rickey G. Butts, Hawesville, Kentucky, Court of Federal Claims No: 09–0423V.

208. William M. Corey, Elizabethtown, North Carolina, Court of Federal Claims No: 09–0424V.

209. Charles J. Hartman, Sr., Monroeville, Pennsylvania, Court of Federal Claims No: 09–0425V.

210. David A. Brown, San Bernardino, California, Court of Federal Claims No: 09–0426V.

211. Gary Roberts and Anita Roberts on behalf of Amber Roberts, Williamstown, Kentucky, Court of Federal Claims No: 09–0427V.

212. Sharon Murrell on behalf of Shakari Murrell, Montgomery, Alabama, Court of Federal Claims No: 09–0430V.

213. Letasha Betancourt on behalf of Andrew Rahmel Breeden, Jr. aka Andrew Betancourt, Deceased, Staten Island, New York, Court of Federal Claims No: 09–0433V.

214. Luis Lopez, Napa, California, Court of Federal Claims No: 09–0434V.

215. Mildred Lawrence, Carrollton, Georgia, Court of Federal Claims No: 09–0435V.

216. Paul Piazza, Glens Falls, New York, Court of Federal Claims No: 09–0436V.

217. Dianne Lee, Fincastle, Virginia, Court of Federal Claims No: 09–0437V.

218. Tracy and Kevin Tock on behalf of Bryce Tock, Brookfield, Wisconsin, Court of Federal Claims No: 09–0438V.

219. Elizabeth and Brandon Graham on behalf of a minor child, Greenwood, South Carolina, Court of Federal Claims No: 09–0439V.

220. Robert A. Laskoff, Lewiston, Maine, Court of Federal Claims No: 09–0443V.

221. Ma C. Valerio and Ramil I. Gambal on behalf of C.D.G., East Windsor, New Jersey, Court of Federal Claims No: 09–0444V.

222. Saundra C. Romano, Stockton, California, Court of Federal Claims No: 09–0447V.

223. Jessica Denton and Richard Coy Merkel on behalf of Teagan Coy Merkel, Deceased, Durant, Oklahoma, Court of Federal Claims No: 09–0448V.

224. Precious Bankston on behalf of Shaniah Nicole Puckett, Decatur, Alabama, Court of Federal Claims No: 09–0449V.

225. Walid Ibrahim, Fort Benning, Georgia, Court of Federal Claims No: 09–0450V.

226. Walter J. Rapp, Glasgow, Kentucky, Court of Federal Claims No: 09–0451V.

227. Jeremy Hodge, Canoga Park, California, Court of Federal Claims No: 09–0453V.

228. John Doe/94 and Jane Doe/94 on behalf of Child Doe/94, Trumbull, Connecticut, Court of Federal Claims No: 09–0458V.

229. Marcia and Kevin Harrison on behalf of Megan Harrison, Suwanee, Georgia, Court of Federal Claims No: 09–0459V.

230. Alicia Dawn and William Richard Rice, Jr. on behalf of William Payton Rive, Nashville, Georgia, Court of Federal Claims No: 09–0461V.

231. Allison and Scott Miller on behalf of Aidan Miller, San Diego, California, Court of Federal Claims No: 09–0466V.

232. Demetrice Mathis on behalf of N.M., Columbus, Georgia, Court of Federal Claims No: 09–0467V.

233. Donna and Kane Daley on behalf of Jacob Daley, Claremore, Oklahoma, Court of Federal Claims No: 09–0468V.

234. Mark E. DeWeese, Tulsa, Oklahoma, Court of Federal Claims No: 09–0469V.

235. Brandon Kennedy, Minocqua, Wisconsin, Court of Federal Claims No: 09–0474V.

236. Rachel A. Rivera, Houston, Texas, Court of Federal Claims No: 09–0475V.

237. Nicole M. and Adam C. Simon on behalf of Dylan Carter Simon, Bryn Mawr, Pennsylvania, Court of Federal Claims No: 09–0480V.

238. Amber Jolley, Idaho Falls, Idaho, Court of Federal Claims No: 09–0482V.

239. Christina Mainella, Saratoga Springs, New York, Court of Federal Claims No: 09–0483V.

240. Brittany Smith, Jackson, Kentucky, Court of Federal Claims No: 09–0484V.

241. Eric Steven Geib, Shelby Township, Michigan, Court of Federal Claims No: 09–0485V.

242. Amanda and Micah Williamson on behalf of Aiden Mekhi Williamson, Hattiesburg, Mississippi, Court of Federal Claims No: 09–0488V.

243. Dulce Reilly on behalf of E.R., Wilmington, North Carolina, Court of Federal Claims No: 09–0489V.

244. Ashlee Boll, Hutchinson, Kansas, Court of Federal Claims No: 09–0501V.

245. Deanna and Scott Gromowski on behalf of Ian Gromowski, Milwaukee, Wisconsin, Court of Federal Claims No: 09–0511V.

246. Carolyn Sigwing on behalf of Buddy Sigwing, Wichita, Kansas, Court of Federal Claims No: 09–0512V.

247. Cynthia and Joseph Dagenhart on behalf of their minor daughter, Newport News, Virginia, Court of Federal Claims No: 09–0518V.

248. Alla Goldman, Livingston, New Jersey, Court of Federal Claims No: 09–0519V.

249. Jessica Ramirez on behalf of Nicholas Hernandez, Deceased, Williamson, Texas, Court of Federal Claims No: 09–0520V.

250. Ralph Gibson, Ardmore, Oklahoma, Court of Federal Claims No: 09–0521V.

251. Pamela A. Goudge on behalf of Megan Elizabeth Goudge, Bakersfield, California, Court of Federal Claims No: 09–0522V.

252. Charlotte Jacunski, Northville, Michigan, Court of Federal Claims No: 09–0524V.

253. Deshawn and Ricky Khamis on behalf of Kaden James Khamis, Gilbert, Arizona, Court of Federal Claims No: 09–0525V.

254. Tara Stringfellow, Evanston, Illinois, Court of Federal Claims No: 09–0526V.

255. Shanay Hall on behalf of A.H., Miami, Florida, Court of Federal Claims No: 09–0529V.

256. Vincent F. DiFazio, Birmingham, Alabama, Court of Federal Claims No: 09–0530V.

257. Victoria H. Franks, Bentonville, Arkansas, Court of Federal Claims No: 09–0536V.

258. Arianne Barnes, Hattiesburg, Mississippi, Court of Federal Claims No: 09–0537V.

259. Camelia H. Habito, Milpitas, California, Court of Federal Claims No: 09–0540V.

260. Meredith A. Bambalis, Winston-Salem, North Carolina, Court of Federal Claims No: 09–0543V.

261. Chloe Sampley on behalf of Jonathan Sampley, II Milton, Florida, Court of Federal Claims No: 09–0544V.

262. Charles E. Bittner, Cumberland, Maryland, Court of Federal Claims No: 09–0545V.

263. David Manno, New Orleans, Louisiana, Court of Federal Claims No: 09–0547V.

264. Scott L. Wilson, San Antonio, Texas, Court of Federal Claims No: 09–0548V.

265. Martin Mantz, Jackson, Ohio, Court of Federal Claims No: 09–0550V.

266. Crista L. Valdez on behalf of Santana Valdez, Deceased, Albuquerque, New Mexico, Court of Federal Claims No: 09–0551V.

267. Gisele Beauchamp on behalf of Roger Beauchamp, Melbourne, Florida, Court of Federal Claims No: 09–0552V.

268. Catherine Kelsey, Merriam, Kansas, Court of Federal Claims No: 09–0553V.

269. Ana L. Ruiz, Miami, Florida, Court of Federal Claims No: 09–0554V.

270. Tracy M. Stone, Indianapolis, Indiana, Court of Federal Claims No: 09–0555V.

271. Sheinar Bravo, Torrance, California, Court of Federal Claims No: 09–0556V.

272. Jennifer Swann and Casey Chavez on behalf of Xander Chavez, Lawton, Oklahoma, Court of Federal Claims No: 09–0557V.

273. Michelle and Patrick Boyle on behalf of Liam J. Boyle, Delafield, Wisconsin, Court of Federal Claims No: 09–0560V.

274. James R. Boussier, Jr., Surprise, Arizona, Court of Federal Claims No: 09–0561V.

275. Barbara Plunkett on behalf of Patrick Plunkett, Yonkers, New York, Court of Federal Claims No: 09–0566V.

276. Debbie H. Smiley on behalf of Jalen Smiley, Pensacola, Florida, Court of Federal Claims No: 09–0570V.

277. Shannon and Ed O'Brien on behalf of Kyla O'Brien, San Diego, California, Court of Federal Claims No: 09–0573V.

278. Jeannie McClendon on behalf of Daniel Jacob McClendon, Camden, South Carolina, Court of Federal Claims No: 09–0574V.

279. Heather Ralston on behalf of Bradley Ralston, Arlington, Washington, Court of Federal Claims No: 09–0580V.

280. John Downing, Portsmouth, Virginia, Court of Federal Claims No: 09–0582V.

281. Lamona Sow on behalf of Sheikh Sow, Jackson, Tennessee, Court of Federal Claims No: 09–0585V.

282. Billie Jo Lozano, McAllen, Texas, Court of Federal Claims No: 09–0586V.

283. Patricia Morrow, Bethesda, Maryland, Court of Federal Claims No: 09–0588V.

284. Grady Riggs, Kensington, Maryland, Court of Federal Claims No: 09–0589V.

285. Nicole Fankhauser, Winston Salem, North Carolina, Court of Federal Claims No: 09–0590V.

286. John Doe/63 and Jane Doe/63 on behalf of Child Doe/63, Oregon City, Oregon, Court of Federal Claims No: 09–0596V.

287. Kimberly K. Gainey, Okaloosa County, Florida, Court of Federal Claims No: 09–0597V.

288. Gerald Steidl, Waukesha, Wisconsin, Court of Federal Claims No: 09–0598V.

289. Colette M. Ridge on behalf of Cameron Ridge, Crestview Hills, Kentucky, Court of Federal Claims No: 09–0599V.

290. Jane Doe/95, Breaux Bridge, Louisiana, Court of Federal Claims No: 09–0601V.

291. Morgan Barnes, Florence, Kentucky, Court of Federal Claims No: 09–0603V.

292. Patrice Donohue, Seattle, Washington, Court of Federal Claims No: 09–0604V.

293. A. K., Cambridge, Massachusetts, Court of Federal Claims No: 09–0605V.

294. Camile Vega-Willard, San Antonio, Texas, Court of Federal Claims No: 09–0606V.

295. Maranda Dawn Crane on behalf of Karley Dean Crane, Dawsonville, Georgia, Court of Federal Claims No: 09–0608V.

296. Toni Zerangue and John Jumonville, III on behalf of Julia Jumonville, Lafayette, Louisiana, Court of Federal Claims No: 09–0609V.

297. John Doe/88, Smiths Station, Alabama, Court of Federal Claims No: 09–0610V.

298. Amanda Ditomasso, Ellington, Connecticut, Court of Federal Claims No: 09–0611V.

299. Julie A. Allen on behalf of Lydia K. Allen, Omaha, Nebraska, Court of Federal Claims No: 09–0613V.

300. Kevin Stewart, Evansville, Indiana, Court of Federal Claims No: 09–0614V.

301. James Stewart, Albuquerque, New Mexico, Court of Federal Claims No: 09–0615V.

302. Alisha Henderson on behalf of Alexis Henderson, Weddington, North Carolina, Court of Federal Claims No: 09–0616V.

303. John Miller, Stony Brook, New York, Court of Federal Claims No: 09–0621V.

304. Jan and Eric Bahnsen on behalf of Sarah Bahnsen, Pompton Lakes, New Jersey, Court of Federal Claims No: 09–0624V.

305. Fran Pettit on behalf of Holden Rex Pettit, Greenville, South Carolina, Court of Federal Claims No: 09–0628V.

306. Lawrence Coppola, Bremerton, Washington, Court of Federal Claims No: 09–0631V.

307. Shirley T. Mernick, Corona, California, Court of Federal Claims No: 09–0632V.

308. Naporsche Watkins, Bolivar, Tennessee, Court of Federal Claims No: 09–0633V.

309. Moises Vega, Fort Lauderdale, Florida, Court of Federal Claims No: 09–0634V.

310. Vanessa David (a/k/a Vanessa Kirby) San Antonio, Texas, Court of Federal Claims No: 09–0636V.

311. Raymond Deloach, Savannah, Georgia, Court of Federal Claims No: 09–0637V.

312. Kyle A. Edwards, Erie, Pennsylvania, Court of Federal Claims No: 09–0643V.

313. Nicole Gilkison on behalf of Charles Gilkison, Kansas City, Missouri, Court of Federal Claims No: 09–0645V.

314. Steven Dudash, High Point, North Carolina, Court of Federal Claims No: 09–0646V.

315. Griselli and Alejandron Perez on behalf of Daniel Perez, Miami, Florida, Court of Federal Claims No: 09–0647V.

316. Katea D. Stitt on behalf of Pamela Wanga Stitt, Silver Spring, Maryland, Court of Federal Claims No: 09–0653V.

317. William F. Anderson, Canaan, Connecticut, Court of Federal Claims No: 09–0654V.

318. Susan Lucille Voigt on behalf of Edward John Voight, McMinnville, Oregon, Court of Federal Claims No: 09–0655V.

319. Charles Chester on behalf of Barbara Chester, Solvang, California, Court of Federal Claims No: 09–0656V.

320. Rosella Lyons, Birmingham, Alabama, Court of Federal Claims No: 09–0657V.

321. Kimberly Ann Miller, Sarasota, Florida, Court of Federal Claims No: 09–0658V.

322. Terry L. Baird on behalf of Evelyn M. Baird, Deceased, Terrell, Texas, Court of Federal Claims No: 09–0659V.

323. John Doe/86, Palm Coast, Florida, Court of Federal Claims No: 09–0660V.

324. Miranda Clements on behalf of Gabriel Locklear, Peachtree City, Georgia, Court of Federal Claims No: 09–0662V.

325. Rose and Lavoris Williams on behalf of Matthew Williams, Tallahassee, Florida, Court of Federal Claims No: 09–0664V.

326. Rebecca L. Kline, Fort Wayne, Indiana, Court of Federal Claims No: 09–0665V.

327. Timothy John Wagenaar, Coopersville, Michigan, Court of Federal Claims No: 09–0668V.

328. Jessica Jones, South Ogden, Utah, Court of Federal Claims No: 09–0670V.

329. Sharon Taylor Bowden. Marble Falls, Texas, Court of Federal Claims No: 09–0671V.

330. Celeste Reese on behalf of Julius Reese, Mission Hills, California, Court of Federal Claims No: 09–0674V.

331. Maria Andaya. Newark, Delaware, Court of Federal Claims No: 09–0678V.

332. Glenda McCarty, Springfield, Missouri, Court of Federal Claims No: 09–0679V.

333. Stephanie Roberson on behalf of Bailey Roberson, Odessa, Texas, Court of Federal Claims No: 09–0682V.

334. Deshanna and Brad Anthony Batiste, Sr. on behalf of Brennan Antonio Batiste, Vacherie, Louisiana, Court of Federal Claims No: 09–0683V.

335. Melissa and Cecil Davis on behalf of Ciera Davis.

Bentonville, Arkansas, Court of Federal Claims No: 09–0684V.

336. Jane Abrahamsen, Livingston, New Jersey, Court of Federal Claims No: 09–0685V.

337. Crystal Goodwin, Atlanta, Georgia, Court of Federal Claims No: 09–0689V.

338. Tami L. Baldwin on behalf of Lacy Ashtyn Baldwin, Grand Junction, Colorado, Court of Federal Claims No: 09–0694V.

339. Gordy Guilbeaux, New Iberia, Louisiana, Court of Federal Claims No: 09–0695V.

340. Maher Girgis, Columbus, Ohio, Court of Federal Claims No: 09–0696V.

341. Charles Clayton, East Liverpool, Ohio, Court of Federal Claims No: 09–0697V.

342. Stephanie D. and Brian R. Parmley on behalf of Isaiah Ray Parmley, Longview, Washington, Court of Federal Claims No: 09–0698V.

343. Shannon and Edward O'Brien on behalf of Kyla O'Brien, La Jolla, California, Court of Federal Claims No: 09–0699V.

344. Donald Paul Potter, Richlands, Virginia, Court of Federal Claims No: 09–0700V.

345. Lawrence Habenicht, West Chester, Ohio, Court of Federal Claims No: 09–0703V.

346. Victoria Kashfi, Los Angeles, California, Court of Federal Claims No: 09–0705V.

347. Tyler Taconi, Biloxi, Mississippi, Court of Federal Claims No: 09–0706V.

348. Lela Margaret Oldham on behalf of Billy Ray Oldham, Allen, Texas, Court of Federal Claims No: 09–0707V.

349. Adriana Lepadatu, San Diego, California, Court of Federal Claims No: 09–0710V.

350. Kristen Timmerman on behalf of C.T., Blackshear, Georgia, Court of Federal Claims No: 09–0711V.

351. Rose Cotter, Middleton, Massachusetts, Court of Federal Claims No: 09–0715V.

352. Timothy Curran, Sacramento, California, Court of Federal Claims No: 09–0716V.

353. Alberto Wancel, St. Louis, Missouri, Court of Federal Claims No: 09–0717V.

354. Delores M. Harman, Fort Wayne, Indiana, Court of Federal Claims No: 09–0718V.

355. Shirley Riley, Lakeland, Florida, Court of Federal Claims No: 09–0719V.

356. Kim and Kevin Steinberg on behalf of Sydni Steinberg, Chesterfield, Missouri, Court of Federal Claims No: 09–0720V.

357. Melissa and Daniel Dalgety on behalf of Robert Dalgety, Liverpool, New York, Court of Federal Claims No: 09–0722V.

358. Melissa and Daniel Dalgety on behalf of Charles Dalgety, Liverpool, New York, Court of Federal Claims No: 09–0723V.

359. Mallory Myers, Maumee, Ohio, Court of Federal Claims No: 09–0724V.

360. Jennifer Thompson and Jarrod Rickard on behalf of Allie Ann Rickard, Owensboro, Kentucky, Court of Federal Claims No: 09–0729V.

361. Jessica Weninger, Bismarck, North Dakota, Court of Federal Claims No: 09–0730V.

362. Tracy and Daren Arakelian on behalf of Charles Arakelian, Rensselaer, New York, Court of Federal Claims No: 09–0731V.

363. Deborah and Jamey McBee on behalf of Kenneth Blake McBee, Cartersville, Georgia, Court of Federal Claims No: 09–0736V.

364. Angie and Justin Kenney on behalf of Nevaeh Kenney, Bangor, Maine, Court of Federal Claims No: 09–0738V.

365. Beverly Summers, Little Rock, Arkansas, Court of Federal Claims No: 09–0743V.

366. John R. Citizen, Alpharetta, Georgia, Court of Federal Claims No: 09–0744V.

367. Jillian and Michael Shifflett on behalf of Abigail Shifflett, Manassas, Virginia, Court of Federal Claims No: 09–0745V.

368. Jacob Perry, Silver Spring, Maryland, Court of Federal Claims No: 09–0749V.

369. Becky Sather, Sioux Falls, South Dakota, Court of Federal Claims No: 09–0753V.

370. Fred Collett, Manchester, Kentucky, Court of Federal Claims No: 09–0754V.

371. Brittany Moldover, Langhorne, Pennsylvania, Court of Federal Claims No: 09–0755V.

372. Diedre Burke, Los Angeles, California, Court of Federal Claims No: 09–0756V.

373. Ferdinando Lazzara, Califon, New Jersey, Court of Federal Claims No: 09–0757V.

374. Keith Pryor, El Segundo, California, Court of Federal Claims No: 09–0760V.

375. Howard Kohn, Los Angeles, California, Court of Federal Claims No: 09–0763V.

376. Dale Connor, Pittsfield, Massachusetts, Court of Federal Claims No: 09–0764V.

377. John F. Belfiore, Baltimore, Maryland, Court of Federal Claims No: 09–0765V.

378. Anne M. Scott, Brewster, New York, Court of Federal Claims No: 09–0766V.

379. Judy Rice Huff on behalf of Edward Ray Huff, Monroe, North Carolina, Court of Federal Claims No: 09–0767V.

380. Leslie Hale, Lompac, California, Court of Federal Claims No: 09–0768V.

381. Patricia Kay Lackens, Franklin, Ohio, Court of Federal Claims No: 09–0773V.

382. Kathy Ladon Graham, Richardson, Texas, Court of Federal Claims No: 09–0774V.

383. Tracy Jo Herman on behalf of Lincoln Kauffman, Boston, Massachusetts, Court of Federal Claims No: 09–0775V.

384. Eddie Maxie, Shreveport, Louisiana, Court of Federal Claims No: 09–0776V.

385. Sue K. Sharr and Maureen T. Cox on behalf of Mary Kelly, Deceased, West Chester, Pennsylvania, Court of Federal Claims No: 09–0777V.

386. Christina McClain and Cory McClain on behalf of N. M. Sebastian, Florida, Court of Federal Claims No: 09–0778V.

387. Emi and Kevin Burke on behalf of Conor Burke, Baltimore, Maryland, Court of Federal Claims No: 09–0779V.

388. Mark Clark, Fort Wayne, Indiana, Court of Federal Claims No: 09–0781V.

389. Karen Degiorgio, Tampa, Florida, Court of Federal Claims No: 09–0782V.

390. Latasha Shelton on behalf of Mason Malone, Selma, Alabama, Court of Federal Claims No: 09–0785V.

391. Heather Steel, St. Petersburg, Florida, Court of Federal Claims No: 09–0787V.

392. Lumari Torres on behalf of Darla Ramirez, Orlando, Florida, Court of Federal Claims No: 09–0789V.

393. James Edward Oden, Alma, Arkansas, Court of Federal Claims No: 09–0790V.

394. Sharon Kuhn, Minneapolis, Minnesota, Court of Federal Claims No: 09–0791V.

395. Gary D. Murphree, Atlanta, Georgia, Court of Federal Claims No: 09–0792V.

396. Abdulghani Gitesatani, San Diego, California, Court of Federal Claims No: 09–0799V.

397. Nicole Elizabeth Dow and Philip Ryan Tufts on behalf of Alexia Grace Tufts, Rochester, New Hampshire, Court of Federal Claims No: 09–0801V.

398. Marcy E. Pell and Aaron C. Pell on behalf of Jake B. Pell, Commack, New York, Court of Federal Claims No: 09–0802V.

399. Stacey and Renee Wyler on behalf of Morgan Alexandra Wyler, Traverse City, Michigan, Court of Federal Claims No: 09–0803V.

400. Joanna and Robert Kiff on behalf of Jonathan Kiff, Mineola, New York, Court of Federal Claims No: 09–0807V.

401. Alyssa Tucker and Christopher Tucker on behalf of N. T., Deceased, Hattiesburg, Mississippi, Court of Federal Claims No: 09–0808V.

402. Gabrielle Leonada Martin and Michael Andre Montgomery on behalf of Breanna Vashaun Faith Marshall, Peoria, Illinois, Court of Federal Claims No: 09–0809V.

403. Kimberlee Spognardi, Boston, Massachusetts, Court of Federal Claims No: 09–0810V.

404. Teresa Springfield, Florence, Colorado, Court of Federal Claims No: 09–0811V.

405. Fatima Mohamud on behalf of Koshin Yusuf, Bloomington, Minnesota, Court of Federal Claims No: 09–0812V.

406. Kay Dillig on behalf of James Dillig, Deceased, Milwaukee, Wisconsin, Court of Federal Claims No: 09–0813V.

407. Paul L. Cleary, Middleboro, Massachusetts, Court of Federal Claims No: 09–0816V.

408. Mirna Garcia on behalf of Arleth Cano, Houston, Texas, Court of Federal Claims No: 09–0817V.

409. James Troksa, Bartlett, Illinois, Court of Federal Claims No: 09–0818V.

410. Karla Stone and John Libby on behalf of Summer H. Libby, Haymarket, Virginia, Court of Federal Claims No: 09–0820V.

411. Fruto Soto, Bronx, New York, Court of Federal Claims No: 09–0823V.

412. Diemchau Nguyen, Temecula, California, Court of Federal Claims No: 09–0825V.

413. Rodger H. Plemmons, Myrtle Beach, South Carolina, Court of Federal Claims No: 09–0826V.

414. Bobby Joe Crain, Little Rock, Arkansas, Court of Federal Claims No: 09–0831V.

415. Chantelle Marcello, Webster, New York, Court of Federal Claims No: 09–0833V.

416. Deborah A. Lashomb, Potsdam, New York, Court of Federal Claims No: 09–0834V.

417. Katherine McKellar, Victorville, California, Court of Federal Claims No: 09–0841V.

418. Eric Edwards on behalf of Jessalyn Edwards, Deceased, Charlestown, South Carolina, Court of Federal Claims No: 09–0845V.

419. Jeffrey B. Barron, Santa Clara, California, Court of Federal Claims No: 09–0846V.

420. Sean Davis, Overland Park, Kansas, Court of Federal Claims No: 09–0853V.

421. Amanda Ferris on behalf of Landen Ferris, Iona, Michigan, Court of Federal Claims No: 09–0854V.

422. Sharon Kemp and Joie Gant on behalf of J. G., St. Louis, Missouri, Court of Federal Claims No: 09–0855V.

423. Tamy T. Nguyen, San Diego, California, Court of Federal Claims No: 09–0858V.

424. William C. McKenna, Torrington, Connecticut, Court of Federal Claims No: 09–0859V.

425. Claritza and William Torres on behalf of W. T., Philadelphia, Pennsylvania, Court of Federal Claims No: 09–0867V.

426. Lucien and Nadege Civil on behalf of Luce-Naidge Civil, Miami, Florida, Court of Federal Claims No: 09–0870V.

427. Melissa Silva, Mayaguez, Puerto Rico, Court of Federal Claims No: 09–0871V.

428. Robin Williams, Baltimore, Maryland, Court of Federal Claims No: 09–0873V.

429. Heidi and Matthew Ferguson on behalf of Jacob Ferguson, Andrews Air Force Base, California, Court of Federal Claims No: 09–0874V.

430. Robert Battistone, Houston, Texas, Court of Federal Claims No: 09–0878V.

431. Jamie Pelloquin and Patrick Wayne Authement on behalf of Chloe Authement, Lake Charles, Louisiana, Court of Federal Claims No: 09–0887V.

432. Jacquie Nygren, Exton, Pennsylvania, Court of Federal Claims No: 09–0889V.

433. Erica Utter on behalf of Dylan Utter, Oneonta, New York, Court of Federal Claims No: 09–0894V.

434. John Ellis Milinis, Charleston, South Carolina, Court of Federal Claims No: 09–0895V.

435. Michael Ramsey on behalf of Nathan Ramsey, Houston, Texas, Court of Federal Claims No: 09–0896V.

436. Veronica and Sergio Soto on behalf of Alexander Soto, Rockford, Illinois, Court of Federal Claims No: 09–0897V.

437. Laura Roy, Milton, Massachusetts, Court of Federal Claims No: 09–0898V.

438. Adele H. Furnas, Wild Rose, Wisconsin, Court of Federal Claims No: 09–0899V.

439. Brandy Bellikka on behalf of Jose Jesus Garcia, Minneapolis, Minnesota, Court of Federal Claims No: 10–0001V.

440. Patricia Moyer, Tucson, Arizona, Court of Federal Claims No: 10–0002V.

441. Ameenah Eason on behalf of Anthony Price Perry, Delran, New Jersey, Court of Federal Claims No: 10–0008V.

442. Stacey Gibson, Louisville, Kentucky, Court of Federal Claims No: 10–0009V.

443. James Hummel, Elkton, Maryland, Court of Federal Claims No: 10–0019V.

444. Victoria A. Resh, Codorus, Pennsylvania, Court of Federal Claims No: 10–0020V.

445. Adrian Michael Martinez, Scottsdale, Arizona, Court of Federal Claims No: 10–0021V.

446. Theresa King and Tom King on behalf of Jennifer King, Oakland, Maryland, Court of Federal Claims No: 10–0022V.

447. India Lucas, Donaldsonville, Louisiana, Court of Federal Claims No: 10–0023V.

448. Patsy Fucci, New Port Richey, Florida, Court of Federal Claims No: 10–0024V.

449. Ed W. Yost, Lumberton, North Carolina, Court of Federal Claims No: 10–0025V.

450. Gail Campbell, Florence, South Carolina, Court of Federal Claims No: 10–0030V.

451. Kenneth Reilly, Denver, Colorado, Court of Federal Claims No: 10–0031V.

452. Nicole and Steven Forrest on behalf of Elizabeth M. Forrest, Marrero, Louisiana, Court of Federal Claims No: 10–0032V.

453. Julie Fang on behalf of Elijah Yang, Banning, California, Court of Federal Claims No: 10–0033V.

454. Nicole Earles on behalf of Khalil W. Earles, Washington, District of Columbia, Court of Federal Claims No: 10–0034V.

455. Becky Howell-Adams and Robert C. Adams on behalf of S. R. A., Lake Forest, Illinois, Court of Federal Claims No: 10–0036V.

456. Lisa Nguyen McBride and Christopher Carlton McBride on behalf of Christopher Andrew, McBride, Aiken, South Carolina, Court of Federal Claims No: 10–0037V.

457. David Pettitt and Kym Pettitt on behalf of Brendan Pettit, Webster, New York, Court of Federal Claims No: 10–0038V.

458. Yael and Jonathan Ellis on behalf of D. E., Clearwater, Florida, Court of Federal Claims No: 10–0039V.

459. Virginia Williams, Salina, Kansas, Court of Federal Claims No: 10–0040V.

460. Carletta Lewis on behalf of Sean Hicks, Fayetteville, North Carolina, Court of Federal Claims No: 10–0044V.

461. Scott Allen Scholten.

Ponca City, Oklahoma, Court of Federal Claims No: 10–0047V.

462. Michael Cochran, Atlanta, Georgia, Court of Federal Claims No: 10–0049V.

463. Billy Charles Sechler, Salisbury, North Carolina, Court of Federal Claims No: 10–0052V.

464. Sue Wang Liu and Shingshan Liu on behalf of Dan Liu, Westfield, New

Jersey, Court of Federal Claims No: 10–0055V.

465. Barbara and Philip Tetlock on behalf of Jennifer Tetlock, Berkeley, California, Court of Federal Claims No: 10–0056V.

466. Monica Freese, Flint, Michigan, Court of Federal Claims No: 10–0059V.

467. Dennis Greunke, Baraboo, Wisconsin, Court of Federal Claims No: 10–0061V.

468. Seth A. Hodge, Olympia, Washington, Court of Federal Claims No: 10–0067V.

469. Ben F. Zercher, Chino Valley, Arizona, Court of Federal Claims No: 10–0069V.

470. Elizabeth A. Vitanza, Los Angeles, California, Court of Federal Claims No: 10–0071V.

471. Charlotte Brammer on behalf of M.B., Little Rock, Arkansas, Court of Federal Claims No: 10–0072V.

472. Isaac A. Potter, Jr., Monroe, Louisiana, Court of Federal Claims No: 10–0074V.

473. Kathryn and Ellis Graham on behalf of Latia Graham, Oklahoma City, Oklahoma, Court of Federal Claims No: 10–0075V.

474. D. S., Birmingham, Michigan, Court of Federal Claims No: 10–0077V.

475. Susan Hamm, St. Paul, Minnesota, Court of Federal Claims No: 10–0078V.

476. Garry Baldridge, Canyon, Texas, Court of Federal Claims No: 10–0079V.

477. Oliver Kelzenberg, Austin, Texas, Court of Federal Claims No: 10–0080V.

478. Jerry L. Henson, Columbia, South Carolina, Court of Federal Claims No: 10–0081V.

479. Christina and Thomas Closs on behalf of Anna Joelee Closs, Richmond, Kentucky, Court of Federal Claims No: 10–0082V.

480. Patricia Ann Barron, Diamond Bar, California, Court of Federal Claims No: 10–0085V.

481. Suzanne and Chauncey Mize on behalf of Matthew Morrison Mize, Meridian, Mississippi, Court of Federal Claims No: 10–0086V.

482. Sarah Elizabeth Jackson, Cape Coral, Florida, Court of Federal Claims No: 10–0089V.

483. Dawn A. and James E. Sipprell on behalf of Parker J. Sipprell, Coatesville, Pennsylvania, Court of Federal Claims No: 10–0090V.

484. Yanina Padilla on behalf of Alexis Padilla, Las Cruces, New Mexico, Court of Federal Claims No: 10–0091V.

485. Abigail Medina on behalf of Juan Sanchez, Springfield, Massachusetts, Court of Federal Claims No: 10–0093V.

486. Susan and Philip Robins on behalf of Mitchell Robins, Garden City, New York, Court of Federal Claims No: 10–0096V.

487. Peter G. Breton, Woburn, Massachusetts, Court of Federal Claims No: 10–0097V.

488. Douglas Wayne Williams, Meridian, Mississippi, Court of Federal Claims No: 10–0098V.

489. Allison Buckmelter, Beverly Hills, California, Court of Federal Claims No: 10–0099V.

490. Katherine McKellar, Boston, Massachusetts, Court of Federal Claims No: 10–0100V.

491. Erin Silva, Lancaster, California, Court of Federal Claims No: 10–0101V.

492. Maritza Braun on behalf of Jacob Braun, Las Vegas, Nevada, Court of Federal Claims No: 10–0102V.

493. Lisa Ericzon on behalf of Jessica Ericzon, Clayton, New York, Court of Federal Claims No: 10–0103V.

494. Adrian Magerfleisch on behalf of Danielle Magerfleisch, Cummings, Georgia, Court of Federal Claims No: 10–0104V.

495. Chris N. Wilks, Little Rock, Arkansas, Court of Federal Claims No: 10–0107V.

496. Whitney Mixter, New York, New York, Court of Federal Claims No: 10–0108V.

497. Glenn Nilsen, Bayshore, New York, Court of Federal Claims No: 10–0110V.

498. Susan and Philip Robins on behalf of Mitchell Robins, Garden City, New York, Court of Federal Claims No: 10–0112V.

499. Leigh A. and Frank McAlhany on behalf of Erin Grace McAlhany, Charleston, South Carolina, Court of Federal Claims No: 10–0114V.

500. Laurel Harris, Raleigh, North Carolina, Court of Federal Claims No: 10–0116V.

501. Kinetha Rayburn on behalf of Amber Rayburn, Lexington, Kentucky, Court of Federal Claims No: 10–0117V.

502. Lauri and Scott Peterson on behalf of Robert S. Peterson, Bloomington, Minnesota, Court of Federal Claims No: 10–0119V.

503. Susie and Dan W. Knight on behalf of Angelique Knight, Hutto, Texas, Court of Federal Claims No: 10–0122V.

504. Cheri Green on behalf of Joseph Beatty, Lexington, Kentucky, Court of Federal Claims No: 10–0123V.

505. Rebecca A. Sanchez, Fort Collins, Colorado, Court of Federal Claims No: 10–0124V.

506. Lee Allen, Pasadena, California, Court of Federal Claims No: 10–0129V.

507. Tonie E. and Ronald S. Hall on behalf of P. H., Valdosta, Georgia, Court of Federal Claims No: 10–0130V.

508. Francesca Miceli on behalf of Marguerite Miceli, Newington, Connecticut, Court of Federal Claims No: 10–0131V.

509. Elsie Lippard, Statesville, North Carolina, Court of Federal Claims No: 10–0132V.

510. Flor Hernandez on behalf of Emely Irene Hernandez, Minneapolis, Minnesota, Court of Federal Claims No: 10–0133V.

511. Elizabeth Shapiro, San Mateo, California, Court of Federal Claims No: 10–0136V.

512. Chari and Matthew Lehan on behalf of Mason Lehan, Shorewood, Illinois, Court of Federal Claims No: 10–0137V.

513. Marianne Ferretti on behalf of Patricia Ferretti, Exeter, Pennsylvania, Court of Federal Claims No: 10–0139V.

514. Lauren Sarnelli, East Rockaway, New York, Court of Federal Claims No: 10–0142V.

515. Alan P. Klein, Albany, Minnesota, Court of Federal Claims No: 10–0143V.

516. Dianne Winberg, Longmont, Colorado, Court of Federal Claims No: 10–0145V.

517. John F. Gijanto, Granville, New York, Court of Federal Claims No: 10–0146V.

518. Amanda Ratner, Great Neck, New York, Court of Federal Claims No: 10–0150V.

519. Todd Reeder, Salt Lake City, Utah, Court of Federal Claims No: 10–0151V.

520. Linda Herrera, Woodland, California, Court of Federal Claims No: 10–0159V.

521. John G. Rupert, Kansas City, Missouri, Court of Federal Claims No: 10–0160V.

522. Tanya L. Stewart on behalf of A. A. S., Gastonia, North Carolina, Court of Federal Claims No: 10–0161V.

523. Jodi Galeotafiore on behalf of Shaina Galeotafiore, Port Jefferson, New York, Court of Federal Claims No: 10–0168V.

524. Lynda Curren on behalf of Reese Tower, Bakersfield, California, Court of Federal Claims No: 10–0169V.

525. Gretchen and Richard Moeller on behalf of Charles James Busalacchi, Deceased, Vienna, Virginia, Court of Federal Claims No: 10–0171V.

526. Janice and Scott Moss on behalf of Andrew Moss, Dallas, Texas, Court of Federal Claims No: 10–0172V.

527. Bobby D. Rogers, Phoenix, Arizona, Court of Federal Claims No: 10–0173V.

528. Teri Collins on behalf of Amber Kauttman, Deceased, Cape Girardeau, Missouri, Court of Federal Claims No: 10–0175V.

529. Brandie and Mitchell Barcus on behalf of Connor Barcus, Coshocton, Ohio, Court of Federal Claims No: 10–0184V.

530. Sarah and Ronald Smith on behalf of Dylan Smith, Kannapolis, North Carolina, Court of Federal Claims No: 10–0185V.

531. Tommy Morgan, Mount Vernon, Illinois, Court of Federal Claims No: 10–0186V.

532. Carlie Crowell, Fairfield, California, Court of Federal Claims No: 10–0190V.

533. Elaina S. Foley, Oak Harbor, Washington, Court of Federal Claims No: 10–0196V.

534. Heather Lomeli on behalf of Alysia Ibarra, Brighton, Colorado, Court of Federal Claims No: 10–0197V.

535. Yalitza Valle on behalf of Luciano Jimenez, Sarasota, Florida, Court of Federal Claims No: 10–0198V.

536. Jessica Bermudez, Wellesley, Massachusetts, Court of Federal Claims No: 10–0206V.

537. Lisa A. Bray, Charlestown, Massachusetts, Court of Federal Claims No: 10–0207V.

538. Nelson B. Wilson, Nowata, Oklahoma, Court of Federal Claims No: 10–0208V.

539. Mary Louise Jennings, Ottumwa, Iowa, Court of Federal Claims No: 10–0209V.

540. Phyllis Chapnick, Northbrook, Illinois, Court of Federal Claims No: 10–0210V.

541. Patricia and Todd Fokken on behalf of Caitlin Fokken, Somers Point, New Jersey, Court of Federal Claims No: 10–0211V.

542. Phillipa Sheard and Howard Sheard on behalf of Howard Louis Sheard, III, Yorktown Heights, New York, Court of Federal Claims No: 10–0212V.

543. Paul Williams, Cooperstown, New York, Court of Federal Claims No: 10–0216V.

544. Tracy Wolf on behalf of Alexis Wolf, Albuquerque, New Mexico, Court of Federal Claims No: 10–0220V.

545. Meghan Wright, Burnsville, Minnesota, Court of Federal Claims No: 10–0222V.

546. Susan Williamsen, La Verne, California, Court of Federal Claims No: 10–0223V.

547. Charese Bentley, Dallas, Texas, Court of Federal Claims No: 10–0240V.

548. Erica Fester on behalf of B. A. B., Sanford, North Carolina, Court of Federal Claims No: 10–0243V.

549. Julie A. Coddington, Columbus, Ohio, Court of Federal Claims No: 10–0245V.

550. Patricia Wansaw on behalf of Savanna Schlauch, Forked River, New Jersey, Court of Federal Claims No: 10–0246V.

551. Kirk Ortegren on behalf of Jack Ortegren, Hastings, Nebraska, Court of Federal Claims No: 10–0247V.

552. Emily Tarsell on behalf of Christina Tarsell, Deceased, Baltimore, Maryland, Court of Federal Claims No: 10–0251V.

553. Alina Krikorian, Pasadena, California, Court of Federal Claims No: 10–0253V.

554. Firas Maayah, Moreno Valley, California, Court of Federal Claims No: 10–0254V.

555. William Bruce Tompkins on behalf of William Bruce Tompkins, Deceased, San Diego, California, Court of Federal Claims No: 10–0261V.

556. Crissey Meeks, Raleigh, North Carolina, Court of Federal Claims No: 10–0262V.

557. Rebecca Carter, Fredericksburg, Virginia, Court of Federal Claims No: 10–0265V.

558. Darlene Klien, Ann Arbor, Michigan, Court of Federal Claims No: 10–0266V.

559. Lorene Gibson, Steamboat Springs, Colorado, Court of Federal Claims No: 10–0267V.

560. Leah and Blake Wilcox on behalf of Alexander Grey Wilcox, Allentown, Pennsylvania, Court of Federal Claims No: 10–0268V.

561. Michael Rowan on behalf of N. R., Latham, New York, Court of Federal Claims No: 10–0272V.

562. Juliet R. LeMaster, Chillicothe, Ohio, Court of Federal Claims No: 10–0273V.

563. Linda Harris, Plymouth Township, Michigan, Court of Federal Claims No: 10–0275V.

564. Josef Schreick, Amagansett, New York, Court of Federal Claims No: 10–0278V.

565. Melissa and David Hernandez on behalf of Caleb Hernandez, Pearland, Texas, Court of Federal Claims No: 10–0279V.

566. Chad Michael Kinart on behalf of Liam Michael Kinart, Omaha, Nebraska, Court of Federal Claims No: 10–0282V.

567. Daryl D. Hoffman, Fort Knox, Kentucky, Court of Federal Claims No: 10–0287V.

568. Melinda Gustin on behalf of Jessie Webb, Madison, Alabama, Court of Federal Claims No: 10–0288V.

569. Edda M. Gonzalez on behalf of Guadalupe G. Gonzalez, Naperville, Illinois, Court of Federal Claims No: 10–0292V.

570. Christiana and Richard Nelson on behalf of Avery Nelson, West Grove, New Jersey, Court of Federal Claims No: 10–0293V.

571. Jeremy S. Towne, York, Maine, Court of Federal Claims No: 10–0294V.

572. Thelma B. Stamper, Richmond, Virginia, Court of Federal Claims No: 10–0295V.

573. Pamela Ballard on behalf of K. M. B., Wheaton, Illinois, Court of Federal Claims No: 10–0296V.

574. Pamela Ballard on behalf of B. M. B., Wheaton, Illinois, Court of Federal Claims No: 10–0297V.

575. Kylie Wayman, Fort Smith, Arkansas, Court of Federal Claims No: 10–0302V.

576. Elaine and Anthony Lewis on behalf of Anthony Dwayne Lewis, Jr., Hartsville, South Carolina, Court of Federal Claims No: 10–0304V.

577. Jacklyn G. Riggs, Reno, Nevada, Court of Federal Claims No: 10–0305V.

578. Maegan Ford, North Haledon, New Jersey, Court of Federal Claims No: 10–0307V.

579. Chris Sandy and Phillip Sandy on behalf of S. S., Milton, Florida, Court of Federal Claims No: 10–0308V.

580. Chris Sandy and Phillip Sandy on behalf of S. S., Milton, Florida, Court of Federal Claims No: 10–0309V.

581. James Spurgetis on behalf of Jacob Hollis Cottier, Spokane, Washington, Court of Federal Claims No: 10–0313V.

582. Leo B. Dubler, Woodbury, New Jersey, Court of Federal Claims No: 10–0314V.

583. Kay Waddell on behalf of Hayden Waddell, Anchorage, Alaska, Court of Federal Claims No: 10–0316V.

584. Kenneth L. Wiggins, Walla Walla, Washington, Court of Federal Claims No: 10–0317V.

585. Yvonne Harris on behalf of Khonstince Couch, Brinkley, Arkansas, Court of Federal Claims No: 10–0322V.

586. Linda S. Phillips on behalf of Thomas Aden Phillips, Deceased, Beckley, West Virginia, Court of Federal Claims No: 10–0323V.

587. Jacquelyne Warrick on behalf of Arleigh Warrick, Ocean Springs, Mississippi, Court of Federal Claims No: 10–0324V.

588. Gerald Gifford, Haverhill, Massachusetts, Court of Federal Claims No: 10–0325V.

589. Jennifer Engling, Milwaukee, Wisconsin, Court of Federal Claims No: 10–0326V.

590. Sarah Davidson, Bedford, New Hampshire, Court of Federal Claims No: 10–0327V.

591. Mary Samsom on behalf of Danielle Sousani, Deceased, Las Vegas, Nevada, Court of Federal Claims No: 10–0328V.

592. Christos Chalogias, Lebanon, New Hampshire, Court of Federal Claims No: 10–0329V.

593. Haley Leanne Griffin (ne Fowler), Anniston, Alabama, Court of Federal Claims No: 10–0330V.

594. Kelly E. McFarland, Leesburg, Virginia, Court of Federal Claims No: 10–0331V.

595. Domingo Martinez, Pleasanton, Texas, Court of Federal Claims No: 10–0333V.

596. Marta Svitelova and Robert McEvoy on behalf of Henry McEvoy, Chappaqua, New York, Court of Federal Claims No: 10–0337V.

597. Adele Young, Casper, Wyoming, Court of Federal Claims No: 10–0340V.

598. Jessica Diane Mayes, State College, Pennsylvania, Court of Federal Claims No: 10–0341V.

599. Jose Manuel Escalante, Plainview, Texas, Court of Federal Claims No: 10–0342V.

600. Stephanie Kramer, Middletown, New York, Court of Federal Claims No: 10–0343V.

601. Duane A. Schweitz, Seneca Falls, New York, Court of Federal Claims No: 10–0344V.

602. Sandra Ponder, Portsmouth, Virginia, Court of Federal Claims No: 10–0345V.

603. Megan E. Homolka on behalf of Kaden Homolka, Panora, Iowa, Court of Federal Claims No: 10–0348V.

604. Karen Maynor on behalf of Megan Hill, Deceased, Albuquerque, New Mexico, Court of Federal Claims No: 10–0349V.

605. Laura La Joie and Bo Allan Crosby on behalf of Alexis Crosby, Deceased, Boston, Massachusetts, Court of Federal Claims No: 10–0350V.

606. Jill Turkupolis, Indianapolis, Indiana, Court of Federal Claims No: 10–0351V.

607. Catherine and Patrick Labarre on behalf of Pierre Labarre, New York, New York, Court of Federal Claims No: 10–0352V.

608. Catherine and Patrick Labarre on behalf of Pierre Labarre, New York, New York, Court of Federal Claims No: 10–0353V.

609. Mosca Flint, Richmond, Virginia, Court of Federal Claims No: 10–0354V.

610. Sandra Steinberg on behalf of Isaiah Steinberg, Deceased, Patchogue, New York, Court of Federal Claims No: 10–0356V.

611. Yaketha Brown on behalf of Miracle Jenkins, Americus, Georgia, Court of Federal Claims No: 10–0360V.

612. Diane Pollard on behalf of Paul A. Pollard, Jr., Deceased, Lynchburg, Virginia, Court of Federal Claims No: 10–0361V.

613. Judy Quant and John Austin on behalf of Crystal Austin, Kittanning, Pennsylvania, Court of Federal Claims No: 10–0362V.

614. Larry Stoelzing, Fraser, Colorado, Court of Federal Claims No: 10–0363V.

615. Bette Kimbell on behalf of Rex Kimbell, Clovis, New Mexico, Court of Federal Claims No: 10–0364V.

616. Carina Baird and James Baird on behalf of Aidan Baird, San Francisco, California, Court of Federal Claims No: 10–0365V.

617. Lisel Laloux on behalf of Ashley Laloux, Deceased, Terre Haute, Indiana, Court of Federal Claims No: 10–0367V.

618. Timothy Abbott, Great Lakes, Illinois, Court of Federal Claims No: 10–0369V.

619. Michelle Gould, Philadelphia, Pennsylvania, Court of Federal Claims No: 10–0372V.

620. Jillian Kamkim on behalf of Jaydon Caesar, Leesburg, Florida, Court of Federal Claims No: 10–0373V.

621. Christian Woessner, Sugarland, Texas, Court of Federal Claims No: 10–0376V.

622. Lisa Woods and Jason Ford on behalf of Cason Eugene Ford, Chattanooga, Tennessee, Court of Federal Claims No: 10–0377V.

623. Tzipora Fisch and Zvi Fisch on behalf of Dov Fisch, Brooklyn, New York, Court of Federal Claims No: 10–0382V.

624. Leah F. and Bobby D. Wilson on behalf of Molly Wilson, Benton, Arkansas, Court of Federal Claims No: 10–0386V.

625. Althria D. Berry, Houston, Texas, Court of Federal Claims No: 10–0388V.

626. Brittney D. Fiste, Vandalia, Ohio, Court of Federal Claims No: 10–0390V.

627. Lesley Lutkowski, Philadelphia, Pennsylvania, Court of Federal Claims No: 10–0391V.

628. Noel Jodoin and Adam Jodoin, Dover, New Hampshire, Court of Federal Claims No: 10–0392V.

629. Laura Oliver and Eddie Oliver, Jr. on behalf of Eddie L. Oliver, III, Vienna, Virginia, Court of Federal Claims No: 10–0394V.

630. Ryan Gantz on behalf of Hannah Gantz, Norman, Oklahoma, Court of Federal Claims No: 10–0395V.

631. Shea Kylie Sullivan, Tustin, California, Court of Federal Claims No: 10–0398V.

632. Rory Desa, Atlanta, Georgia, Court of Federal Claims No: 10–0406V.

633. David Joseph Polcik, Arcadia, Florida, Court of Federal Claims No: 10–0407V.

634. Tanya and Richard Mesa on behalf of R. M., Humble, Texas, Court of Federal Claims No: 10–0408V.

635. Geraldine F. Hughes, Cambridge, Maryland, Court of Federal Claims No: 10–0409V.

636. Sheela Blackburn, Magna, Utah, Court of Federal Claims No: 10–0410V.

637. Carl Maddox, Lepanto, Arkansas, Court of Federal Claims No: 10–0411V.

638. Mark Roberts, Washington, District of Columbia, Court of Federal Claims No: 10–0412V.

639. Ted Boykin, Overland Park, Kansas, Court of Federal Claims No: 10–0413V.

640. Gwenette Patterson, Stockbridge, Georgia, Court of Federal Claims No: 10–0414V.

641. Emma McGhee, Jacksboro, Tennessee, Court of Federal Claims No: 10–0417V.

642. Edward J. Dlugolenski, Hartford, Connecticut, Court of Federal Claims No: 10–0418V.

643. Stewart Clay, Long Beach, California, Court of Federal Claims No: 10–0419V.

644. Lorena Rugh on behalf of Maryah Rugh, Kingman, Arizona, Court of Federal Claims No: 10–0421V.

645. Alicia Acken Cosgrove on behalf of Kenneth Cosgrove, Hudson, Wisconsin, Court of Federal Claims No: 10–0423V.

646. Lorenzo E. Dominguez, Albuquerque, New Mexico, Court of Federal Claims No: 10–0424V.

647. Mark A. Wilson, Statesville, North Carolina, Court of Federal Claims No: 10–0425V.

648. Terry Pounders, Lauderdale, Alabama, Court of Federal Claims No: 10–0429V.

649. Irene Hardy, Newport Coast, California, Court of Federal Claims No: 10–0430V.

650. Doreen Devou, Portland, Maine, Court of Federal Claims No: 10–0433V.

651. Emily Konkol, Madison, Wisconsin, Court of Federal Claims No: 10–0437V.

652. Vickie L. Scott on behalf of Billy J. Scott, Clarksburg, West Virginia, Court of Federal Claims No: 10–0438V.

653. Jamie Miller on behalf of Lisa Miller, Knoxville, Tennessee, Court of Federal Claims No: 10–0439V.

654. Ruth W. Munford, Elizabethtown, North Carolina, Court of Federal Claims No: 10–0440V.

655. Beverly Webb, Frederick, Maryland, Court of Federal Claims No: 10–0441V.

656. Jeffrey Albert Demchuk, Green Valley, Arizona, Court of Federal Claims No: 10–0442V.

657. Kayla Stacy, Wapakoneta, Ohio, Court of Federal Claims No: 10–0449V.

658. Theodore A. Ogle, Jr., Madison, Ohio, Court of Federal Claims No: 10–0450V.

659. Cody Jackson, St. Louis, Missouri, Court of Federal Claims No: 10–0453V.

660. Bobette Dorre on behalf of David Dorre, Deceased, Gobels, Michigan, Court of Federal Claims No: 10–0462V.

661. Joan Miller, Smithtown, New York, Court of Federal Claims No: 10–0464V.

662. LaTia Graham, Shawnee, Oklahoma, Court of Federal Claims No: 10–0468V.

663. Ileana Rodriguez-Morales on behalf of Michael Torres Rodriguez,

Guayanilla, Puerto Rico, Court of Federal Claims No: 10–0469V.

664. Bei Ye Liang and Feng Liang on behalf of Edward Liang, Portland, Oregon, Court of Federal Claims No: 10–0474V.

665. Jim Craner and Sarah Craner on behalf of Macy Craner, Littleton, Colorado, Court of Federal Claims No: 10–0475V.

666. Samantha Y. Wilson on behalf of Sania D. Wilson, Troy, Michigan, Court of Federal Claims No: 10–0483V.

667. Sallyann Jocksberger, Rockledge, Florida, Court of Federal Claims No: 10–0485V.

668. Joshua Smith, Tifton, Georgia, Court of Federal Claims No: 10–0486V.

669. Amanda Foster, Charleston, West Virginia, Court of Federal Claims No: 10–0487V.

670. Valeria Flores, Chicago, Illinois, Court of Federal Claims No: 10–0489V.

671. Richard Pugh, Palm Beach, Florida, Court of Federal Claims No: 10–0490V.

672. Chandra Hiland on behalf of Lillyen Hiland, Deceased, Kalispell, Montana, Court of Federal Claims No: 10–0491V.

673. Yolanda Mazurek on behalf of Quentin Mazurek, Colorado Springs, Colorado, Court of Federal Claims No: 10–0493V.

674. Terry Raines, Los Lunas, New Mexico, Court of Federal Claims No: 10–0494V.

675. Kenneth Duesing, Cincinnati, Ohio, Court of Federal Claims No: 10–0497V.

676. Rose Scott, Sacramento, California, Court of Federal Claims No: 10–0498V.

677. Jose Montoya, El Paso, Texas, Court of Federal Claims No: 10–0499V.

678. Carole Prystalski, Dyer, Indiana, Court of Federal Claims No: 10–0500V.

679. Donn Hashimoto, Hilo, Hawaii, Court of Federal Claims No: 10–0501V.

680. Tammy Barrineau, Albertville, Alabama, Court of Federal Claims No: 10–0502V.

681. Barbara Olund and Curt Olund on behalf of Alicia Olund, Hayward, California, Court of Federal Claims No: 10–0505V.

682. Tammy Hill on Behalf of Holton Helms, Dothan, Alabama, Court of Federal Claims No: 10–0506V.

683. Mary McGehee, Bedford, Texas, Court of Federal Claims No: 10–0513V.

684. Nancy Bohlander, Cheyenne, Wyoming, Court of Federal Claims No: 10–0514V.

685. Kristiyana D. Smith, Livermore, California, Court of Federal Claims No: 10–0515V.

686. Jane and Ronald Vanoost on behalf of R. V., Frankfort, Illinois, Court of Federal Claims No: 10–0516V.

687. Kim and Frank Falcone on behalf of Kayliegh Falcone, Wallingford, Connecticut, Court of Federal Claims No: 10–0517V.

688. Ed Poche, Helena, Alabama, Court of Federal Claims No: 10–0518V.

689. Rene G. Powers on behalf of Martin Powers, East Meadow, New York, Court of Federal Claims No: 10–0519V.

690. James McGrath, Springfield, Illinois, Court of Federal Claims No: 10–0520V.

691. Judith Cassandro-Green, New Hyde Park, New York, Court of Federal Claims No: 10–0522V.

692. Eleanoure Smith, North Fort Myers, Florida, Court of Federal Claims No: 10–0523V.

693. Cynthia Chalifour, Marblehead, Massachusetts, Court of Federal Claims No: 10–0524V.

694. William Blatt, Commack, New York, Court of Federal Claims No: 10–0526V.

695. John Windmon, Oak Park, Illinois, Court of Federal Claims No: 10–0527V.

696. Darleen Dohm, Mandeville, Louisiana, Court of Federal Claims No: 10–0529V.

697. Kim and Dan Chitwood on behalf of Taylor Chitwood, Fort Wayne, Indiana, Court of Federal Claims No: 10–0534V.

698. Donna Ridgway, Columbus, Ohio, Court of Federal Claims No: 10–0539V.

699. Jocelyn Campo, Greenville, South Carolina, Court of Federal Claims No: 10–0543V.

700. Jay D. Priefert, Omaha, Nebraska, Court of Federal Claims No: 10–0544V.

701. Allison Renee Wade and Jeffery Todd Wade on behalf of Dawson Todd Wade, Florence, Alabama, Court of Federal Claims No: 10–0545V.

702. Dessa Staboleski, Troy, Pennsylvania, Court of Federal Claims No: 10–0549V.

703. Judy Banko, Fort Lauderdale, Florida, Court of Federal Claims No: 10–0550V.

704. Carey Neal, San Antonio, Texas, Court of Federal Claims No: 10–0551V.

705. Katelyn Speakman, Gahanna, Ohio, Court of Federal Claims No: 10–0552V.

706. Peter Dassenko, Minot, North Dakota, Court of Federal Claims No: 10–0554V.

707. Marie Chervanick, South Bend, Indiana, Court of Federal Claims No: 10–0559V.

708. Rosa and Robert Cox on behalf of Kaitlyn Cox, Montgomery, Alabama, Court of Federal Claims No: 10–0561V.

709. David Troester, La Crosse, Wisconsin, Court of Federal Claims No: 10–0562V.

710. Nancy and Jeffrey Turley on behalf of D. T., Auburn, Washington, Court of Federal Claims No: 10–0563V.

711. Daniel Funk, Redmond, Washington, Court of Federal Claims No: 10–0564V.

712. Megan L. Godfrey, Tuscaloosa, Alabama, Court of Federal Claims No: 10–0565V.

713. Susan and Robert DiMatteo on behalf of R. D., Nanuet, New York, Court of Federal Claims No: 10–0566V.

714. Jeff Long, Thornton, Colorado, Court of Federal Claims No: 10–0570V.

715. Primitivo Suarez-Wolfe and Ginger Wolfe-Suarez on behalf of Inigo Wolfe-Suarez, Berkeley, California, Court of Federal Claims No: 10–0572V.

716. Aileen Snyder, Farmington Hills, Michigan, Court of Federal Claims No: 10–0573V.

717. Cori Klug, Broomfield, Colorado, Court of Federal Claims No: 10–0574V.

718. Jose Concepcion, Chicago, Illinois, Court of Federal Claims No: 10–0576V.

719. Morgan A. Johnson, Upland, California, Court of Federal Claims No: 10–0578V.

720. Taffie Brown on behalf of Brandon Cole, Lake Jackson, Texas, Court of Federal Claims No: 10–0579V.

721. Brandy Hathaway, Hillsboro, Oregon, Court of Federal Claims No: 10–0581V.

722. Lindsey C. Wev, Galveston, Texas, Court of Federal Claims No: 10–0582V.

723. Charles David Umbarger, Richmond, Virginia, Court of Federal Claims No: 10–0584V.

724. Danielle Nicosia, Garden City, New York, Court of Federal Claims No: 10–0586V.

725. Jessica Lyn Grady on behalf of Landin V. Jordan, St. Charles, Missouri, Court of Federal Claims No: 10–0590V.

726. Arthur Cline, Traverse City, Michigan, Court of Federal Claims No: 10–0596V.

727. Sergio Biagi on behalf of Derek Biagi, Santa Barbara, California, Court of Federal Claims No: 10–0597V.

728. Sally Kools, St. Petersburg, Florida, Court of Federal Claims No: 10–0601V.

729. Joe O. Martin, Livingston, Tennessee, Court of Federal Claims No: 10–0605V.

730. Thomas Ciccarone, New Fairfield, Connecticut, Court of Federal Claims No: 10–0606V.

731. Robert Cattaneo, Boston, Massachusetts, Court of Federal Claims No: 10–0607V.

732. Ronald Blocker and Kara Krause on behalf of Peyton Krause, Deceased, Waldorf, Maryland, Court of Federal Claims No: 10–0608V.

733. Nicolette Santino, Boston, Massachusetts, Court of Federal Claims No: 10–0609V.

734. Peter Cieszewski, Athens, Georgia, Court of Federal Claims No: 10–0610V.

735. Rosemary DiLascio on behalf of Matthew DiLascio, Mineola, New York, Court of Federal Claims No: 10–0611V.

736. Adam J. Juzapavicus, St. Augustine, Florida, Court of Federal Claims No: 10–0612V.

737. Deborah E. Bradley, Hinesville, Georgia, Court of Federal Claims No: 10–0613V.

738. Katie Mae Wenger, Dover, Ohio, Court of Federal Claims No: 10–0614V.

739. Melissa Davis and Cecil Davis, Sr. on behalf of Cecil Davis, Jr., Bentonville, Arkansas, Court of Federal Claims No: 10–0615V.

740. Marian Nelson, Valencia, California, Court of Federal Claims No: 10–0619V.

741. Barbara Potocic, as Personnal Representative of the Estate of Drago Potocic, Lake, Ohio, Court of Federal Claims No: 10–0620V.

742. Deanna and Kenny Vasquez on behalf of Brianna Vasquez, Marietta, Georgia, Court of Federal Claims No: 10–0621V.

743. Rosalind La Mar, Plainview, New York, Court of Federal Claims No: 10–0622V.

744. John Pasmore, Jonesboro, Arkansas, Court of Federal Claims No: 10–0623V.

745. Leslie and Michael Haddad on behalf of Miranda Haddad, Manalapan, New Jersey, Court of Federal Claims No: 10–0626V.

746. Gary Dubin, Elkins Park, Pennsylvania, Court of Federal Claims No: 10–0632V.

747. Nancy D'Addio on behalf of Edward D'Addio, Deceased, New Windsor, New York, Court of Federal Claims No: 10–0634V.

748. Linda Watkins, Lafayette, Louisiana, Court of Federal Claims No: 10–0636V.

749. Wesley F. Vines, Oak Ridge, Tennessee, Court of Federal Claims No: 10–0637V.

750. Ann Roberts on behalf of Michael D. Roberts, McPherson, Kansas, Court of Federal Claims No: 10–0639V.

751. Christine Hippo, Margate, Florida, Court of Federal Claims No: 10–0642V.

752. Robert Lawrence, Glen Falls, New York, Court of Federal Claims No: 10–0643V.

753. Karah Naylor on behalf of Briley Naylor, McPherson, Kansas, Court of Federal Claims No: 10–0644V.

754. Judith A. Heubner, Orange Park, Florida, Court of Federal Claims No: 10–0649V.

755. Sarah Toor, Yorba Linda, California, Court of Federal Claims No: 10–0650V.

756. Dean Paul Wallin, Duluth, Minnesota, Court of Federal Claims No: 10–0651V.

757. Stephen D. Hatfield, Louisville, Kentucky, Court of Federal Claims No: 10–0652V.

758. Wilbur Branaugh, Union City, California, Court of Federal Claims No: 10–0654V.

759. Maria Perez, Miami, Florida, Court of Federal Claims No: 10–0659V.

760. Robert J. Portier, Baton Rouge, Louisiana, Court of Federal Claims No: 10–0665V.

761. Stephanie and Jeremy Johnson on behalf of Madyson Johnson, Opelousas, Louisiana, Court of Federal Claims No: 10–0666V.

762. Evgeniya Kim on behalf of Valarie Reinsalu, New Brunswick, New Jersey, Court of Federal Claims No: 10–0668V.

763. Alex B. Kenzora, Martins Ferry, Ohio, Court of Federal Claims No: 10–0669V.

764. Juanita Sparrow, Philadelphia, Pennsylvania, Court of Federal Claims No: 10–0671V.

765. Luke G. Anderson, Irvine, California, Court of Federal Claims No: 10–0672V.

766. Peggy Sanders-Redmiles, Duchesne, Utah, Court of Federal Claims No: 10–0685V.

767. Lois J. Banks, Wakefield, Rhode Island, Court of Federal Claims No: 10–0686V.

768. Amber Cornelison, Duluth, Minnesota, Court of Federal Claims No: 10–0687V.

769. Francis Kravetz, Palmerton, Pennsylvania, Court of Federal Claims No: 10–0688V.

770. Shelley Taylor on behalf of B. T., Memphis, Tennessee, Court of Federal Claims No: 10–0689V.

771. Albert S. Len, Charlotte, North Carolina, Court of Federal Claims No: 10–0691V.

772. Concetta Azzaro, Kansas City, Missouri, Court of Federal Claims No: 10–0692V.

773. Michael J. Katzmark, Waterbury, Connecticut, Court of Federal Claims No: 10–0693V.

774. Edem A. Omon, Lawrence, Kansas, Court of Federal Claims No: 10–0699V.

775. Carol Anderson on behalf of Carson Anderson, Minneapolis, Minnesota, Court of Federal Claims No: 10–0700V.

776. Rebecca Nicole Morrison, Mountain View, Arizona, Court of Federal Claims No: 10–0703V.

777. Kimberly and Tyson Faoro on behalf of Hannah Elizabeth Faoro, Oskaloosa, Iowa, Court of Federal Claims No: 10–0704V.

778. Melissa and Dennis Rush and Placko on behalf of Paige Rush-Placko, Harleysville, Pennsylvania, Court of Federal Claims No: 10–0705V.

779. Philip Steahl, St. Louis Park, Minnesota, Court of Federal Claims No: 10–0710V.

780. Courtney Goldin, Fort Myers, Florida, Court of Federal Claims No: 10–0711V.

781. Mike Shriver and Laura Shriver on behalf of Alexander J. Shriver, Lincoln, Nebraska, Court of Federal Claims No: 10–0713V.

782. Julie and William J. Schwind on behalf of Adam Christopher Schwind, Tucson, Arizona, Court of Federal Claims No: 10–0715V.

783. Ronni and Christopher Kollasch on behalf of Quinn Kollasch, Bloomington, Minnesota, Court of Federal Claims No: 10–0717V.

784. James Fred Coakley, Orem, Utah, Court of Federal Claims No: 10–0718V.

785. Eleanor Catherine Clifford, Janesville, Wisconsin, Court of Federal Claims No: 10–0719V.

786. Sandra J. Cort, Portland, Maine, Court of Federal Claims No: 10–0727V.

787. Paula J. Williams, Scottsdale, Arizona, Court of Federal Claims No: 10–0728V.

788. Tammy McKay, Andalusia, Alabama, Court of Federal Claims No: 10–0729V.

789. Richard J. Tanner, Rochester, New York, Court of Federal Claims No: 10–0732V.

790. Linda C. Blackstock, Clarksville, Virginia, Court of Federal Claims No: 10–0735V.

791. Stanley Rye, Waldorf, Maryland, Court of Federal Claims No: 10–0736V.

792. Tracy R. and Andrew D. Fricke on behalf of Nicholas A. Fricke, Spokane, Washington, Court of Federal Claims No: 10–0737V.

793. Loretta Floyd, Pullman, Virginia, Court of Federal Claims No: 10–0739V.

794. Leo Boylan, Fulton, New York, Court of Federal Claims No: 10–0740V.

795. Shermian P. Daniel, Jacksonville, Florida, Court of Federal Claims No: 10–0745V.

796. Rachelle Rudolph, Olathe, Kansas, Court of Federal Claims No: 10–0746V.

797. Laurie Roy on behalf of Jamie Roy, Manchester, New Hampshire, Court of Federal Claims No: 10–0747V.

798. Erin Fleming, Dedham, Massachusetts, Court of Federal Claims No: 10–0748V.

799. Tracie Brown, Boston, Massachusetts, Court of Federal Claims No: 10–0749V.

800. Stephanie Vino Figueroa Manny Figueroa, Deceased, South Miami,

Florida, Court of Federal Claims No: 10–0750V.

801. Maria and Jose Ibarra on behalf of Susan Ibarra, Visalia, California, Court of Federal Claims No: 10–0752V.

802. Sarah Quigley, Warner Robins, Georgia, Court of Federal Claims No: 10–0756V.

803. Catherine and Dennis E. Flanagan on behalf of Dennis J. Flanagan, St. Paul, Minnesota, Court of Federal Claims No: 10–0759V.

804. Charla Lindsey-Crabbe and Russell Crabbe on behalf of Rory Crabbe, Kamuela, Hawaii, Court of Federal Claims No: 10–0762V.

805. Crystal L. Rhodes, Arkadelphia, Arkansas, Court of Federal Claims No: 10–0763V.

806. Vanessa Michelle Sova, Roseville, California, Court of Federal Claims No: 10–0764V.

807. Anne Imundo, Pittsburg, Pennsylvania, Court of Federal Claims No: 10–0765V.

808. Arthur Askew, Myrtle Beach, South Carolina, Court of Federal Claims No: 10–0767V.

809. Joen and David Meylor on behalf of Madelyne Meylor, Madison, Wisconsin, Court of Federal Claims No: 10–0770V.

810. Joen and David Meylor on behalf of Olivia Meylor, Madison, Wisconsin, Court of Federal Claims No: 10–0771V.

811. Jamie M. Balmes, Sahuarita, Arizona, Court of Federal Claims No: 10–0772V.

812. Whitney Mancino Phend, Washington, District of Columbia, Court of Federal Claims No: 10–0773V.

813. Maria Miranda on behalf of Adrian Miranda, Denver, Colorado, Court of Federal Claims No: 10–0776V.

814. John Hickman, San Francisco, California, Court of Federal Claims No: 10–0777V.

815. Thomas Kief, Bel Air, Maryland, Court of Federal Claims No: 10–0781V.

816. Joseph Maus, Danville, Pennsylvania, Court of Federal Claims No: 10–0782V.

817. Edward L. Barker, Jr., Paragould, Arizona, Court of Federal Claims No: 10–0783V.

818. Tabatha Fisher in behalf of Megan Fisher, Englewood, New Jersey, Court of Federal Claims No: 10–0784V.

819. Jada Tolson, Englewood, New Jersey, Court of Federal Claims No: 10–0785V.

820. J.E., Plainview, New York, Court of Federal Claims No: 10–0786V.

821. Ashley Ryburn, Ankeny, Iowa, Court of Federal Claims No: 10–0787V.

822. Christina Green and Bryan Green on behalf of N.G., Westminster, Maryland, Court of Federal Claims No: 10–0789V.

823. Sytun M. Baldwin, Pasadena, California, Court of Federal Claims No: 10–0790V.

824. Nikki L. Rigley, Camus, Washington, Court of Federal Claims No: 10–0795V.

825. Mojdeh Amani, Newport Beach, California, Court of Federal Claims No: 10–0796V.

826. Mark Whittlesey, Salt Lake City, Utah, Court of Federal Claims No: 10–0797V.

827. Jane and Alex Higdon on behalf of Aidon Higdon, Atlanta, Georgia, Court of Federal Claims No: 10–0798V.

828. Rose Vettese on behalf of Arthur Crespo, New York, New York, Court of Federal Claims No: 10–0799V.

829. Thomas Fyler, Sacramento, California, Court of Federal Claims No: 10–0800V.

830. Shannon Schrag on behalf of Shannon Swank, Wichita, Kansas, Court of Federal Claims No: 10–0801V.

831. James Seykora, Minot, North Dakota, Court of Federal Claims No: 10–0802V.

832. Dan Smith, Urbana, Illinois, Court of Federal Claims No: 10–0806V.

833. Angela B. and Anthony J. Hamby on behalf of Megan Lanee Hamby, Hickory, North Carolina, Court of Federal Claims No: 10–0807V.

834. Diane Carpenter, Guilford, Connecticut, Court of Federal Claims No: 10–0808V.

835. Rebecca and Randall Whitney on behalf of Schuyler Whitney, Dorr, Michigan, Court of Federal Claims No: 10–0809V.

836. David Helman, Iowa City, Iowa, Court of Federal Claims No: 10–0813V.

837. Miracle Morman, Somerville, Tennessee, Court of Federal Claims No: 10–0814V.

838. Gary Mears, Basalt, Colorado, Court of Federal Claims No: 10–0816V.

839. Jan M. Gaynor, Orlando, Florida, Court of Federal Claims No: 10–0817V.

840. Nona Roe and Arthur Roe on behalf of J.R., Mason, Michigan, Court of Federal Claims No: 10–0818V.

841. Kim Summers on behalf of Cassity Summers, Houston, Texas, Court of Federal Claims No: 10–0826V.

842. Lauren Shortnacy, Columbus, Georgia, Court of Federal Claims No: 10–0827V.

843. Phyllis Standish, Hackensack, New Jersey, Court of Federal Claims No: 10–0828V.

844. Christina and David Carter, Peoria, Illinois, Court of Federal Claims No: 10–0829V.

845. Margaret Clanton, Austin, Texas, Court of Federal Claims No: 10–0830V.

846. Brenda Day, East Chicago, Indiana, Court of Federal Claims No: 10–0833V.

847. Jacob J. Powell, Jasper, Tennessee, Court of Federal Claims No: 10–0834V.

848. Bethany Laroche, Boston, Massachusetts, Court of Federal Claims No: 10–0835V.

849. Steven Heye, Little Rock, Arkansas, Court of Federal Claims No: 10–0836V.

850. Ashley Stout, Morehead, Kentucky, Court of Federal Claims No: 10–0840V.

851. Manisha Banerjee and Sudip Ghosal on behalf of Ronok Ghosal, Mountain View, California, Court of Federal Claims No: 10–0841V.

852. Bethany Laroche, Boston, Massachusetts, Court of Federal Claims No: 10–0842V.

853. Stacey G. Williams, St. Louis, Missouri, Court of Federal Claims No: 10–0843V.

854. Leandra Rose Romero, Lodi, California, Court of Federal Claims No: 10–0846V.

855. Taquaria Williams, Flint, Michigan, Court of Federal Claims No: 10–0847V.

856. Thomas Dick, Beaver, West Virginia, Court of Federal Claims No: 10–0848V.

857. Pamela Ann Dillon, Morehead, Kentucky, Court of Federal Claims No: 10–0850V.

858. Margaret Nutt, Charleston, South Carolina, Court of Federal Claims No: 10–0862V.

859. Ashlyn Wetherell, Wilmington, North Carolina, Court of Federal Claims No: 10–0863V.

860. Michael Trainer, Spring House, Pennsylvania, Court of Federal Claims No: 10–0865V.

861. Janelle A. Seibold, Atlanta, Georgia, Court of Federal Claims No: 10–0866V.

862. Jessica Lee Johnson, Plantation, Florida, Court of Federal Claims No: 10–0867V.

863. Shannon and Ed O'Brien on behalf of Kyla Lily O'Brien, San Diego, California, Court of Federal Claims No: 10–0870V.

864. Lauren Philie on behalf of Charlotte Philie, Boston, Massachusetts, Court of Federal Claims No: 10–0871V.

865. Christina O'Quinn, Kingsport, Tennessee, Court of Federal Claims No: 10–0872V.

866. Christine Williquette on behalf of Josephine Williquette, Milwaukee, Wisconsin, Court of Federal Claims No: 10–0873V.

867. Edmund A. Escobar, El Paso, Texas, Court of Federal Claims No: 10–0874V.

868. George Hand, Columbia, Illinois, Court of Federal Claims No: 10–0875V.

869. Rachel Graf, St. Croix Falls, Wisconsin, Court of Federal Claims No: 10–0879V.

870. Gilbert Placencia, Seattle, Washington, Court of Federal Claims No: 10–0881V.

871. Valeria Watson, Coney Island, New York, Court of Federal Claims No: 10–0882V.

872. Amanda Howry on behalf of Levi Howry, Pequea, Pennsylvania, Court of Federal Claims No: 10–0888V.

873. Katy and Michael Garcia on behalf of Kylie Garcia, Albuquerque, New Mexico, Court of Federal Claims No: 10–0889V.

874. Diane Froelick, Charlotte, North Carolina, Court of Federal Claims No: 11–0001V.

875. Amy and Rick Owens on behalf of Tasha Owens, Rio Rancho, New Mexico, Court of Federal Claims No: 11–0002V.

876. Melissa Altmeyer on behalf of Madelyn Altmeyer, Sheboygan, Wisconsin, Court of Federal Claims No: 11–0003V.

877. Ysidro Moreno, Lake Havasu City, Arizona, Court of Federal Claims No: 11–0005V.

878. Ysidro Moreno, Lake Havasu City, Arizona, Court of Federal Claims No: 11–0008V.

879. James T. Holmes, III, on behalf of Catherina J. Holmes, Deceased, Boston, Massachusetts, Court of Federal Claims No: 11–0011V.

880. Evelyn Murphy on behalf of Marly Murphy, Cedar Park, Texas, Court of Federal Claims No: 11–0012V.

881. Ashley and Todd Hubbard on behalf of Jude Hubbard, Sellersburg, Indiana, Court of Federal Claims No: 11–0014V.

882. Catherine Staley, Somerville, Massachusetts, Court of Federal Claims No: 11–0015V.

883. Joni O'Conner, Vallejo, California, Court of Federal Claims No: 11–0016V.

884. Paul U. Quichocho, Vacaville, California, Court of Federal Claims No: 11–0018V.

885. Megan Lambing, Alexandria, Louisiana, Court of Federal Claims No: 11–0021V.

886. Walter Grosh, Hapeville, Georgia, Court of Federal Claims No: 11–0024V.

887. Maria Giunta, Boston, Massachusetts, Court of Federal Claims No: 11–0025V.

888. Rosamaria DeSimone, San Diego, California, Court of Federal Claims No: 11–0026V.

889. Susan O'Neill, Mount Prospect, Illinois, Court of Federal Claims No: 11–0027V.

890. H.G., Fort Lauderdale, Florida, Court of Federal Claims No: 11–0028V.

891. Irene Dennis, Lumberton, New Jersey, Court of Federal Claims No: 11–0029V.

892. Vasilios Papadopoulos, Boise, Idaho, Court of Federal Claims No: 11–0037V.

893. Mr. S. on behalf of Ms. S., Deceased, St. Paul, Minnesota, Court of Federal Claims No: 11–0040V.

894. Kristen Ridl on behalf of Sara Murdock, Bellingham, Washington, Court of Federal Claims No: 11–0041V.

895. Roslyn Hymel on Behalf of Casie Green, Mandeville, Louisiana, Court of Federal Claims No: 11–0044V.

896. Qiuyue Yu and Yangping Xu on behalf of Kyle Xu, Fishers, Indiana, Court of Federal Claims No: 11–0047V.

897. Pamela Myers, Folsom, California, Court of Federal Claims No: 11–0049V.

898. Nicole and Domah Brown on behalf of Aidan Brown, Woodbridge, Virginia, Court of Federal Claims No: 11–0050V.

899. Brett Allen, Piedmont, Alabama, Court of Federal Claims No: 11–0051V.

900. Merideth Kirkland, Glenview, Illinois, Court of Federal Claims No: 11–0057V.

901. Kerri and Cody Scheufler on behalf of Kash Scheufler, Wichita, Kansas, Court of Federal Claims No: 11–0058V.

902. Rosemary Taylor and Clara Jean Bertinelli on behalf of Mary Key, Henderson, Kentucky, Court of Federal Claims No: 11–0059V.

903. Mary Katherine Davison, Jefferson, Maryland, Court of Federal Claims No: 11–0060V.

904. Richard Clark, Glen Allen, Virginia, Court of Federal Claims No: 11–0061V.

905. Valeria Watson, Brooklyn, New York, Court of Federal Claims No: 11–0062V.

906. Andrea Botan on behalf of Evelyn Botan, San Antonio, Texas, Court of Federal Claims No: 11–0063V.

907. Jade W. Brewton, Lake Charles, Louisiana, Court of Federal Claims No: 11–0067V.

908. Victoria Ventimiglia, Philadelphia, Pennsylvania, Court of Federal Claims No: 11–0068V.

909. Jessica Nicole Young, Tomball, Texas, Court of Federal Claims No: 11–0069V.

910. Carol Jones, Boston, Massachusetts, Court of Federal Claims No: 11–0070V.

911. Stephanie and Daniel Christner on behalf of Victoria Christner, Tulsa, Oklahoma, Court of Federal Claims No: 11–0074V.

912. Sherril K. Stillwell, Downey, California, Court of Federal Claims No: 11–0077V.

913. Karen Anne Daddona, Doylestown, Pennsylvania, Court of Federal Claims No: 11–0079V.

914. Madison Harrington, Dallas, Texas, Court of Federal Claims No: 11–0083V.

915. Dhata R. Harris, Tallahassee, Florida, Court of Federal Claims No: 11–0085V.

916. Susan and Kyle Nickell on behalf of Emily Nickell, Hurst, Texas, Court of Federal Claims No: 11–0088V.

917. James Trunzo, Scranton, Pennsylvania, Court of Federal Claims No: 11–0093V.

918. Eleanor D. Hernandez, Forest, Virginia, Court of Federal Claims No: 11–0094V.

919. Scott Caldwell, Hattiesburg, Pennsylvania, Court of Federal Claims No: 11–0099V.

920. Michael Morgan, West Cherry Hill, New Jersey, Court of Federal Claims No: 11–0103V.

921. Winfred Eaton, Brownwood, Texas, Court of Federal Claims No: 11–0104V.

922. Terrie Ockmand, Harvey, Louisiana, Court of Federal Claims No: 11–0105V.

923. Carl J. Verity, Mineola, New York, Court of Federal Claims No: 11–0106V.

924. Janice Incze on behalf of Kristina Incze, Deceased, Oneonta, New York, Court of Federal Claims No: 11–0112V.

925. Karyn Libert, Commack, New York, Court of Federal Claims No: 11–0116V.

926. Bedford Boylston, Washington, District of Columbia, Court of Federal Claims No: 11–0117V.

927. Emily Wirt, Havertown, Pennsylvania, Court of Federal Claims No: 11–0118V.

928. Terrie East, Salem, South Carolina, Court of Federal Claims No: 11–0119V.

929. Linda Johnson, Baton Rouge, Louisiana, Court of Federal Claims No: 11–0120V.

930. Ernestine Quinn, Kansas City, Kansas, Court of Federal Claims No: 11–0121V.

931. Sheila Katrice Rhodes, Huntsville, Alabama, Court of Federal Claims No: 11–0122V.

932. Mariah Van Vessem, Patchogue, New York, Court of Federal Claims No: 11–0132V.

933. William Jeffrey Bishop, Ft. Sill, Oklahoma, Court of Federal Claims No: 11–0137V.

934. Wanda and David Jewell on behalf of Lindsey Jewell, Manassas, Virginia, Court of Federal Claims No: 11–0138V.

935. Sherry Salmins, Saddle Brook, New Jersey, Court of Federal Claims No: 11–0140V.

936. Ramanathan Pammanabhan and Krithika Srinivas on behalf of Ishaan Ramanathan Iyer, Danville, California, Court of Federal Claims No: 11–0141V.

937. Marc Mayer, Teaneck, New Jersey, Court of Federal Claims No: 11–0142V.

938. Glenn Knight, Pell City, Alabama, Court of Federal Claims No: 11–0143V.

939. Marvin Green, Red Lake, Minnesota, Court of Federal Claims No: 11–0144V.

940. Antonio Hernandez, Glendora, California, Court of Federal Claims No: 11–0145V.

941. Felix Santiago, Sarasota, Florida, Court of Federal Claims No: 11–0146V.

942. Lisa and Mark Villano, Shawnee on Delaware, Pennsylvania, Court of Federal Claims No: 11–0147V.

943. Maureen Rowe, Branchville, New Jersey, Court of Federal Claims No: 11–0150V.

944. Tracy Arakelian and Daren Arakelian on behalf of Charles Arakelian, Rensselaer, New York, Court of Federal Claims No: 11–0151V.

945. Donna and Bryan Quinones on behalf of Yvette R. Quinones, Selden, New York, Court of Federal Claims No: 11–0154V.

946. Amy M. Phillips-Davis and Robert V. Davis on behalf of Aidan L. Davis, Ogden, Utah, Court of Federal Claims No: 11–0156V.

947. Laurel Brishel Prichard, Albuquerque, New Mexico, Court of Federal Claims No: 11–0162V.

948. Harvey McBride, Butler, Mississippi, Court of Federal Claims No: 11–0164V.

949. Francis Nix, Paducah, Kentucky, Court of Federal Claims No: 11–0165V.

950. Kamali Saminathan, Tulsa, Oklahoma, Court of Federal Claims No: 11–0171V.

951. Theresa Jenerou, San Antonio, Texas, Court of Federal Claims No: 11–0173V.

952. Daniel Irwin, Melbourne, Florida, Court of Federal Claims No: 11–0174V.

953. Jose Luis Perez and Dina Vega on behalf of Angel Perez Vega, Lawrenceville, Georgia, Court of Federal Claims No: 11–0177V.

954. Richard E. Morris, Aberdeen Proving Ground, Maryland, Court of Federal Claims No: 11–0179V.

955. Rosalinda Cruz, Providence, Rhode Island, Court of Federal Claims No: 11–0183V.

956. Linda Orr, Sparta, Tennessee, Court of Federal Claims No: 11–0184V.

957. Paula A. Figel, New Martinsville, Ohio, Court of Federal Claims No: 11–0186V.

958. Laurel Bishop Prichard, Albuquerque, New Mexico, Court of Federal Claims No: 11–0192V.

959. Theresa Weitbrecht, Berlin, New Hampshire, Court of Federal Claims No: 11–0195V.

960. Tiana Tocio, Naples, Florida, Court of Federal Claims No: 11–0196V.

961. Shirley T. Wood on behalf of John Tate, Gainesville, Florida, Court of Federal Claims No: 11–0197V.

962. Taylor Bristow, Bozeman, Montana, Court of Federal Claims No: 11–0198V.

963. Shauni Rai Bracey on behalf of Kaylyn Jane Fischer, Pleasanton, Texas, Court of Federal Claims No: 11–0202V.

964. Frederick Parks and Stephanie Roscoe on behalf of Brianna Roscoe, Albany, Georgia, Court of Federal Claims No: 11–0206V.

965. Jamie Alexander and Trent Alvarez on behalf of Kynzie Alvarez, Stockton, California, Court of Federal Claims No: 11–0210V.

966. Jerry W. Emmons, Sr., Puyallup, Washington, Court of Federal Claims No: 11–0211V.

967. Paul Sam, Spokane, Washington, Court of Federal Claims No: 11–0213V.

968. Ruby Forte, Louisville, Kentucky, Court of Federal Claims No: 11–0214V.

969. Jeffrey David Simmons, Yakima, Washington, Court of Federal Claims No: 11–0216V.

970. Janelle Robinson, Lansing, Kansas, Court of Federal Claims No: 11–0218V.

971. Dudley Edwards, Sheridan, Wyoming, Court of Federal Claims No: 11–0219V.

972. Robert Finley, Michigan City, Indiana, Court of Federal Claims No: 11–0220V.

973. Scott Scharfenberger, Cincinnati, Ohio, Court of Federal Claims No: 11–0221V.

974. Debra Redman, Statesville, North Carolina, Court of Federal Claims No: 11–0222V.

975. Jennifer Coute-Marotta, Boston, Massachusetts, Court of Federal Claims No: 11–0225V.

976. Debbie Cook on Behalf of Kirstie Cook, Malone, New York, Court of Federal Claims No: 11–0226V.

977. Stephen Hamel on behalf of K. H., Phoenix, Arizona, Court of Federal Claims No: 11–0227V.

978. Sharon Seas, Canton, Ohio, Court of Federal Claims No: 11–0228V.

979. Rafaella Ganley, Washington, District of Columbia, Court of Federal Claims No: 11–0233V.

980. Jon F. Early, Nevada, Iowa, Court of Federal Claims No: 11–0235V.

981. Omar Del Rio, West Palm Beach, Florida, Court of Federal Claims No: 11–0238V.

982. Sarah Gregory, Fresno, California, Court of Federal Claims No: 11–0239V.

983. Dorothy Mathews, Tuscaloosa, Alabama, Court of Federal Claims No: 11–0242V.

984. Irena Kuzemczak-Lewis, Bronxville, New York, Court of Federal Claims No: 11–0243V.

985. Shishpal Purewal, Sarasota, Florida, Court of Federal Claims No: 11–0244V.

986. Eva and Ken Haley on behalf of Jade Haley, Springfield, Ohio, Court of Federal Claims No: 11–0246V.

987. Serena A. Bourne on behalf of Jason A. Bourne, Omaha, Nebraska, Court of Federal Claims No: 11–0247V.

988. Viswanathan Sankaran, Billerica, Massachusetts, Court of Federal Claims No: 11–0248V.

989. Natalie S. Wait Hiebert, Laguna Niguel, California, Court of Federal Claims No: 11–0251V.

990. Felitia and Lester Scott on behalf of Victoria Scott, Ellisville, Mississippi, Court of Federal Claims No: 11–0265V.

991. Sean David Murphy, Browns Summit, North Carolina, Court of Federal Claims No: 11–0266V.

992. Victoria Capdeville, Metairie, Louisiana, Court of Federal Claims No: 11–0271V.

993. Merrell S. McIlwain, Pawleys Island, South Carolina, Court of Federal Claims No: 11–0274V.

994. Shannon Nicole Ziemba, Wesley Hills, Massachusetts, Court of Federal Claims No: 11–0277V.

995. Bobbi and Shaun Lawrence Peters on behalf of Keith Peters, Mooresville, North Carolina, Court of Federal Claims No: 11–0281V.

996. Sue Russell on behalf of Kristianna Adams, Minneapolis, Minnesota, Court of Federal Claims No: 11–0282V.

997. Brittany M. Croft, Bedford, Texas, Court of Federal Claims No: 11–0283V.

998. Lauren Genshaft, Woodbury, New York, Court of Federal Claims No: 11–0284V.

999. Nancy L. Urick, Ketchikan, Alaska, Court of Federal Claims No: 11–0286V.

1000. Brooke A. Borders, Louisville, Kentucky, Court of Federal Claims No: 11–0287V.

1001. Mark A. Sibley on behalf of Paul L. Sibley, Deceased, Park Ridge, Illinois, Court of Federal Claims No: 11–0292V.

1002. Allen Dean Steeley on behalf of Debora Kay Steeley, Deceased, Ogden, Utah, Court of Federal Claims No: 11–0293V.

1003. Seth Thomas Angelo, Riviera Beach, Florida, Court of Federal Claims No: 11–0296V.

1004. Lauren Wholley, Beverly, Massachusetts, Court of Federal Claims No: 11–0300V.

1005. Helen Jump, San Bruno, California, Court of Federal Claims No: 11–0301V.

1006. Joyce O'Malley, Conyers, Georgia, Court of Federal Claims No: 11–0302V.

1007. Mona Menking, Lexington, Kentucky, Court of Federal Claims No: 11–0303V.

1008. Tony Clark, Butler, Missouri, Court of Federal Claims No: 11–0304V.

1009. Octavius Brown, Sandersville, Georgia, Court of Federal Claims No: 11–0305V.

1010. Brian Tite, Springfield, Missouri, Court of Federal Claims No: 11–0306V.

1011. Elizabeth Jasnosz, Monmouth Junction, New Jersey, Court of Federal Claims No: 11–0307V.

1012. Neil Mowatt, Rocky Mount, North Carolina, Court of Federal Claims No: 11–0308V.

1013. Donald Branstetter, Powell, Wyoming, Court of Federal Claims No: 11–0309V.

1014. Mark Sharp, Charlton, New York, Court of Federal Claims No: 11–0310V.

1015. Lydia Myrella Medina on behalf of Ayeri Adriana Medina, San Antonio, Texas, Court of Federal Claims No: 11–0311V.

1016. Richard Petraglia, Boston, Massachusetts, Court of Federal Claims No: 11–0315V.

1017. Lisa Burrell-Smith, Asheville, North Carolina, Court of Federal Claims No: 11–0316V.

1018. Erika Zanco on behalf of Santo B. Zanco, Deceased, San Francisco, California, Court of Federal Claims No: 11–0317V.

1019. Jodi M. Rowe on behalf of Patricia Carter Hyde, Deceased, Fayetteville, Georgia, Court of Federal Claims No: 11–0322V.

1020. Kevin M. Hinnefeld, Bloomington, Indiana, Court of Federal Claims No: 11–0328V.

1021. Guillermina Ramirez, San Antonio, Texas, Court of Federal Claims No: 11–0336V.

1022. Adeena Santiago and Erick Santiago, Sr. on behalf of Erick Santiago, Jr., Manhattan, New York, Court of Federal Claims No: 11–0342V.

1023. Letitia Simpson, Fort Stewart, Georgia, Court of Federal Claims No: 11–0343V.

1024. Alicia Champlin, Tucson, Arizona, Court of Federal Claims No: 11–0349V.

1025. Ardella Dschaak, Hettinger, North Dakota, Court of Federal Claims No: 11–0350V.

1026. Regina Williams on behalf of Violet Williams, Harrisburg, Pennsylvania, Court of Federal Claims No: 11–0352V.

1027. Steven A. Fioccoprile, Tucson, Arizona, Court of Federal Claims No: 11–0354V.

1028. Cheryl Koehn on Behalf of Vanessa Koehn, Santa Maria, California, Court of Federal Claims No: 11–0355V.

1029. April L. Garton and Jeremiah R. Casmire on behalf of Jeremiah R. Casmire, Jr., Deceased, Indianapolis, Indiana, Court of Federal Claims No: 11–0356V.

1030. Jenna Bear on Behalf of McKenzie Bear, Hudson, Ohio, Court of Federal Claims No: 11–0362V.

1031. Nora Kenney, Boston, Massachusetts, Court of Federal Claims No: 11–0363V.

1032. Catharine and Brian Beeks on behalf of Benjamin Lee Beeks, Lafayette, Indiana, Court of Federal Claims No: 11–0364V.

1033. Debra Solomon and Marlon White on behalf of Nicole White, Orlando, Florida, Court of Federal Claims No: 11–0365V.

1034. Aileen Blight, Dover, Delaware, Court of Federal Claims No: 11–0366V.

1035. Darryl Aldrich, Wichita, Kansas, Court of Federal Claims No: 11–0367V.

1036. Judith Adler, Great Barrington, Massachusetts, Court of Federal Claims No: 11–0368V.

1037. Robert C. Bettez, Naples, Florida, Court of Federal Claims No: 11–0369V.

1038. Sarah Bout and John Bout on behalf of Kallista Bout, Pittsburg, Pennsylvania, Court of Federal Claims No: 11–0370V.

1039. Paula Armstrong on behalf of Gretchen Armstrong, Shawnee Mission, Kansas, Court of Federal Claims No: 11–0378V.

1040. Megan Bauer, Laguna Hills, California, Court of Federal Claims No: 11–0387V.

1041. Allison Flood, Colleyville, Texas, Court of Federal Claims No: 11–0388V.

1042. Walli Afzali on behalf of Nasir Afzali, Chicago, Illinois, Court of Federal Claims No: 11–0390V.

1043. Arthur Charles Hoffman, Freemont, Nebraska, Court of Federal Claims No: 11–0395V.

1044. Candice Johnson, Chicago, Illinois, Court of Federal Claims No: 11–0398V.

1045. Stephanie Short on behalf of Yusef Abdullah, Pittsburgh, Pennsylvania, Court of Federal Claims No: 11–0399V.

1046. Valerie Schmidt, Salem, Oregon, Court of Federal Claims No: 11–0401V.

1047. Donald Shaw, Downingtown, Pennsylvania, Court of Federal Claims No: 11–0402V.

1048. Abbey Taylor Moon, Maysville, Kentucky, Court of Federal Claims No: 11–0403V.

1049. Monica Mercurio and Vincent Mercurio on behalf of Alessandro Mercurio, Los Alamitos, California, Court of Federal Claims No: 11–0410V.

1050. Barbara Jean and Harlan Joe Sallach on behalf of Sydney Sallach, Red Oak, Iowa, Court of Federal Claims No: 11–0411V.

1051. Jaclyn Nicole Hessel, Miami, Florida, Court of Federal Claims No: 11–0412V.

1052. Renisha and Sheldon Bivins on behalf of Sian Bivins, Rancho Mirage, California, Court of Federal Claims No: 11–0413V.

1053. Denis Louis, West Falls, New York, Court of Federal Claims No: 11–0414V.

1054. Shannon Smith, Biddeford, Maine, Court of Federal Claims No: 11–0415V.

1055. Nicole Kuzmin-Nichols on behalf of Sean Nichols, Vienna, Virginia, Court of Federal Claims No: 11–0417V.

1056. Theresa Lynch, Virginia Beach, Virginia, Court of Federal Claims No: 11–0421V.

1057. Jill Sarina, Reynoldsburg, Ohio, Court of Federal Claims No: 11–0422V.

1058. Diane Atwood, Greeneville, Alabama, Court of Federal Claims No: 11–0423V.

1059. William J. Vogler, Sidney, Ohio, Court of Federal Claims No: 11–0424V.

1060. Vicki Combs, Fort Mill, South Carolina, Court of Federal Claims No: 11–0425V.

1061. Thomas P. Gleason and Kay Z. Gleason on behalf of M.T.G., Shippensburg, Pennsylvania, Court of Federal Claims No: 11–0427V.

1062. Larry Acor, Pocatello, Idaho, Court of Federal Claims No: 11–0430V.

1063. Lisa Hart, Hagerstown, Maryland, Court of Federal Claims No: 11–0431V.

1064. Stephanie and Michael Jones on behalf of Jacob Jones, Clinton Township, Michigan, Court of Federal Claims No: 11–0433V.

1065. Cydni Myers on behalf of James Myers, Chattanooga, Tennessee, Court of Federal Claims No: 11–0434V.

1066. Julie Hogan, Wyoming, Minnesota, Court of Federal Claims No: 11–0437V.

1067. Lisa M. Wallace, Charlotte, North Carolina, Court of Federal Claims No: 11–0438V.

1068. Carol and Mark Bender on behalf of Kyle Bender, Ebensburg, Pennsylvania, Court of Federal Claims No: 11–0440V.

1069. Ray Sizemore, Boston, Massachusetts, Court of Federal Claims No: 11–0441V.

1070. Tabitha Price on behalf of Douglas Price, Boston, Massachusetts, Court of Federal Claims No: 11–0442V.

1071. Richard Sweet, Cincinnati, Ohio, Court of Federal Claims No: 11–0443V.

1072. Dean Desiderio, Plano, Texas, Court of Federal Claims No: 11–0444V.

1073. Kristen Brown, Houston, Texas, Court of Federal Claims No: 11–0448V.

1074. Ashley Copperthite on behalf of Asia Copperthite, Winchester, Virginia, Court of Federal Claims No: 11–0457V.

1075. Angela DiSanto, Garden City, New York, Court of Federal Claims No: 11–0459V.

1076. Leslie Sanker on behalf of Preston Nigel Sanker, Marblehead, Massachusetts, Court of Federal Claims No: 11–0463V.

1077. Roger Knizewski, Luray, Virginia, Court of Federal Claims No: 11–0468V.

1078. Nicole Martinelli, Schenectady, New York, Court of Federal Claims No: 11–0469V.

1079. Lee Hames, Auburn, Maine, Court of Federal Claims No: 11–0470V.

1080. Buel Dean Hamilton, Tulsa, Oklahoma, Court of Federal Claims No: 11–0476V.

1081. Jeffrey Compton and Casey Compton on behalf of Alyssa Compton, Elkton, Maryland, Court of Federal Claims No: 11–0477V.

1082. Andrea Knopp on behalf of Zane Knopp, Sandy, Utah, Court of Federal Claims No: 11–0478V.

1083. Ladonna Jean Coleman, Grapevine, Texas, Court of Federal Claims No: 11–0481V.

1084. Betty Stuckey, Kettering, Ohio, Court of Federal Claims No: 11–0484V.

1085. Gary C. Stebnitz, Janesville, Wisconsin, Court of Federal Claims No: 11–0485V.

1086. Santhamma Joseph, Queens, New York, Court of Federal Claims No: 11–0488V.

1087. Linda Schur, Portland, Oregon, Court of Federal Claims No: 11–0493V.

1088. Nevelyn McIntosh, Ann Arbor, Michigan, Court of Federal Claims No: 11–0494V.

1089. Kristy Rollins on behalf of Malory K. Rollins, Omaha, Nebraska, Court of Federal Claims No: 11–0495V.

1090. Eugene R. Luzader, Sr., Monroeville, Pennsylvania, Court of Federal Claims No: 11–0497V.

1091. Megan Marie Fabisch, Appleton, Wisconsin, Court of Federal Claims No: 11–0501V.

1092. Muriel Shea, Holmdel, New Jersey, Court of Federal Claims No: 11–0505V.

1093. Heather Andrews-Turner on behalf of Tayla Turner, Boston, Massachusetts, Court of Federal Claims No: 11–0506V.

1094. Clifton Haigler and Charity Haigler on behalf of Thomas Thurlow Haigler, Albermarle, North Carolina, Court of Federal Claims No: 11–0508V.

1095. Steven Houck, Irvine, California, Court of Federal Claims No: 11–0509V.

1096. Heather Warfield and Jason Warfield on behalf of M.A.W., Hilliard, Ohio, Court of Federal Claims No: 11–0512V.

1097. Nicholas Bucci and Tia Bucci on behalf of Dante Bucci, Boston, Massachusetts, Court of Federal Claims No: 11–0513V.

1098. Patricia Rodina, Kansas City, Kansas, Court of Federal Claims No: 11–0517V.

1099. Shannon M. McGrath on behalf of S.M., Deceased, Greensburg, Pennsylvania, Court of Federal Claims No: 11–0521V.

1100. Tara Murray Kuntz, Shawnee Mission, Kansas, Court of Federal Claims No: 11–0522V.

1101. Patricia A. Deluca, Hilton Head Island, South Carolina, Court of Federal Claims No: 11–0524V.

1102. Priscilla Carollo, New York, New York, Court of Federal Claims No: 11–0532V.

1103. Tina Ramsay on behalf of Donna Ramsey, Mobile, Alabama, Court of Federal Claims No: 11–0549V.

1104. Keith M. Abbott, Richmond, Virginia, Court of Federal Claims No: 11–0550V.

1105. Charlene Catron, Downey, California, Court of Federal Claims No: 11–0552V.

1106. Carlos Rivera, West Haverstraw, New York, Court of Federal Claims No: 11–0553V.

1107. Solmaz Modeer, Chula Vista, California, Court of Federal Claims No: 11–0563V.

1108. Mary L. Jones, Paducah, Kentucky, Court of Federal Claims No: 11–0565V.

1109. Sandra McCray, Philadelphia, Pennsylvania, Court of Federal Claims No: 11–0567V.

1110. Melissa Dalton on behalf of Quentin Dalton, St. Louis, Missouri, Court of Federal Claims No: 11–0568V.

1111. Alice Rivera on behalf of Gabriella Zodda, Orlando, Florida, Court of Federal Claims No: 11–0574V.

1112. Nancy McClendon, Somerset, Kentucky, Court of Federal Claims No: 11–0575V.

1113. Erik Steven Pedersen, San Diego, California, Court of Federal Claims No: 11–0576V.

1114. D. Golmakani, Reston, Virginia, Court of Federal Claims No: 11–0577V.

1115. Tracey Lynne Moore, South Nassau, Florida, Court of Federal Claims No: 11–0578V.

1116. Kathleen Schwartz and Alan Schwartz on behalf of Marissa Schwartz, Reseda, California, Court of Federal Claims No: 11–0579V.

1117. Joey Devore and Robert Devore on behalf of Landen Devore, Ft. Lauderdale, Florida, Court of Federal Claims No: 11–0580V.

1118. Carol Lynne Goerner, Scottsbluff, Wyoming, Court of Federal Claims No: 11–0584V.

1119. Gabriel Vina-Quintana, Grand Rapids, Michigan, Court of Federal Claims No: 11–0585V.

1120. Diane Grady on behalf of Zachary R. Chiavetta, Bloomington, Illinois, Court of Federal Claims No: 11–0586V.

1121. Hwai C. Yueh, San Diego, California, Court of Federal Claims No: 11–0587V.

1122. James Melton, Richmond, Virginia, Court of Federal Claims No: 11–0589V.

1123. Brent S Brown and Stephanie S Brown on behalf of Brent B Brown, Ventura, California, Court of Federal Claims No: 11–0591V.

1124. Frederick Inscho and Sherri Inscho on behalf of Gabrielle Inscho, Dayton, Ohio, Court of Federal Claims No: 11–0599V.

1125. Deena Kelley, Essex, Missouri, Court of Federal Claims No: 11–0602V.

1126. Lauren Farb, Boston, Massachusetts, Court of Federal Claims No: 11–0603V.

1127. Mary Cooper, Woodbridge, Virginia, Court of Federal Claims No: 11–0604V.

1128. Dorothy E. Barcelona on behalf of Louis Edward Barcelona, Sr., Baton Rouge, Louisiana, Court of Federal Claims No: 11–0605V.

1129. Kelly Weisse on behalf of Sean Weisse, Smithtown, New York, Court of Federal Claims No: 11–0611V.

1130. Robert Smith and Amy Smith on behalf of L. S., Murrieta, California, Court of Federal Claims No: 11–0614V.

1131. Noma F. Kamler, Steeleville, Missouri, Court of Federal Claims No: 11–0617V.

1132. Floyd B. Hinton, Jr., Fort Gordon, Georgia, Court of Federal Claims No: 11–0619V.

1133. Danielle Schmidt, Beaverton, Oregon, Court of Federal Claims No: 11–0620V.

1134. Jocelyn Wilson, El Paso, Texas, Court of Federal Claims No: 11–0621V.

1135. Susan Chessy, Washington, District of Columbia, Court of Federal Claims No: 11–0622V.

1136. Ricky L Shaw, Bellevue, Washington, Court of Federal Claims No: 11–0623V.

1137. Dwight Munger, Emmett, Idaho, Court of Federal Claims No: 11–0624V.

1138. Dwight Munger, Emmett, Idaho, Court of Federal Claims No: 11–0625V.

1139. Diane M. James, Manistee, Michigan, Court of Federal Claims No: 11–0626V.

1140. Joe B. Wallace, Kansas City, Missouri, Court of Federal Claims No: 11–0627V.

1141. Holly Helms on behalf of Layla Michelle Helms, Charleston, South Carolina, Court of Federal Claims No: 11–0628V.

1142. Louis Benson, Tucson, Arizona, Court of Federal Claims No: 11–0629V.

1143. Jeffrey M. Carpenter, Southfield, Michigan, Court of Federal Claims No: 11–0630V.

1144. Roy Greene, Webster, Texas, Court of Federal Claims No: 11–0631V.

1145. Vandana Bhandari, Vienna, Virginia, Court of Federal Claims No: 11–0632V.

1146. Ross Bergstedt, Peoria, Arizona, Court of Federal Claims No: 11–0633V.

1147. Stephanie Gigliotti and Nicholas Gigliotti, Jr. on behalf of Nicholas Gigliotti, III, Howell, New Jersey, Court of Federal Claims No: 11–0634V.

1148. William Werner, Burlington, Wisconsin, Court of Federal Claims No: 11–0635V.

1149. Jeffrey A. Krager and Nadine L. Krager on behalf of Casey R. Krager, Bettendorf, Iowa, Court of Federal Claims No: 11–0636V.

1150. Regina Stephens and Tyrone Stephens on behalf of Tyrone Stephens, Jr., Columbus, Ohio, Court of Federal Claims No: 11–0637V.

1151. Robert Barker, Prices Corner, Delaware, Court of Federal Claims No: 11–0638V.

1152. Thomas Taylor, Buchanan, Virginia, Court of Federal Claims No: 11–0640V.

1153. Lynne Rectenwal, South Bend, Indiana, Court of Federal Claims No: 11–0641V.

1154. Cheryl Patricia Kinser, Oklahoma City, Oklahoma, Court of Federal Claims No: 11–0642V.

1155. Reuben Elliott, New York, New York, Court of Federal Claims No: 11–0644V.

1156. Christina Michalski, Richmond, Virginia, Court of Federal Claims No: 11–0646V.

1157. Sandra Walker, Smiths Station, Alabama, Court of Federal Claims No: 11–0648V.

1158. Valente C. Sanchez, Sarasota, Florida, Court of Federal Claims No: 11–0649V.

1159. Franklin Brewer, Huntsville, Texas, Court of Federal Claims No: 11–0650V.

1160. Perla Sanchez on behalf of Erasmo Barron, Edinburg, Texas, Court of Federal Claims No: 11–0651V.

1161. Leslie Crandall, Salt Lake City, Utah, Court of Federal Claims No: 11–0652V.

1162. Johnny E. Pennington, Alvin, Texas, Court of Federal Claims No: 11–0653V.

1163. Kevin Raymo and Heather Raymo on behalf of Hannah Taylor Raymo, Little Rock, Arizona, Court of Federal Claims No: 11–0654V.

1164. Delores Nichelle Rice, Austin, Texas, Court of Federal Claims No: 11–0655V.

1165. Brian Welsh and Jane Welsh on behalf of Cameron Welsh, Venice, Florida, Court of Federal Claims No: 11–0656V.

1166. Benjamin Truncali and Jamie Truncali on behalf of Anthony Truncali, Fishkill, New York, Court of Federal Claims No: 11–0657V.

1167. Judy Dodd, Franklin, Tennessee, Court of Federal Claims No: 11–0661V.

1168. Sean Bennett, Fort Myers, Florida, Court of Federal Claims No: 11–0662V.

1169. Sean Mason on behalf of Nancy L. Hayman, Jacksonville, Florida, Court of Federal Claims No: 11–0667V.

1170. David Beckner, Mobile, Alabama, Court of Federal Claims No: 11–0668V.

1171. Brittney P. Revell, Montgomery, Alabama, Court of Federal Claims No: 11–0669V.

1172. Carolyn J. Roberson, Salmon, Idaho, Court of Federal Claims No: 11–0670V.

1173. James A. Bevis, Cincinnati, Ohio, Court of Federal Claims No: 11–0672V.

1174. Clarence Mantlo, Nashville, Tennessee, Court of Federal Claims No: 11–0673V.

1175. Kyle H. Goelling, Morrisville, North Carolina, Court of Federal Claims No: 11–0674V.

1176. Audrey McElroy, Athens, Georgia, Court of Federal Claims No: 11–0679V.

1177. Susan Habchy, Boston, Massachusetts, Court of Federal Claims No: 11–0680V.

1178. Jennifer Sanchez and Germain Sanchez on behalf of Trystan Sanchez, Irvine, California, Court of Federal Claims No: 11–0685V.

1179. Susan Henderlong on behalf of Jacob Henderlong, Clinton, Michigan, Court of Federal Claims No: 11–0689V.

1180. Timothy Mathews, Clermont, North Carolina, Court of Federal Claims No: 11–0691V.

1181. Olivia Bender, Kingman, Arizona, Court of Federal Claims No: 11–0693V.

1182. Codie Mims, Georgetown, Texas, Court of Federal Claims No: 11–0694V.

1183. Debbie Lynn Rakes, Graham, North Carolina, Court of Federal Claims No: 11–0695V.

1184. Andrew W. Sacharok, Milmont, Pennsylvania, Court of Federal Claims No: 11–0696V.

1185. Janice Glaus, Maplewood, Minnesota, Court of Federal Claims No: 11–0698V.

1186. Cynthia Thibodeaux, Houma, Louisiana, Court of Federal Claims No: 11–0702V.

1187. Joan Novarro, Washington, District of Columbia, Court of Federal Claims No: 11–0707V.

1188. Lisa Hubina on behalf of Jessica Hubina, Bristol, Connecticut, Court of Federal Claims No: 11–0708V.

1189. Brian Machado, Roseville, California, Court of Federal Claims No: 11–0709V.

1190. James Jim Kindell, San Antonio, Texas, Court of Federal Claims No: 11–0710V.

1191. Holly J. DeVore, Richmond, Virginia, Court of Federal Claims No: 11–0714V.

1192. Pearl S. Guilliams, Niceville, Florida, Court of Federal Claims No: 11–0716V.

1193. Marta Sandoval on behalf of Emma M Sandoval, New Rochelle, New York, Court of Federal Claims No: 11–0720V.

1194. Lori Gorman and Brian Gorman on behalf of Aidan Gorman, Garden City, New York, Court of Federal Claims No: 11–0721V.

1195. Marta M. Sandoval on behalf of Sebastian A. Sandoval, New Rochelle, New York, Court of Federal Claims No: 11–0722V.

1196. Amanda K. Momberg, Mequon, Wisconsin, Court of Federal Claims No: 11–0726V.

1197. Joyce Dixon-Robinson, Milwaukee, Wisconsin, Court of Federal Claims No: 11–0727V.

1198. Darrell Linville, Flemingsburg, Kentucky, Court of Federal Claims No: 11–0728V.

1199. Maria Candell, Daytona Beach, Florida, Court of Federal Claims No: 11–0729V.

1200. David Mudano and Heather Mudano on behalf of J. M. M., Weatogue, Connecticut, Court of Federal Claims No: 11–0730V.

1201. Eddie K. Ogletree, Auburn, Alabama, Court of Federal Claims No: 11–0731V.

1202. John Crane, Indianapolis, Indiana, Court of Federal Claims No: 11–0732V.

1203. Don Ouk and Vannarim Oukon behalf of Kevin Ouk, Deceased, Boston,

Massachusetts, Court of Federal Claims No: 11–0736V.

1204. Maryanne Tierney on behalf of Alyssa Tierney, Boston, Massachusetts, Court of Federal Claims No: 11–0737V.

1205. Meredith A. McCann, Jacksonville, Florida, Court of Federal Claims No: 11–0738V.

1206. Juanita Burgess, Tempe, Arizona, Court of Federal Claims No: 11–0739V.

1207. Shelley Nelson, Federal Way, Washington, Court of Federal Claims No: 11–0744V.

1208. Mandy Horton on behalf of Kory Manderle, Great Falls, Montana, Court of Federal Claims No: 11–0746V.

1209. Jessica Nicole Casteneda on behalf of N. H., Phoenix, Arizona, Court of Federal Claims No: 11–0749V.

1210. Melanie Roush on behalf of Savanna Simmons, Columbus, Ohio, Court of Federal Claims No: 11–0750V.

1211. Pamela Kwiatkowski, Mecklenburg, North Carolina, Court of Federal Claims No: 11–0757V.

1212. Diane Hallowell, Asheville, North Carolina, Court of Federal Claims No: 11–0758V.

1213. Maryse R. Charbonneau, Hooksett, New Hampshire, Court of Federal Claims No: 11–0759V.

1214. Patricia A. Sayo, Millville, Delaware, Court of Federal Claims No: 11–0760V.

1215. Gregory H. Ladner, Philadelphia, Pennsylvania, Court of Federal Claims No: 11–0763V.

1216. Amy Sternhagen on behalf of Reese Sternhagen, Farmington Hills, Michigan, Court of Federal Claims No: 11–0764V.

1217. Heather Rogero and Walter A. Rogero, II on behalf of Walter A. Rogero, III, Falls Church, Virginia, Court of Federal Claims No: 11–0770V.

1218. Brian Barkas, Oxnard, California, Court of Federal Claims No: 11–0771V.

1219. Walter Milk, Boston, Massachusetts, Court of Federal Claims No: 11–0785V.

1220. Arturo Rodriguez, Orlando, Florida, Court of Federal Claims No: 11–0786V.

1221. Lorenzo Thomas and Alina Thomas on behalf of T. N. T., Las Vegas, Nevada, Court of Federal Claims No: 11–0787V.

1222. Brian A. McCullough, Fort Knox, Kentucky, Court of Federal Claims No: 11–0793V.

1223. Adriane Davey, Clackamas, Oregon, Court of Federal Claims No: 11–0794V.

1224. Laura Larue, Naperville, Illinois, Court of Federal Claims No: 11–0795V.

1225. Tamera Jean Johnston, Rochester, Minnesota, Court of Federal Claims No: 11–0796V.

1226. Stacey Musto and Kevin Musto on behalf of Kayla Musto, Richmond, Virginia, Court of Federal Claims No: 11–0801V.

1227. Sylvia M. James on behalf of A. C. W., Deland, Florida, Court of Federal Claims No: 11–0805V.

1228. David Forrisi, Pittsburgh, Pennsylvania, Court of Federal Claims No: 11–0806V.

1229. Jacob Peterson and Kathryn Peterson on behalf of Liam Peterson, Great Falls, Montana, Court of Federal Claims No: 11–0807V.

1230. Lisa Evelsizer, Springfield, Illinois, Court of Federal Claims No: 11–0809V.

1231. Lynn Frye on behalf of Virginia Taylor, Deceased, Albuquerque, New Mexico, Court of Federal Claims No: 11–0810V.

1232. James Persinger, Garden City, Kansas, Court of Federal Claims No: 11–0811V.

1233. Lindsey Ann Miller, Loudonville, Kentucky, Court of Federal Claims No: 11–0852V.

1234. Mary E. Pavilonis, McKees Rocks, Pennsylvania, Court of Federal Claims No: 11–0853V.

1235. Samuel Henderson, Tempe, Arizona, Court of Federal Claims No: 11–0854V.

1236. Patrick J. Nowak, Dalton, Massachusetts, Court of Federal Claims No: 11–0858V.

1237. Jennifer D Quinn on behalf of Kristen Hope Zimmerman, Kokomo, Indiana, Court of Federal Claims No: 11–0859V.

1238. Kevin C. Schleisman, Rockwell City, Iowa, Court of Federal Claims No: 11–0864V.

1239. Mark Webster, Ann Arbor, Michigan, Court of Federal Claims No: 11–0865V.

1240. Jacqueline Vavrik, Duluth, Georgia, Court of Federal Claims No: 11–0868V.

1241. Dana Wilcox on behalf of Megan Wilcox, San Diego, California, Court of Federal Claims No: 11–0875V.

1242. Frieda Lauber on behalf of O. K., Fort Lauderdale, Florida, Court of Federal Claims No: 11–0876V.

1243. Michael D. Berry, Irvine, California, Court of Federal Claims No: 11–0882V.

1244. Angela Kidd and Sidney Kidd on behalf of Colin Kidd, Florence, South Carolina, Court of Federal Claims No: 11–0883V.

1245. Paul W. Poling, Canastota, New York, Court of Federal Claims No: 11–0887V.

1246. William ''Bill'' Barboza, New Bern, North Carolina, Court of Federal Claims No: 11–0890V.

1247. Michael McPherson, Bronx, New York, Court of Federal Claims No: 11–0892V.

1248. Caleigh Miller, Fort Wayne, Indiana, Court of Federal Claims No: 11–0893V.

1249. Virginia Versland on behalf of Catherine Bratt, Englewood, New Jersey, Court of Federal Claims No: 11–0900V.

1250. Melville Pugh, Dallas, Texas, Court of Federal Claims No: 11–0901V.

1251. Barbara Snyder, Brooklyn, New York, Court of Federal Claims No: 11–0902V.

1252. Helen V. Hucksam, Norwood, Massachusetts, Court of Federal Claims No: 11–0907V.

1253. Robert Sapien on behalf of Alissa E Sapien, San Diego, California, Court of Federal Claims No: 12–0013V.

1254. Chelsea D. Barr on behalf of Emma Rose Barr, St. Charles, Missouri, Court of Federal Claims No: 12–0014V.

1255. Julie Anderson, Minneapolis, Minnesota, Court of Federal Claims No: 12–0016V.

1256. Robert Perretta, Safety Harbor, Florida, Court of Federal Claims No: 12–0017V.

1257. Jaclyn Elizabeth Farrar on behalf of Madison Mae Farrar, Quincy, Massachusetts, Court of Federal Claims No: 12–0028V.

1258. Robert Powell, Gatesville, Texas, Court of Federal Claims No: 12–0029V.

1259. Rebecca A. Norton, Dallas, Texas, Court of Federal Claims No: 12–0031V.

1260. James MacKenzie, Maynardville, Tennessee, Court of Federal Claims No: 12–0032V.

1261. Joyce Ruth Culbertson, Westminster, South Carolina, Court of Federal Claims No: 12–0034V.

1262. Ernie Wayne Feierabend, Baton Rouge, Louisiana, Court of Federal Claims No: 12–0035V.

1263. Starla Jones, Marysville, Ohio, Court of Federal Claims No: 12–0038V.

1264. Shannon M. Barry, New York, New York, Court of Federal Claims No: 12–0039V.

1265. Kristyn Polen, New Albany, Indiana, Court of Federal Claims No: 12–0046V.

1266. Misty Kelm on behalf of B. K., Fort Smith, Arizona, Court of Federal Claims No: 12–0054V.

1267. Kaitlyn E. Aholt, Marthasville, Missouri, Court of Federal Claims No: 12–0055V.

1268. Brad Spoden and Jeanne Spoden on behalf of Cole Michael Spoden, Chaska, Minnesota, Court of Federal Claims No: 12–0068V.

1269. Linda Mullins, Pound, Virginia, Court of Federal Claims No: 12–0069V.

1270. Madeline Wunder, Falmouth, Massachusetts, Court of Federal Claims No: 12–0072V.

1271. Karen Morgan and Michael Morgan on behalf of A. R. M., Haddonfield, New Jersey, Court of Federal Claims No: 12–0077V.

1272. Heather Mullen and Michael Mullen on behalf of D. P. M., Red Bank, New Jersey, Court of Federal Claims No: 12–0078V.

1273. Sharon E. Ricard, Antioch, California, Court of Federal Claims No: 12–0084V.

1274. John Valuckas and Cyndi Valuckas on behalf of P.V., Unionville, Connecticut, Court of Federal Claims No: 12–0086V.

1275. Lisa Faup on behalf of A. F., Old Bridge, New Jersey, Court of Federal Claims No: 12–0087V.

1276. Isabel Terrell, Palm Beach Gardens, Florida, Court of Federal Claims No: 12–0093V.

1277. John Matthew Buchko and Tara Henderson on behalf of Olivia Buchko, Charleston, West Virginia, Court of Federal Claims No: 12–0096V.

1278. Katie Roberts on behalf of E. M. R., Sarasota, Florida, Court of Federal Claims No: 12–0099V.

1279. Heather L. Magill and Scott A. Magill on behalf of Conor James Magill, Huntingdon, Pennsylvania, Court of Federal Claims No: 12–0100V.

1280. Edward M. Haney, Richmond, California, Court of Federal Claims No: 12–0103V.

1281. Kortney Meadows, Ann Arbor, Michigan, Court of Federal Claims No: 12–0105V.

1282. Luis Corona, Norwalk, Connecticut, Court of Federal Claims No: 12–0106V.

1283. Stephany Shayeghi on behalf of Ava Rose Shayeghi, Mooresville, North Carolina, Court of Federal Claims No: 12–0108V.

1284. Munther Alrubea on behalf of Rouqaya Alrubea, Dearborn, Michigan, Court of Federal Claims No: 12–0110V.

1285. Mary G. Mitchell, Marietta, Georgia, Court of Federal Claims No: 12–0111V.

1286. Gerald Lindy, Woodbridge, Connecticut, Court of Federal Claims No: 12–0112V.

1287. David Goldstein on Behalf of Lester Goldstein, Deceased, Somers Point, New Jersey, Court of Federal Claims No: 12–0116V.

1288. Cassandra Burchett, New Port Richey, Florida, Court of Federal Claims No: 12–0119V.

1289. Dima Alhajsalem and John Whitmer on behalf of Omar Whitmer, Greenbelt, Maryland, Court of Federal Claims No: 12–0120V.

1290. Raymond Fierro, Reno, Nevada, Court of Federal Claims No: 12–0123V.

1291. Kimberly Sewell, Bakersfield, California, Court of Federal Claims No: 12–0124V.

1292. Amber Baker on behalf of Oliver Baker, Houston, Texas, Court of Federal Claims No: 12–0126V.

1293. Janet P. Rose, Norwood, Massachusetts, Court of Federal Claims No: 12–0128V.

1294. S. B. Schwartz, Charleston, South Carolina, Court of Federal Claims No: 12–0129V.

1295. Elizabeth A. Wissner, Mukwonago, Wisconsin, Court of Federal Claims No: 12–0130V.

1296. Rachel M. Whiting, Yarmouth, Massachusetts, Court of Federal Claims No: 12–0132V.

1297. Timothy Bass, Phoenix, Arizona, Court of Federal Claims No: 12–0135V.

1298. Gregory Howard, Chaska, Minnesota, Court of Federal Claims No: 12–0139V.

1299. Matthew Daniel, Concord, North Carolina, Court of Federal Claims No: 12–0141V.

1300. Douglas Frank Gilmore, Jr., Washington, District of Columbia, Court of Federal Claims No: 12–0143V.

1301. Brandon Graham and Charmaine Graham on behalf of Kyree Graham, Yorktown, Virginia, Court of Federal Claims No: 12–0144V.

1302. Willie Ransom, Covington, Georgia, Court of Federal Claims No: 12–0145V.

1303. Beverli Riley, Kissimmee, Florida, Court of Federal Claims No: 12–0146V.

1304. Elaine De Jesus, Altadena, California, Court of Federal Claims No: 12–0149V.

1305. Charles Barfield, Roseville, California, Court of Federal Claims No: 12–0153V.

1306. Ronald Nolde on Behalf of Henry Nolde, Marinette, Wisconsin, Court of Federal Claims No: 12–0154V.

1307. Nicole Matten on behalf of K. M., Newport, Vermont, Court of Federal Claims No: 12–0155V.

1308. David Scuderi, Scarsdale, New York, Court of Federal Claims No: 12–0156V.

1309. Melodee Haole on Behalf of Kelii I. Haole, Wahiawa, Hawaii, Court of Federal Claims No: 12–0159V.

1310. Judith Morgan, Menasha, Wisconsin, Court of Federal Claims No: 12–0160V.

1311. Lucy Szarma on behalf of Bernard L. Szarma, Deceased, Richmond, Virginia, Court of Federal Claims No: 12–0162V.

1312. Amerlindia Sanchez Vega, Coamo, Puerto Rico, Court of Federal Claims No: 12–0164V.

1313. Regan M. Colombatto, New Orleans, Louisiana, Court of Federal Claims No: 12–0166V.

1314. Frank Mastin, Oro Valley, Arizona, Court of Federal Claims No: 12–0171V.

1315. Evangeline Tuason, League City, Texas, Court of Federal Claims No: 12–0172V.

1316. Laura Mahoney and Richard Mahoney on behalf of Richard David Mahoney, Fort Worth, Texas, Court of Federal Claims No: 12–0174V.

1317. Patricia Hockett, Shaker Heights, Ohio, Court of Federal Claims No: 12–0176V.

1318. David Dorff, Fargo, North Dakota, Court of Federal Claims No: 12–0178V.

1319. Amanda Strout on behalf of Riana L. Inman, Lewiston, Maine, Court of Federal Claims No: 12–0180V.

1320. Joanne Neri, Clifton Park, New York, Court of Federal Claims No: 12–0185V.

1321. Mary Brown, Sylva, North Carolina, Court of Federal Claims No: 12–0187V.

1322. John L. Strauss, Grand Rapid, Michigan, Court of Federal Claims No: 12–0188V.

1323. Anne Brooks Brauer, Fredericksburg, Virginia, Court of Federal Claims No: 12–0189V.

1324. Marisol Ledesma Tirador on behalf of Paola Melissa Carbo Ledesma, Fort Lauderdale, Florida, Court of Federal Claims No: 12–0192V.

1325. Michael Pereyra on behalf of Michael S. Pereyra, Jr., Pasadena, California, Court of Federal Claims No: 12–0195V.

1326. Carl Campagna, Lake Zurich, Illinois, Court of Federal Claims No: 12–0196V.

1327. Stacey Hansen and Gabriel Hansen on behalf of Hadlie Hansen, Grenada, Mississippi, Court of Federal Claims No: 12–0203V.

1328. Edwin J. Whitman, MD Castro Valley, California, Court of Federal Claims No: 12–0205V.

1329. Erin Renee Chesteen, Memphis, Tennessee, Court of Federal Claims No: 12–0206V.

1330. Patricia Cave, Gonzales, Louisiana, Court of Federal Claims No: 12–0215V.

1331. Beth Rolinger, Milton, Florida, Court of Federal Claims No: 12–0217V.

1332. Richard Harris on behalf of Andrea Harris, Deceased, Elkhart, Kansas, Court of Federal Claims No: 12–0218V.

1333. Jonathan Tyler Bishop and Amy Bishop on behalf of Reed Bishop, Florence, Mississippi, Court of Federal Claims No: 12–0219V.

1334. Lise Wright, Fontana, California, Court of Federal Claims No: 12–0220V.

1335. George Thompson, Charleston, South Carolina, Court of Federal Claims No: 12–0221V.

1336. Virginia Arlotta, Boston, Massachusetts, Court of Federal Claims No: 12–0222V.

1337. Tomika McLeod on behalf of Elijah McLeod, South Bend, Indiana, Court of Federal Claims No: 12–0232V.

1338. Kelly Schultz, Livingston, New Jersey, Court of Federal Claims No: 12–0234V.

1339. Bruno Stroili, Scottsdale, Arizona, Court of Federal Claims No: 12–0235V.

1340. Diane M. Dobbs, Wisconsin Dells, Wisconsin, Court of Federal Claims No: 12–0236V.

1341. Timothy E. Dowden, Baraboo, Wisconsin, Court of Federal Claims No: 12–0246V.

1342. Melissa Biggs, Mequon, Wisconsin, Court of Federal Claims No: 12–0247V.

1343. Mark Miles on behalf of Jackson Miles, Dallas, Texas, Court of Federal Claims No: 12–0254V.

1344. Leslie Lord, Randall Magnuski on behalf of Chase Lord, Swansea, Massachusetts, Court of Federal Claims No: 12–0255V.

1345. Jack T. Galyean, Cedar Rapids, Iowa, Court of Federal Claims No: 12–0257V.

1346. Shirley Tapia on behalf of Ethan Tapia, Tulsa, Oklahoma, Court of Federal Claims No: 12–0264V.

1347. Percell Livingston on behalf of Donavin Livingston, East Orange, New Jersey, Court of Federal Claims No: 12–0268V.

1348. Donald Presgrave, Boston, Massachusetts, Court of Federal Claims No: 12–0269V.

1349. Matthew Muszynski, Chicago, Illinois, Court of Federal Claims No: 12–0270V.

1350. Vijay Patel, Bay Shore, New York, Court of Federal Claims No: 12–0276V.

1351. Greta Lowther, Montpelier, Vermont, Court of Federal Claims No: 12–0277V.

1352. Sandra P. Reagan, Cary, North Carolina, Court of Federal Claims No: 12–0279V.

1353. Chelsey Moore and James Pitts on behalf of O. P., Denver, Colorado, Court of Federal Claims No: 12–0280V.

1354. Angela Vigliotti, Kingston, New York, Court of Federal Claims No: 12–0281V.

1355. Dawn McGraw, Lexington, Kentucky, Court of Federal Claims No: 12–0282V.

1356. James Castillo, Milwaukee, Wisconsin, Court of Federal Claims No: 12–0283V.

1357. Montez Petronelli, Milpitas, California, Court of Federal Claims No: 12–0285V.

1358. Leslie Brown, Danville, Illinois, Court of Federal Claims No: 12–0287V.

1359. Gary Kramolis, West, Texas, Court of Federal Claims No: 12–0288V.

1360. Margo Bryk, Suwanee, Georgia, Court of Federal Claims No: 12–0290V.

1361. Marianne Archambo, Paoli, Pennsylvania, Court of Federal Claims No: 12–0291V.

1362. Lawrence Lee, Scottsdale, Arizona, Court of Federal Claims No: 12–0294V.

1363. Octavio Cantos, Napa, California, Court of Federal Claims No: 12–0295V.

1364. Shelaine Harmon, Chicago, Illinois, Court of Federal Claims No: 12–0298V.

1365. David Gilchrist on behalf of Lynne Gilchrist, Garberville, California, Court of Federal Claims No: 12–0302V.

1366. Paul Pothier, Beachwood, Ohio, Court of Federal Claims No: 12–0306V.

1367. Arthur C. Howard, Kamuela, Hawaii, Court of Federal Claims No: 12–0307V.

1368. Nancy Harris Bowman, Orlando, Florida, Court of Federal Claims No: 12–0308V.

1369. Dorothy Thomas, Bryan, Texas, Court of Federal Claims No: 12–0309V.

1370. Brandy Carpenter on behalf of A. H., Gallatin, Tennessee, Court of Federal Claims No: 12–0310V.

1371. Katie E. Lamare, Morrisville, Vermont, Court of Federal Claims No: 12–0312V.

1372. Jessica L. Weppler on behalf of Julie Weppler, Sheldon, Iowa, Court of Federal Claims No: 12–0316V.

1373. Kay Anne Jacobson, Clarion, Iowa, Court of Federal Claims No: 12–0318V.

1374. Kelly Howard on behalf of Natalie Howard, Nashua, New Hampshire, Court of Federal Claims No: 12–0324V.

1375. Tara Martz and Daniel Martz on behalf of C. M., Tampa, Florida, Court of Federal Claims No: 12–0329V.

1376. Leslie Shives, Lebanon, Indiana, Court of Federal Claims No: 12–0330V.

1377. Wayne Turner, Richmond, Virginia, Court of Federal Claims No: 12–0331V.

1378. Verda G. Lawellin, Sun Valley, Arizona, Court of Federal Claims No: 12–0333V.

1379. Ashton Godfrey, Gilbert, Arizona, Court of Federal Claims No: 12–0334V.

1380. Shari Keith, Chandler, Arizona, Court of Federal Claims No: 12–0335V.

1381. Lenna Kesenci, Glen Rock, New Jersey, Court of Federal Claims No: 12–0339V.

1382. Charles Fout, Aberdeen, Maryland, Court of Federal Claims No: 12–0343V.

1383. Kristine Plumb on behalf of Steven Chambers, Phoenix, Arizona, Court of Federal Claims No: 12–0344V.

1384. James W. Endress, Mount Clemens, Michigan, Court of Federal Claims No: 12–0345V.

1385. Bryan Comeaux and Kelly Comeaux on behalf of Caroline Comeaux, New Iberia, Louisiana, Court of Federal Claims No: 12–0348V.

1386. Janice Fickett, Portsmouth, New Hampshire, Court of Federal Claims No: 12–0350V.

1387. Myrtle Bottorf, Jersey Shore, Pennsylvania, Court of Federal Claims No: 12–0351V.

1388. Yilak Kebebew and Sinidu Robi on behalf of Dagim Yilak, Columbus, Ohio, Court of Federal Claims No: 12–0352V.

1389. Dorota Von Maack, Brooklyn, New York, Court of Federal Claims No: 12–0354V.

1390. Cammie Finlay and Douglas Finlay on behalf of Gina L. Finlay, Jena, Louisiana, Court of Federal Claims No: 12–0356V.

1391. Summer Perry, Burbank, California, Court of Federal Claims No: 12–0359V.

1392. Julia Balogh, Hightstown, New Jersey, Court of Federal Claims No: 12–0360V.

1393. Dylia L. White, Colorado Springs, Colorado, Court of Federal Claims No: 12–0362V.

1394. Benedict L. Fleis, Traverse City, Michigan, Court of Federal Claims No: 12–0365V.

1395. Chaz Evans-Haywood on behalf of L. E-H., Harrisonburg, Pennsylvania, Court of Federal Claims No: 12–0367V.

1396. Tesha Connors-Robinson, Dover, New Hampshire, Court of Federal Claims No: 12–0372V.

1397. George Dominguez, Los Angeles, California, Court of Federal Claims No: 12–0378V.

1398. Freddie Grigsby, Hindman, Kentucky, Court of Federal Claims No: 12–0381V.

1399. Stephen J. Hujarski, Macedonia, Ohio, Court of Federal Claims No: 12–0383V.

1400. Linda Collier, Lexington, Kentucky, Court of Federal Claims No: 12–0387V.

1401. Silvia G. Abdulrahman, New Orleans, Louisiana, Court of Federal Claims No: 12–0391V.

1402. Brian Rife and Anne Rife on behalf of B. R., Bristol, Tennessee, Court of Federal Claims No: 12–0392V.

1403. Kathryn Godlewski, Rancine, Wisconsin, Court of Federal Claims No: 12–0396V.

1404. Jennah Qutub, Vienna, Virginia, Court of Federal Claims No: 12–0397V.

1405. Sheila Schindler, Astoria, New York, Court of Federal Claims No: 12–0398V.

1406. Gary R. Poling on behalf of J. T. P., Lynchburg, Virginia, Court of Federal Claims No: 12–0399V.

1407. Eric Swintosky and Heather Swintosky on behalf of C. M. S., Harrisburg, Pennsylvania, Court of Federal Claims No: 12–0403V.

1408. Joan Ellen Sorensen, Charlottesville, Virginia, Court of Federal Claims No: 12–0404V.

1409. William J. Bodi, Rancine, Washington, Court of Federal Claims No: 12–0405V.

1410. Lashell Moses-Batts, Indianapolis, Indiana, Court of Federal Claims No: 12–0406V.

1411. Daniel Mireles, San Antonio, Texas, Court of Federal Claims No: 12–0407V.

1412. Kolena Deel, Chapmanville, West Virginia, Court of Federal Claims No: 12–0410V.

1413. Erica Hill on behalf of Eric Jackson, Williamstown, New Jersey, Court of Federal Claims No: 12–0411V.

1414. Jennifer Trombetta, Cape May, New Jersey, Court of Federal Claims No: 12–0414V.

1415. Matthew Morris, Lakeview, Oregon, Court of Federal Claims No: 12–0415V.

1416. Laurie Wehmeyer, Woodbridge, Virginia, Court of Federal Claims No: 12–0416V.

1417. Connie Rudy, Orwigsburg, Pennsylvania, Court of Federal Claims No: 12–0417V.

1418. Nancy J. Pass, Gainesville, Georgia, Court of Federal Claims No: 12–0418V.

1419. Carol Cathcart and Monty Cathcart on behalf of Kyra Cathcart, Liberal, Kansas, Court of Federal Claims No: 12–0419V.

1420. Dan Mosher, Las Cruces, New Mexico, Court of Federal Claims No: 12–0421V.

1421. Lillian Randall, Somerville, Massachusetts, Court of Federal Claims No: 12–0422V.

1422. Mary Kate Wright and Garry Wright on behalf of Miles Wright, Fair Lawn, New Jersey, Court of Federal Claims No: 12–0423V.

1423. Hattie M. Jefferies, Grandview, Missouri, Court of Federal Claims No: 12–0426V.

1424. Tania Poma and Jose S. Manzano on behalf of Dylan Manzano, Bronx, New York, Court of Federal Claims No: 12–0427V.

1425. Gary A. Plaisance, Marrero, Louisiana, Court of Federal Claims No: 12–0430V.

1426. Lawrence T. Karol, Encino, California, Court of Federal Claims No: 12–0433V.

1427. Tommy Combs, Tempe, Arizona, Court of Federal Claims No: 12–0436V.

1428. Tyriese Dominique, Houston, Texas, Court of Federal Claims No: 12–0438V.

1429. Margaret Rouse on behalf of Henry Sundemeyer, Deceased, Somers Point, New Jersey, Court of Federal Claims No: 12–0439V.

1430. Zohreh Gerami, San Rafael, California, Court of Federal Claims No: 12–0442V.

1431. Ronald Keaton, Westerville, Ohio, Court of Federal Claims No: 12–0444V.

1432. Mitch Steinberg, South Miami, Florida, Court of Federal Claims No: 12–0445V.

1433. Angela Chavez, Dayton, Ohio, Court of Federal Claims No: 12–0452V.

1434. Laurie Christ, Seaford, New York, Court of Federal Claims No: 12–0454V.

1435. Ray A. James, Edmond, Oklahoma, Court of Federal Claims No: 12–0460V.

1436. Joseph Monteleone, Garfield Heights, Ohio, Court of Federal Claims No: 12–0461V.

1437. Brian Witte, Crystal Lake, Illinois, Court of Federal Claims No: 12–0462V.

1438. Tracy Purgason, Reidsville, North Carolina, Court of Federal Claims No: 12–0465V.

1439. Christopher Jones, Raleigh, North Carolina, Court of Federal Claims No: 12–0466V.

1440. Kathleen Ann Mennenga, Nassau Bay, Texas, Court of Federal Claims No: 12–0470V.

1441. Kevin G. Schmitz, Kansas City, Kansas, Court of Federal Claims No: 12–0473V.

1442. Jeffrey Land, Port Huron, Michigan, Court of Federal Claims No: 12–0474V.

1443. Clifford J. Shoemaker on behalf of Elio Bondi, Deceased, Washington, District of Columbia, Court of Federal Claims No: 12–0476V.

1444. Alisha Dudenhoeffer on behalf of Kali Thoenen, Columbia, Missouri, Court of Federal Claims No: 12–0477V.

1445. Thuy Nguyen on behalf of S. N., Portland, Oregon, Court of Federal Claims No: 12–0479V.

1446. Ethel J. Bryant on behalf of Kylie F. Eastin, Cincinnati, Ohio, Court of Federal Claims No: 12–0480V.

1447. Shannon Tatum, Phoenix City, Arizona, Court of Federal Claims No: 12–0483V.

1448. Martha Gil and Raul Gutierrez on behalf of Michelle Gutierrez, El Paso, Texas, Court of Federal Claims No: 12–0485V.

1449. Carolyn Kerr, Hensley, Alaska, Court of Federal Claims No: 12–0487V.

1450. Perry Cellana, Orange, Massachusetts, Court of Federal Claims No: 12–0491V.

1451. Mona L. Biegler, Sandy, Oregon, Court of Federal Claims No: 12–0492V.

1452. Wynonia Jansky, Southlake, Texas, Court of Federal Claims No: 12–0494V.

1453. Deborah Wanaselja, Bethlehem, Pennsylvania, Court of Federal Claims No: 12–0495V.

1454. Sarah Choudry, Pasco, Washington, Court of Federal Claims No: 12–0496V.

1455. Justin Crosby and Tiffany Crosby on behalf of Parker Anthony Crosby, Fort Knox, Kentucky, Court of Federal Claims No: 12–0502V.

1456. Diane M. Chadwick, Timonium, Maryland, Court of Federal Claims No: 12–0505V.

1457. Laudze Elizabeth Gachette, Miami, Florida, Court of Federal Claims No: 12–0506V.

1458. Jessica Kellner, Mendon, New York, Court of Federal Claims No: 12–0510V.

1459. Ann Marie Rivera, Bronx, New York, Court of Federal Claims No: 12–0511V.

1460. Autumn Laidlaw on behalf of Emily Stone, Norway, Maine, Court of Federal Claims No: 12–0512V.

1461. Robert Boyer and Pamela Boyer on behalf of Allison Boyer, Chico, California, Court of Federal Claims No: 12–0517V.

1462. David Bishop and Deborah Bishop on behalf of Elizabeth Bishop, Alpharetta, Georgia, Court of Federal Claims No: 12–0523V.

1463. Deborah Grenon, North Smithfield, Rhode Island, Court of Federal Claims No: 12–0528V.

1464. Roberto Sanchez, Denver, Colorado, Court of Federal Claims No: 12–0532V.

1465. Mark F. Wyvratt, Allegany, Pennsylvania, Court of Federal Claims No: 12–0533V.

1466. Tyrelle Cating, Houston, Texas, Court of Federal Claims No: 12–0535V.

1467. Karen L. Kennedy, Shawnee Hills, Ohio, Court of Federal Claims No: 12–0537V.

1468. Norman Klegon, Las Vegas, Nevada, Court of Federal Claims No: 12–0538V.

1469. Wayne Strahan, Brandon, Florida, Court of Federal Claims No: 12–0542V.

1470. Brett Byler, San Diego, California, Court of Federal Claims No: 12–0544V.

1471. Alma Joan Coker on behalf of George Ellis Coker, New Orleans, Louisiana, Court of Federal Claims No: 12–0545V.

1472. Erin Heath, Medford, Oregon, Court of Federal Claims No: 12–0547V.

1473. Jacqueline Brand, Westboro, Massachusetts, Court of Federal Claims No: 12–0549V.

1474. Kerri Williams, St. Louis, Missouri, Court of Federal Claims No: 12–0550V.

1475. Nathaniel Ladue on behalf of Bryce Ladue, Indianapolis, Indiana, Court of Federal Claims No: 12–0553V.

1476. Rosemary Huber, Bohemia, New York, Court of Federal Claims No: 12–0555V.

1477. David Pokorny, Susanville, California, Court of Federal Claims No: 12–0556V.

1478. Amber Martinez, Mason, Ohio, Court of Federal Claims No: 12–0557V.

1479. Paul Soltero and Jennifer Soltero on behalf of A. O. S., Canyon County, California, Court of Federal Claims No: 12–0558V.

1480. Shawn Mark Lambert and Courtney Klein on behalf of Noah Lambert, Deceased, Jacksonville, Florida, Court of Federal Claims No: 12–0560V.

1481. Joycelyn Allen, Gulfport, Mississippi, Court of Federal Claims No: 12–0562V.

1482. Jesus Aguayo, San Leandro, California, Court of Federal Claims No: 12–0563V.

1483. Walter Cairnes, Belmont, North Carolina, Court of Federal Claims No: 12–0565V.

1484. Mania Harmitt, Teaneck, New Jersey, Court of Federal Claims No: 12–0566V.

1485. Tom Martin, Cleveland, Ohio, Court of Federal Claims No: 12–0568V.

1486. Evelyn Allen, Texarkana, Texas, Court of Federal Claims No: 12–0569V.

1487. Mark Deneen, St. Paul, Minnesota, Court of Federal Claims No: 12–0570V.

1488. Terri Laster on behalf of Marc Laster, Deceased, Fort Hood, Texas, Court of Federal Claims No: 12–0571V.

1489. Cheryl Grant, Welford, South Carolina, Court of Federal Claims No: 12–0577V.

1490. Doris Alfaro, Santa Barbara, California, Court of Federal Claims No: 12–0578V.

1491. Walter Wright, Augusta, Georgia, Court of Federal Claims No: 12–0579V.

1492. Elizabeth D. Hutcheison, Henderson, Kentucky, Court of Federal Claims No: 12–0580V.

1493. Robert S. Joiner, Waycross, Georgia, Court of Federal Claims No: 12–0583V.

1494. Anthony Lettiere, Naples, Florida, Court of Federal Claims No: 12–0584V.

1495. Nicole Spaans on behalf of Jaycelin Joy Spaans, Kent, Michigan, Court of Federal Claims No: 12–0585V.

1496. Kimberly M. Perez, Baldwin Park, California, Court of Federal Claims No: 12–0587V.

1497. Stephen Salvo, Boston, Massachusetts, Court of Federal Claims No: 12–0589V.

1498. Kelly Schultz and Peter Schultz on behalf of L. S., Livingston, New Jersey, Court of Federal Claims No: 12–0590V.

1499. Wilma Reed, Boston, Massachusetts, Court of Federal Claims No: 12–0591V.

1500. Dewey Rose, Gladwin, Michigan, Court of Federal Claims No: 12–0593V.

1501. Margaret M. Gustafson, Lansing, Michigan, Court of Federal Claims No: 12–0594V.

1502. Marsolaire Antequera on behalf of John Perez, New York, New York, Court of Federal Claims No: 12–0595V.

1503. Carolyn Gooden, Anniston, Alabama, Court of Federal Claims No: 12–0596V.

1504. Hollie Truxillo, Baton Rouge, Louisiana, Court of Federal Claims No: 12–0599V.

1505. Ashli Hernandez Starkey, Baton Rouge, Louisiana, Court of Federal Claims No: 12–0600V.

1506. John Barlow, Atlanta, Georgia, Court of Federal Claims No: 12–0602V.

1507. Amanda Richardson, Rome, Georgia, Court of Federal Claims No: 12–0603V.

1508. David Frost, Atlanta, Texas, Court of Federal Claims No: 12–0610V.

1509. Gretchen Guerrero, Panorama City, California, Court of Federal Claims No: 12–0611V.

1510. Patrick Edwards and Jeannette Edwards on behalf of Adalia Edwards, Hackensack, New Jersey, Court of Federal Claims No: 12–0613V.

1511. Michael Wood, St. Francis, Wisconsin, Court of Federal Claims No: 12–0614V.

1512. Jessica Hanson, Wheaton, Illinois, Court of Federal Claims No: 12–0616V.

1513. Beatrice Sywassink, Stockton, California, Court of Federal Claims No: 12–0617V.

1514. John Tomberlin, Cedar Rapids, Iowa, Court of Federal Claims No: 12–0618V.

1515. Nancy Magnus on behalf of Jerry Mangus, Deceased, Idabel, Oklahoma, Court of Federal Claims No: 12–0620V.

1516. Regis McDonough, Pittsburgh, Pennsylvania, Court of Federal Claims No: 12–0621V.

1517. Sandra Obidinski, Seymour, Connecticut, Court of Federal Claims No: 12–0623V.

1518. Matt A. Sims on behalf of Glenda C. Morgan, Waco, Texas, Court of Federal Claims No: 12–0625V.

1519. Magnus Akerstrom and Brandi Akerstrom on behalf of Luke Akerstrom, Jacksonville, Florida, Court of Federal Claims No: 12–0629V.

1520. Laura Day on behalf of B. K. D., Martinsville, Indiana, Court of Federal Claims No: 12–0630V.

1521. Grzegorz Rus and Agnieszka Rus on behalf of Angelika Rus, Minneapolis, Minnesota, Court of Federal Claims No: 12–0631V.

1522. Charles P. Vesei, Irvine, California, Court of Federal Claims No: 12–0633V.

1523. Emma Adkins, Gainesville, Florida, Court of Federal Claims No: 12–0634V.

1524. Laura M. Stolowski, Asbury Park, New Jersey, Court of Federal Claims No: 12–0635V.

1525. Clarice Nordin on behalf of Richard Nordin, Deceased, St. Paul, Minnesota, Court of Federal Claims No: 12–0636V.

1526. Jaleh Welby (also known as Jeleh Welby), Santa Clara, California, Court of Federal Claims No: 12–0643V.

1527. Charles Wealand, Ormond Beach, Florida, Court of Federal Claims No: 12–0644V.

1528. Victoria L. Jones on behalf of William R. Jones, Dallas, Texas, Court of Federal Claims No: 12–0653V.

1529. Nancy May, Dallas, Texas, Court of Federal Claims No: 12–0655V.

1530. Alice Parker, Tulsa, Oklahoma, Court of Federal Claims No: 12–0658V.

1531. Robert Prevette, Goldsboro, Maryland, Court of Federal Claims No: 12–0662V.

1532. Susie Gonzalez, San Antonio, Texas, Court of Federal Claims No: 12–0664V.

1533. James MacDougall, Jr., Boston, Massachusetts, Court of Federal Claims No: 12–0665V.

1534. Gwendolyn Murphy, Boston, Massachusetts, Court of Federal Claims No: 12–0666V.

1535. Patricia Pernal, Southington, Connecticut, Court of Federal Claims No: 12–0667V.

1536. Stacie Fuller, West Jordan, Utah, Court of Federal Claims No: 12–0668V.

1537. Graham Roberts, Denver, Colorado, Court of Federal Claims No: 12–0669V.

1538. Rodney Speed, Sr., Naples, Florida, Court of Federal Claims No: 12–0671V.

1539. Kathleen J. Auch, Yankton, South Dakota, Court of Federal Claims No: 12–0673V.

1540. Jennifer E. Sagi, Buffalo, New York, Court of Federal Claims No: 12–0674V.

1541. Paul S. Heckle, Ontario, New York, Court of Federal Claims No: 12–0675V.

1542. Mark A. Lynch and Yosimi Lynch on behalf of Reona Dakota Lynch, Washington, District of Columbia, Court of Federal Claims No: 12–0676V.

1543. Michael Long, Bay Pines, Florida, Court of Federal Claims No: 12–0679V.

1544. Debra Berland, Franklin, Wisconsin, Court of Federal Claims No: 12–0680V.

1545. Greg McCants, Hartsville, South Carolina, Court of Federal Claims No: 12–0682V.

1546. David Black, Boston, Massachusetts, Court of Federal Claims No: 12–0685V.

1547. Carol Orsinger, Harrisburg, Pennsylvania, Court of Federal Claims No: 12–0686V.

1548. Diana Dobbs, New Orleans, Louisiana, Court of Federal Claims No: 12–0688V.

1549. Amanda Guerrero, Irvine, California, Court of Federal Claims No: 12–0689V.

1550. Stephanie Hinton on behalf of Jeffrey O'Brien, Fort Wayne, Indiana, Court of Federal Claims No: 12–0691V.

1551. Ivan Corpacian, Sunnyvale, California, Court of Federal Claims No: 12–0692V.

1552. Thomas Carcone, Dallas, Texas, Court of Federal Claims No: 12–0695V.

1553. April M. Justice, Knoxville, Tennessee, Court of Federal Claims No: 12–0696V.

1554. Linda Waye, McDonough, Georgia, Court of Federal Claims No: 12–0698V.

1555. Diane Zglenski, Phoenixville, Pennsylvania, Court of Federal Claims No: 12–0701V.

1556. James Reeves on behalf of B. E. R., Mt. Orab, Ohio, Court of Federal Claims No: 12–0702V.

1557. Ana Ortega, Brooklyn, New York, Court of Federal Claims No: 12–0703V.

1558. Christopher Leumas, Sarasota, Florida, Court of Federal Claims No: 12–0704V.

1559. Erica Evans, M.D., Mooresville, North Carolina, Court of Federal Claims No: 12–0706V.

1560. Cynthia S. Smith, Somers Point, New Jersey, Court of Federal Claims No: 12–0709V.

1561. Pat Wambach and Kate Wambach on behalf of Karly Wambach, Scottsdale, Arizona, Court of Federal Claims No: 12–0710V.

1562. Steve May and Linda May on behalf of Laura May, Memphis, Tennessee, Court of Federal Claims No: 12–0712V.

1563. Brian Wojciechowski, Franklin, Wisconsin, Court of Federal Claims No: 12–0713V.

1564. Nathan Tate, Albuquerque, New Mexico, Court of Federal Claims No: 12–0714V.

1565. Sherlinda Roberts, Downers Grove, Illinois, Court of Federal Claims No: 12–0716V.

1566. Patricia Buchanan, North Ogden, Utah, Court of Federal Claims No: 12–0717V.

1567. Kimberly Meiklejohn, Wye River, Maryland, Court of Federal Claims No: 12–0719V.

1568. Kimberly Simmonds, Breese, Illinois, Court of Federal Claims No: 12–0722V.

1569. Stanley Jayne, Boca Raton, Florida, Court of Federal Claims No: 12–0725V.

1570. Kevin Mancilla Lopez, Houston, Texas, Court of Federal Claims No: 12–0729V.

1571. Pamela Sapienza and Philip Sapienza on behalf of Angelina Sapienza, Manchester, New Hampshire, Court of Federal Claims No: 12–0733V.

1572. Maureen DeMartini, Ramsey, New Jersey, Court of Federal Claims No: 12–0734V.

1573. Allison Libby, Waterville, Maine, Court of Federal Claims No: 12–0735V.

1574. Robert Slater, Napa, California, Court of Federal Claims No: 12–0736V.

1575. Lori Simpson, Fort Wayne, Indiana, Court of Federal Claims No: 12–0737V.

1576. Melissa A. Horrell, Rose Hill, North Carolina, Court of Federal Claims No: 12–0738V.

1577. Jeremiah Means, Montgomery, Alabama, Court of Federal Claims No: 12–0740V.

1578. Joyce Weremblewski, Dallas, Texas, Court of Federal Claims No: 12–0741V.

1579. Sydney Rich, Tulsa, Oklahoma, Court of Federal Claims No: 12–0742V.

1580. Andrew Linnen, Georgetown, South Carolina, Court of Federal Claims No: 12–0746V.

1581. Katelyn Lasko, Darien, Connecticut, Court of Federal Claims No: 12–0747V.

1582. Rachael Donnelly, Kalamazoo, Michigan, Court of Federal Claims No: 12–0749V.

1583. Ronald C. Konar, Mesa, Arizona, Court of Federal Claims No: 12–0750V.

1584. Carol L. Cruse, Longview, Washington, Court of Federal Claims No: 12–0751V.

1585. Deborah Morris on behalf of Peter Wallace, Deceased, Hoover, Alabama, Court of Federal Claims No: 12–0752V.

1586. Eduardo Rosas, Ozone Park, New York, Court of Federal Claims No: 12–0754V.

1587. John Wanket, Sarasota, Florida, Court of Federal Claims No: 12–0755V.

1588. Fred Brock, Phoenix, Arizona, Court of Federal Claims No: 12–0756V.

1589. Ann McClenaghan on behalf of Madeline Mackay, Deceased, Boston, Massachusetts, Court of Federal Claims No: 12–0757V.

1590. Angela Patten, Boston, Massachusetts, Court of Federal Claims No: 12–0758V.

1591. Arthur L. Fischmer, Batesville, Indiana, Court of Federal Claims No: 12–0760V.

1592. Janene Stout, Knoxville, Tennessee, Court of Federal Claims No: 12–0761V.

1593. Douglas J. Terlau, Dayton, Ohio, Court of Federal Claims No: 12–0762V.

1594. Kari Ahlum and Doug Ahlum on behalf of Talbey Ahlum, Tulsa, Oklahoma, Court of Federal Claims No: 12–0763V.

1595. Eleanor D. Hernandez, Lynchburg, Virginia, Court of Federal Claims No: 12–0766V.

1596. Patsy D. Crabtree, Cleveland, Tennessee, Court of Federal Claims No: 12–0767V.

1597. Roswell Perez, Montclair, New Jersey, Court of Federal Claims No: 12–0768V.

1598. Stephen Bundy, Buffalo, New York, Court of Federal Claims No: 12–0769V.

1599. Lisa Fox and Lester Fox on behalf of Ethan Fox, Gresham, Oregon, Court of Federal Claims No: 12–0772V.

1600. Elisa Gould and Christopher Chupp on behalf of Joseph N. Chupp, Jr., Deceased, Elkhart, Indiana, Court of Federal Claims No: 12–0775V.

1601. Jamie Lee Stewart, Bismarck, North Dakota, Court of Federal Claims No: 12–0776V.

1602. Michael Nikolajuk on behalf of Kristin Nikolajuk, Farmington Hills, Michigan, Court of Federal Claims No: 12–0793V.

1603. Stephanie Palmer, Blackfoot, Idaho, Court of Federal Claims No: 12–0802V.

1604. Esther Harriet Will, Boston, Massachusetts, Court of Federal Claims No: 12–0803V.

1605. Stephen Langlois, Canton, Massachusetts, Court of Federal Claims No: 12–0804V.

1606. Francis Rapa, Woodstown, New Jersey, Court of Federal Claims No: 12–0807V.

1607. Lori Ann Driesenga, Grand Rapids, Michigan, Court of Federal Claims No: 12–0810V.

1608. Joseph Lerro and Brittany Lerro on behalf of Joseph N. Lerro, Louisville, Kentucky, Court of Federal Claims No: 12–0812V.

1609. Christopher Caleb Haynes, San Antonio, Texas, Court of Federal Claims No: 12–0813V.

1610. Jay Vandegrift, Springhouse, Pennsylvania, Court of Federal Claims No: 12–0814V.

1611. Aurora Calderon, Albuquerque, New Mexico, Court of Federal Claims No: 12–0819V.

1612. Andrea Florian on behalf of Tyler Pittman, Ridgefield, Connecticut, Court of Federal Claims No: 12–0820V.

1613. Terry Knight, Huntington, West Virginia, Court of Federal Claims No: 12–0822V.

1614. Phyllis Barnes, St. Petersburg, Florida, Court of Federal Claims No: 12–0823V.

1615. Kornoda J. Cook, Atlanta, Georgia, Court of Federal Claims No: 12–0824V.

1616. Tara A. Gill, Baraboo, Wisconsin, Court of Federal Claims No: 12–0825V.

1617. Daniel Boyle, Chicago, Illinois, Court of Federal Claims No: 12–0827V.

1618. Delton Thomas and Cheylynn Tadio on behalf of K. T., Kamuela, Hawaii, Court of Federal Claims No: 12–0829V.

1619. Shelby Allison Haver, New Braunfels, Texas, Court of Federal Claims No: 12–0831V.

1620. Albert Roscoe Fleming, Marietta, Georgia, Court of Federal Claims No: 12–0832V.

1621. Raymond Schroeder on behalf of Anne Schroeder, Deceased, Buffalo, New York, Court of Federal Claims No: 12–0837V.

1622. Ellen Best, Tucumcari, New Mexico, Court of Federal Claims No: 12–0838V.

1623. Lisa Hendrix, Ranson, West Virginia, Court of Federal Claims No: 12–0847V.

1624. Cassandra Mularczyk on behalf of Megan M. Mularczyk, Troy, Michigan, Court of Federal Claims No: 12–0851V.

1625. Claudia Huerta and Eleazar Huerta on behalf of V. H., Mammoth, Arizona, Court of Federal Claims No: 12–0854V.

1626. Kristen England, Grand Rapids, Michigan, Court of Federal Claims No: 12–0871V.

1627. Darrell Jones and Kerri Jones on behalf of T. J., Marietta, Georgia, Court of Federal Claims No: 12–0875V.

1628. Beverly A. Bahmanyari, Woodstock, Georgia, Court of Federal Claims No: 12–0876V.

1629. Lee E. Allen, Helena, Montana, Court of Federal Claims No: 12–0877V.

1630. Richard E. Dean, Sr., Hudson, Florida, Court of Federal Claims No: 12–0878V.

1631. Janie L. Roberts, Quarryville, Pennsylvania, Court of Federal Claims No: 12–0879V.

1632. Lynn Koetje, Cadillac, Michigan, Court of Federal Claims No: 12–0884V.

1633. Sara Castro, Orlando, Florida, Court of Federal Claims No: 12–0886V.

1634. David Wallace, Virginia, Minnesota, Court of Federal Claims No: 12–0888V.

1635. Robert Kotroczo, Chicago, Illinois, Court of Federal Claims No: 12–0890V.

1636. Ray H. Baker, Jr., St. Louis, Missouri, Court of Federal Claims No: 12–0891V.

1637. Robert Wagnon, Kansas City, Missouri, Court of Federal Claims No: 12–0903V.

1638. Faith L. Macchia, St. Lucie West, Florida, Court of Federal Claims No: 12–0904V.

1639. Terry St. Pierre, Lake Placid, New York, Court of Federal Claims No: 12–0912V.

1640. Vivian Getman, Oviedo, Florida, Court of Federal Claims No: 12–0914V.

1641. Lilo Hamper, Seattle, Washington, Court of Federal Claims No: 12–0916V.

1642. Edward Pratt, Kenova, West Virginia, Court of Federal Claims No: 12–0917V.

1643. Vikkie L. Shipp, Sarasota, Florida, Court of Federal Claims No: 12–0923V.

1644. Melody Clowser, Colorado Springs, Colorado, Court of Federal Claims No: 13–0002V.

1645. Alexander Thompson, San Antonio, Texas, Court of Federal Claims No: 13–0005V.

1646. Angela Zuniga, Austin, Texas, Court of Federal Claims No: 13–0008V.

1647. Kellie Engen and Steven Engen on behalf of Kellen Engen, Phoenix, Arizona, Court of Federal Claims No: 13–0018V.

1648. Tina Dixon, Jerry Dixon, Greenville, North Carolina, Court of Federal Claims No: 13–0022V.

1649. Denise Rosenbloom on behalf of Thomas Bookey, Chicago, Illinois, Court of Federal Claims No: 13–0026V.

1650. Erin Willis, Cincinnati, Ohio, Court of Federal Claims No: 13–0027V.

1651. John Jones and Tracy Jones on behalf of P. J., Guymon, Oklahoma, Court of Federal Claims No: 13–0034V.

1652. Jacob McNorton, Fort Benning, Georgia, Court of Federal Claims No: 13–0035V.

1653. Marilyn Zolnowsky on behalf of Allison J. Bittner, Armour, South Dakota, Court of Federal Claims No: 13–0036V.

1654. Jessica Dussault on behalf of Mickayla Waterman, Lewiston, Maine, Court of Federal Claims No: 13–0044V.

1655. Fred Damaske, Wales, Wisconsin, Court of Federal Claims No: 13–0046V.

1656. Glenn Henderson, Birmingham, Alabama, Court of Federal Claims No: 13–0047V.

1657. Greg Hubler and Lynn Hubler on behalf of G. L. T., Vienna, Virginia, Court of Federal Claims No: 13–0052V.

1658. Marc Davis, Chicago, Illinois, Court of Federal Claims No: 13–0053V.

1659. Rosemary Becerra, Necedah, Wisconsin, Court of Federal Claims No: 13–0062V.

1660. Fernando Whitehead, Fayetteville, North Carolina, Court of Federal Claims No: 13–0063V.

1661. Pamela Metcalf, Boston, Massachusetts, Court of Federal Claims No: 13–0065V.

1662. Lori Simpson, Fort Wayne, Indiana, Court of Federal Claims No: 13–0068V.

1663. April Polite on behalf of L. K. T., Austell, Georgia, Court of Federal Claims No: 13–0072V.

1664. Richard Plantz, Katy, Texas, Court of Federal Claims No: 13–0073V.

1665. Delores Criswell, Wichita Falls, Texas, Court of Federal Claims No: 13–0074V.

1666. Michael Parker Rittiner, Chapel Hill, North Carolina, Court of Federal Claims No: 13–0081V.

1667. Lynnette Osorio on behalf of A. A., Worcester, Massachusetts, Court of Federal Claims No: 13–0082V.

1668. Luann Moran, Tampa, Florida, Court of Federal Claims No: 13–0084V.

1669. Rita Stauffer, Kersey, Pennsylvania, Court of Federal Claims No: 13–0093V.

1670. Richard T. Dahl, Minneapolis, Minnesota, Court of Federal Claims No: 13–0098V.

1671. Tommy D. Clark, San Diego, California, Court of Federal Claims No: 13–0099V.

1672. Audrey Hodle, Dallas, Pennsylvania, Court of Federal Claims No: 13–0104V.

1673. Sarah Behie, Allentown, Pennsylvania, Court of Federal Claims No: 13–0109V.

1674. John Driscoll, Littleton, Colorado, Court of Federal Claims No: 13–0110V.

1675. Jennifer Smith, Rio Rancho, New Mexico, Court of Federal Claims No: 13–0111V.

1676. Lisa Kelley, Muskegon, Michigan, Court of Federal Claims No: 13–0114V.

1677. Karen Stark, Philadelphia, Pennsylvania, Court of Federal Claims No: 13–0115V.

1678. Jacob Campbell, Houston, Texas, Court of Federal Claims No: 13–0121V.

1679. Andrew Rodd, White Plains, New York, Court of Federal Claims No: 13–0122V.

1680. Janis Schulman, New York, New York, Court of Federal Claims No: 13–0123V.

1681. Vilma Petroff, Los Angeles, California, Court of Federal Claims No: 13–0124V.

1682. Russell Ayscue and Laura Ayscue on behalf of William Ayscue, Kingsport, Tennessee, Court of Federal Claims No: 13–0125V.

1683. Sandra Kuserk, Upland, Pennsylvania, Court of Federal Claims No: 13–0129V.

1684. Craig A. Sigel, Shrewsbury, Massachusetts, Court of Federal Claims No: 13–0134V.

1685. Kathleen Vollmar, St. Paul, Minnesota, Court of Federal Claims No: 13–0147V.

1686. Maria Theresa Gawaran, Harbor City, California, Court of Federal Claims No: 13–0151V.

1687. Jacquelyne Estes, San Angelo, Texas, Court of Federal Claims No: 13–0160V.

1688. Ryan Kolis, Sagamore Hills, OH, Court of Federal Claims No: 13–0163V.

1689. Lorin and Blaise Forcine on behalf of William Forcine, Devon, PA, Court of Federal Claims No: 13–0167V.

1690. Anthony Todd Bowman, Sr., Raleigh, NC, Court of Federal Claims No: 13–0168V.

1691. Tiara Pullens, Cincinnati, OH, Court of Federal Claims No: 13–0173V.

1692. Barbara Hesse, Findlay, OK, Court of Federal Claims No: 13–0177V.

1693. Garrell Noah, Montgomery, AL, Court of Federal Claims No: 13–0178V.

1694. Michael E. Smith, Kettering, OH, Court of Federal Claims No: 13–0179V.

1695. Tyrone A. Prince, Jeffersonville, IN, Court of Federal Claims No: 13–0180V.

1696. Albert J. Michaels, Baraboo, WI, Court of Federal Claims No: 13–0182V.

1697. Haytor Vega and Lucia Martinez on behalf of Daniel Vega-Martinez, East Point, GA, Court of Federal Claims No: 13–0183V.

1698. Pamela Jean Pegues, Memphis, TN, Court of Federal Claims No: 13–0191V.

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FEDERAL REGISTER

Vol. 78 Monday,
No. 92 May 13, 2013

Part III

Environmental Protection Agency

40 CFR Parts 60 and 62
Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On or Before December 1, 2008, and Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 62

[EPA–HQ–OAR–2011–0405 and EPA–HQ–OAR–2006–0534; FRL–9802–3]

RIN 2060–AR–11 and RIN 2060–A004

Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On or Before December 1, 2008, and Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes amendments to the federal plan and the new source performance standards for hospital/medical/infectious waste incinerators. This final action implements national standards promulgated in the 2009 amendments to the hospital/medical/infectious waste incinerator emissions guidelines that will result in reductions in emissions of certain pollutants from all affected units.

DATES: The effective date of this rule is June 12, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–HQ–OAR–2011–0405 and Legacy Docket ID Number A–98–24. The EPA has established a docket for the hospital/medical/infectious waste incinerator (HMIWI) rules under Docket ID Number EPA–HQ–OAR–2006–0534 and Legacy Docket ID Number A–91–61. 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.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, 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 EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Hambrick, Fuels and Incineration Group, Sector Policies and Programs Division (E143–05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0964; fax number: (919) 541–3470; email address: *hambrick.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

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A redline version of the federal plan regulatory language that incorporates the changes in this action is available in the docket.

I. General Information

A. Does the final action apply to me?

Regulated Entities. If you own or operate an existing HMIWI and are not already subject to an EPA-approved and effective state plan implementing the October 6, 2009, revised emissions guidelines (EG), you may be covered by this final federal plan. Existing HMIWI are those that commenced construction on or before December 1, 2008, or commenced modification on or before April 6, 2010. In addition, if you own or operate a new HMIWI, you may be covered by this final amended new source performance standard (NSPS). New HMIWI are those that commenced construction after December 1, 2008, or commenced modification after April 6, 2010. Regulated categories and entities include those listed in the following table.

Category	NAICS* code	Examples of regulated entities
Industry	622110 622310	Private hospitals, other health care facilities, commercial research laboratories, commercial waste disposal companies, private universities.

Category	NAICS* code	Examples of regulated entities
	325411	
	325412	
	562213	
	611310	
Federal Government	622110	Federal hospitals, other health care facilities, public health service, armed services.
	541710	
	928110	
State/Local/Tribal Government	622110	State/local hospitals, other health care facilities, state/local waste disposal services, state universities.
	562213	
	611310	

* North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the final action. To determine whether your facility will be affected by this amended final action, you should examine the applicability criteria in § 62.14400 of subpart HHH. If you have any questions regarding the applicability of the final action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of the final action will be available on the World Wide Web (WWW) through the EPA's Technology Transfer Network (TTN). Following signature, a copy of the final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control. Additionally in the rule docket, the EPA will include a redline strikeout version of the full regulatory text, comparing the 2000 rule text and the today's final amended rule text.

C. Judicial Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by July 12, 2013. Section 307(d)(7)(B) of the CAA further provides that ''only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of this rule.'' Any person seeking to make such a demonstration to the EPA should submit a Petition of Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20004, with a copy to both of the contacts list in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Council (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

II. Background Information

A. What is the regulatory development background for this final rule?

Section 129 of the CAA requires the EPA to develop NSPS and EG for ''units combusting hospital waste, medical waste and infectious waste.'' On September 15, 1997, the EPA promulgated NSPS for new HMIWI, codified at 40 CFR part 60 subpart Ec, and EG for existing HMIWI, codified at 40 CFR part 60 subpart Ce. (See 62 FR 48348.) The NSPS and EG were designed to reduce air pollution emitted from these HMIWI, including cadmium (Cd), carbon monoxide (CO), dioxins/furans (total, or 2,3,7,8-Tetrachlorodibenzo-p-Dioxin toxic equivalency (TEQ)), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides (NO_X), opacity, particulate matter (PM) and sulfur dioxide (SO_2). The 1997 NSPS applied to HMIWI for which construction began after June 20, 1996, and required compliance within 6 months after startup or by March 16, 1998, whichever date was later. The 1997 EG applied to HMIWI for which construction began on or before June 20, 1996, and required compliance no later than September 15, 2002.

On March 2, 1999, in *Sierra Club* v. *EPA,* 167 F.3d 658 (DC Cir. 1999), the Court remanded the rule to the EPA for further explanation regarding how the EPA derived the maximum achievable control technology (MACT) emissions standards for HMIWI. The Court did not vacate the regulations and the regulations remained in effect during the remand.

On July 6, 1999, the EPA proposed the federal plan requirements for HMIWI units constructed on or before June 20, 1996 (64 FR 36426). The federal plan covered existing HMIWI located in states that did not have an approved state plan. Furthermore, the federal plan implemented and enforced the EG in Indian country until tribes receive approval to administer their own programs. On August 15, 2000, the EPA promulgated the federal plan requirements for HMIWI units constructed on or before June 20, 1996 (65 FR 49868). The 1997 HMIWI rules were fully implemented by September 2002.

On February 6, 2007, the EPA proposed a response to the Court's remand of HMIWI. (See 72 FR 5510.) The proposed response would have revised some of the emissions limits in the NSPS and EG. In addition to responding to the Court's remand, the EPA also proposed its first 5-year review of the HMIWI standards. Every 5 years after adopting a MACT standard under section 129, CAA section 129(a)(5) requires the EPA to review and, if appropriate, revise the incinerator standards.

On December 1, 2008, the EPA reproposed its response to the Court's remand and 5-year review (73 FR

72962). The EPA's decision to repropose its response to the remand was based on a number of factors, including further rulings by the Court that were issued after the 2007 proposal was published. In addition, public comments regarding the 2007 proposal raised issues that, upon further consideration, the EPA concluded would best be addressed through a reproposal. In response to public comments on the 2008 reproposal, the EPA further revised the standards and, on October 6, 2009, published final revisions to the September 1997 NSPS and EG to respond to the remand and satisfy the 5-year review requirement under CAA section 129(a)(5) (74 FR 51367). On April 4, 2011, the EPA promulgated amendments to the NSPS and EG, correcting inadvertent drafting errors in the NO_X and SO_2 emissions limits for large HMIWI in the NSPS which did not correspond to our description of our standard-setting process; correcting erroneous cross-references in the reporting and recordkeeping requirements in the NSPS, clarifying that compliance with the EG must be expeditious if a compliance extension is granted; correcting the inadvertent omission of delegation of authority provisions in the EG; correcting errors in the units' description for several emissions limits in the EG and NSPS; and removing extraneous text from the HCl emissions limit for large HMIWI in the EG (76 FR 18407).

On April 23, 2012, the EPA proposed amendments to the existing HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that do not have an approved revised/new state plan implementing the EG, as amended, in place by October 6, 2011 (77 FR 24272). Also on April 23, 2012, the EPA proposed to amend the NSPS to better reflect our original intent in the October 6, 2009, final rule in eliminating an exemption during startup, shutdown and malfunction (SSM) periods from the requirement to comply with standards at all times (77 FR 24272). Today's action will finalize the amendments to the federal plan and NSPS.

B. What is the purpose of this final rule?

Section 129 of the CAA relies upon states as the preferred implementers of EG for existing HMIWI. For the EG to be enforceable, it must be implemented through either a state plan approved by the EPA, or through a federal plan promulgated by notice and comment rulemaking. To make the HMIWI EG enforceable in states with existing HMIWI, states are required to submit plans that implement and enforce the amended EG to the EPA within 1 year of promulgation of the EG. For states that have existing HMIWI but do not have an EPA-approved and effective plan, the EPA must develop and implement a federal plan within 2 years following promulgation of the EG. The federal plan is an interim measure to ensure that emissions standards are implemented until states assume their role as the preferred implementers of the EG. States without any existing HMIWI are directed to submit to the Administrator a letter of negative declaration certifying that there are no HMIWI in the state. No plan is required for states that do not have any HMIWI. Hospital/medical/infectious waste incinerators located in states that mistakenly submit a letter of negative declaration would be subject to the federal plan until a state plan becomes approved and effective covering those HMIWI.

State plans to implement the EG adopted on September 15, 1997, are already in place and the EPA adopted a HMIWI federal plan on August 15, 2000, (65 FR 49868) to implement the September 15, 1997, EG for those HMIWI not covered by an approved state plan. Revised or new state plans to implement the amended EG adopted on October 6, 2009, from 8 states are final or currently undergoing EPA review to become final. The deadline for submitting revised/new state plans for EPA review was October 6, 2010. The EPA strongly encourages states that are unable to submit approvable revised/new plans to request delegation of the amended federal. The EPA has not received state plans or negative declarations from 25 states and or territories. Eight states and or territories have indicated they intend to accept delegation of the federal plan.

Today's action finalizes amendments to the HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that did not have an approved revised/new state plan in place by October 6, 2011. Sections 111 and 129 of the CAA and 40 CFR 60.27(c) and (d) require the EPA to develop, implement and enforce a federal plan to cover existing HMIWI located in states that do not have an approved plan within 2 years after promulgation of the EG (by October 6, 2011). The EPA is finalizing amendments to the HMIWI federal plan now so that a promulgated federal plan will go into place for any such states, and thus ensuring implementation and enforcement of the amended HMIWI EG.

The amended EG adopted on October 6, 2009, required improvements in performance for 50 of the then operating 57 units.[1] Incineration of hospital/medical/infectious waste causes the release of a wide array of air pollutants, some of which exist in the waste feed material and are released unchanged during combustion, and some of which are generated as a result of the combustion process itself. The EPA estimated a total emissions reduction of 393,000 pounds per year of the regulated pollutants from the 2009 EG, of which acid gases (*i.e.,* HCl and SO_2) comprise about 62 percent, PM about 0.8 percent, CO about 0.3 percent, NO_X about 37 percent, and metals (*i.e.,* Pb, Cd and Hg) and dioxins/furans about 0.2 percent. The EPA also estimated that air pollution control devices that would be installed to comply with the 2009 rule would also effectively reduce emissions of pollutants such as polycyclic organic matter (POM) and polychlorinated biphenyls (PCBs). The 2009 final rule's revised waste management plan provisions encourage segregation of types of waste that lead to reductions in emissions, such as chlorinated plastics and PCB-containing wastes.

C. What is the status of state plan submittals?

Sections 111(d) and 129(b)(3) of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(3), authorize the EPA to develop and implement a federal plan for HMIWI located in states with no approved and effective state plan. The status of the state plans are outlined in the below table.

STATUS OF STATE PLANS

Status	States
I. States with EPA-approved state plans	Florida; Illinois; Indiana; West Virginia.

[1] See 74 FR 51371–51375, 51396–51399, and 51399–51400 to reference the regulatory background, summary of final rule changes, and impacts of the amended EG adopted on October 6, 2009.

STATUS OF STATE PLANS—Continued

Status	States
II. Anticipated states to submit negative declarations to the EPA.	Connecticut; Michigan; Wisconsin.
III. Negative declaration submitted/EPA approved.	Alabama; Jefferson County (Birmingham), Alabama; Arkansas; Delaware; District of Columbia; Iowa; Kentucky; Jefferson County (Louisville), Kentucky; Louisiana; Maine; Massachusetts; New Hampshire; New York; Forsyth County (Winston-Salem), North Carolina; Buncombe County (Asheville), North Carolina; Philadelphia County, Pennsylvania; Puerto Rico; Rhode Island; South Carolina; Vermont; Virginia.
IV. Final state plans submitted to the EPA	Maryland; Missouri; North Carolina; North Dakota.
V. Draft state plans submitted to the EPA.	
VI. States for which the EPA has not received a draft or final plan or negative declaration.	Huntsville, Alabama; Alaska, American Samoa; Arizona; Maricopa County, Arizona; Pima County, Arizona; Pinal County, Arizona; California; Colorado; Georgia; Guam; Hawaii; Kansas; Mississippi; Montana; Nebraska; Nevada; City of Albuquerque, New Mexico; New Mexico; Mecklenburg County (Charlotte), North Carolina; Ohio; Oklahoma; South Dakota; Tennessee; Texas; Utah; Wyoming.
VII. Anticipated states to accept delegation of federal plan.	Idaho; Minnesota; New Jersey; Oregon; Pennsylvania; Allegheny County, Pennsylvania; Virgin Islands; Washington.

The above list shows which states have an EPA approved state plan in effect by the date of signature of this notice. As Regional Offices approve state plans, they will also, in the same action, amend the appropriate subpart of 40 CFR part 62 to codify their approvals.

The EPA will maintain a list of revised/new state plan submittals and approvals on the TTN Air Toxics Web site at *http://www.epa.gov/ttn/atw/129/hmiwi/rihmiwi.html*. The list will help HMIWI owners or operators determine whether their HMIWI is affected by a state plan or the federal plan.

Owners and operators of HMIWI can also contact the EPA Regional Office for the state in which their HMIWI is located to determine whether there is an approved and effective revised/new state plan in place. The following table lists the names, email addresses and telephone numbers of the EPA Regional Office contacts and the states and protectorates that they cover.

REGIONAL OFFICE CONTACTS

Region	Regional contact	Phone	States and protectorates
Region I	Patrick Bird, *bird.patrick@epa.gov*	(617) 918–1287	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont.
Region II	Ted Gardella, *gardella.anthony@epa.gov*	(212) 637–3892	New York, New Jersey, Puerto Rico, Virgin Islands.
Region III	Mike Gordon, *gordon.mike@epa.gov*	(215) 814–2039	Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia.
Region IV	Stan Kukier, *Kukier.stan@epa.gov*	(404) 562–9046	Florida, Georgia, North Carolina, Alabama, Kentucky, Mississippi, South Carolina, Tennessee.
Region V	Margaret Sieffert, *sieffert.margaret@epa.gov*	(312) 353–1151	Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio.
Region VI	Steve Thompson, *thompson.steve@epa.gov*	(214) 665–2769	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Region VII	Lisa Hanlon, *hanlon.lisa@epa.gov*	(913) 551–7599	Iowa, Kansas, Missouri, Nebraska.
Region VIII	Kendra Morrison, *Morrison.kendra@epa.gov*	(303) 312–6145	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
Region IX	Joseph Lapka, *lapka.joseph@epa.gov*	(415) 947–4226	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands.
Region X	Heather Valdez, *valdez.heather@epa.gov*	(206) 553–6220	Alaska, Idaho, Oregon, Washington.

D. What are the elements of the amended HMIWI Federal Plan?

Section 111(d) and 129 of the CAA, as amended, 42 U.S.C. 7411(d) and 7429(b)(2), require states to develop and implement state plans for HMIWI to implement and enforce the promulgated EG. Subparts B and Ce of 40 CFR part 60 require states to submit state plans that include specified elements. Because this federal plan is being adopted in lieu of state plans, it includes the same essential elements: (1) Identification of legal authority and mechanisms for implementation; (2) inventory of HMIWI; (3) emissions inventory; (4) emissions limits; (5) compliance schedules; (6) public hearing; (7) testing, monitoring, recordkeeping and reporting; (8) waste management plan; (9) operator training and qualification; and (10) progress reporting. See 40 CFR part 62, subparts HHH and sections 111 and 129 of the CAA. Each element was discussed in detail as it relates to the federal plan in the preamble of the proposed rule (77 FR 24272). The EPA received a total of five public comments suggesting corrections to which states submitted state plans or negative declarations and regulatory text edits regarding visible emissions and annual inspections. A summary of these comments and the EPA's responses is presented in section IV. ''Summary of Changes Since Proposal and Response to Public Comments'' of this preamble.

III. Affected Facilities

A. What is a HMIWI?

The term ''HMIWI'' means any device that combusts any amount of hospital waste and/or medical/infectious waste, as defined in 40 CFR part 62, subpart HHH. Six types of combustion units,

which are listed in § 62.14400 of subpart HHH, are conditionally exempt from specific provisions of the currently promulgated 2000 federal plan and would continue to be so under today's final amended federal plan.

B. Does the federal plan apply to me?

Today's final amended federal plan will apply to you if you are the owner or operator of a combustion device that combusts hospital waste and/or medical/infectious waste (as defined in subpart HHH) and the device is not covered by an approved and effective state plan as of October 6, 2011. The federal plan will cover your HMIWI until the EPA approves a state plan that covers your HMIWI and that plan becomes effective.

If you began the construction of your HMIWI on or before December 1, 2008, or began modification of your HMIWI on or before April 6, 2010, it is considered an existing HMIWI and could be subject to the federal plan. If you began the construction of your HMIWI after December 1, 2008, or began modification of your HMIWI after April 6, 2010, it is considered a new HMIWI and subject to the NSPS.

Your existing HMIWI will be subject to this federal plan if, on the effective date of the amended federal plan, the EPA has not approved the revised/new state plan implementing the amended EG that covers your unit or the EPA-approved state plan has not become effective. The specific applicability of the currently promulgated federal plan is described in 40 CFR 62.14400 through 62.14403 of subpart HHH, and continues to apply, as amended, under the final revised federal plan. The amended federal plan will become effective 30 days after final promulgation of these amendments.

Once an approved revised/new state plan is in effect, the final amended federal plan will no longer apply to HMIWI covered by such plan. An approved state plan is a plan developed by a state that the EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B, to implement and enforce 40 CFR part 60, subpart Ce. The state plan is effective on the date specified in the notice published in the **Federal Register** announcing the EPA's approval of the plan. Today's promulgation of an amended HMIWI federal plan will not preclude states from submitting a plan or seeking delegation of the federal plan. If a state submits a plan after the promulgation of amendments to the HMIWI federal plan, the EPA will review and approve or disapprove the state plan. If the EPA approves a plan, then the amended HMIWI federal plan will no longer apply to HMIWI covered by the state plan as of the effective date of the state plan. If a HMIWI were overlooked by a state and the state submitted a negative declaration letter, or if an individual HMIWI were not covered by an approved and effective state plan, the HMIWI will be subject to this final amended federal plan. If a state or tribe intends to take delegation of the amended federal plan, the state or tribe should submit to the appropriate EPA Regional Office a written request for delegation of authority as described in section VIII. B. ''Delegation of the Federal Plan and Retained Authorities''.

C. How do I determine if my HMIWI is covered by an approved and effective state plan?

Part 62 of Title 40 of the CFR identifies the status of approval and promulgation of section 111(d) and section 129 state plans for designated facilities in each state. However, part 62 is updated only once per year. Thus, if part 62 does not indicate that your state has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office (see table in section II.C of this preamble) to determine if approval occurred since publication of the most recent version of part 62.

IV. Summary of Changes Since Proposal and Response to Public Comments

Today's rules will be finalized as proposed except in several areas that were revised for further clarification as a result of public comments received. Furthermore, although the EPA did not receive adverse comments on the schedule for sources to show they have met increments of progress, the EPA has adjusted the schedule to account for the timeframe of signature of this federal plan and not impose any deadlines retroactively. The EPA received a total of five public comments on the proposed amended federal plan rulemaking, one of which was also inadvertently duplicated and submitted to the NSPS docket. No public hearing was requested, and therefore, none was held. After consideration of all the public comments received and due to the extended timeframe for finalizing the rule, the EPA is making several changes to the amended federal plan. The following section is a summary of the public comments received, our responses and rationale for the changes made. All of the public comments are located in the respective dockets, which can be accessed by following the instructions outlined in the **ADDRESSES** section of this preamble. Additional discussion on the revisions to the schedule for increments of progress can be found in section V.G. of this preamble.

A. State Plans and Negative Declarations

Comment: A number of commenters identified inadvertent mistakes in the table outlining the status of the state plan submittals at proposal. Specifically, commenters identified that the state of Alabama did submit to the EPA a formal letter of negative declaration declaring that no HMIWI unit is located within the boundaries of the state. Additionally, commenters identified that the states of Missouri and North Carolina did in fact obtain state plan approval from the EPA. Commenters further clarified that the state of Alaska withdrew their letter of negative declaration submitted to the EPA in 2012.

Response: The EPA agrees with the commenters and has corrected the status of their state submittals in section II. C. of this final preamble. The EPA will maintain a list of revised/new state plan submittals and approvals on the TTN Air Toxics Web site at *http://www.epa.gov/ttn/atw/129/hmiwi/rihmiwi.html*.

B. Visible Ash Emissions Limitation

Comment: One commenter highlighted that proposed section 62.14412(b) requires all HMIWI to not discharge visible emissions of combustion ash from an ash conveying system to the atmosphere in excess of 5 percent of the observation period. The commenter further identified that the 2009 EG, by referencing the NSPS, only establishes a visible emissions standard for combustion ash from an ash conveying system for those sources defined in section 60.50c(a)(1) and (a)(2) (large HMIWI for which construction commenced between June 20, 1996, and December 1, 2008, or which modification commenced between March 16, 1998, and April 6, 2010), and 60.50c(a)(3) and (4) (*i.e.,* those HMIWI subject to the NSPS for which construction commenced after December 1, 2008, or for which modification commenced after April 6, 2010). Existing sources, regulated under the EG and as defined in section 60.32e(a)(1) (HMIWI which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998), are not required to meet a visible emission standard for combustion ash from an ash conveying system. The commenter requests that the EPA

update the amendatory text by deleting section 62.14412(b) so that the final federal plan reflects the EG.

Response: The EPA agrees with the commenter's interpretation of proposed section 62.14412(b) and the 2009 EG. Under the 1997 NSPS in section 60.52c(c), new large HMIWI were subject to a 5 percent visible emissions limit for fugitive emissions generated during ash handling. To demonstrate compliance with this emissions limit, new large HMIWI were required under section 60.56c(b)(12) to conduct annual performance tests for fugitive emissions from ash handling using EPA Method 22. The 1997 EG, in sections 60.37e(a) and (b), did not apply this 5 percent visible emissions limit requirement to existing HMIWI. As the commenter points out, existing sources, as regulated under the 2009 EG and defined in section 60.32e(a)(1), are not required to meet a visible emission standard for combustion ash from an ash conveying system. However, in the 2009 amendments to the EG in sections 60.37e(a)(2) and (b)(2), the EPA did not carry forward the exclusion of the minimal testing requirement to the other HMIWI that became subject to the amended emission standards. The EPA explained the reasoning for this in the preambles to the 2007 proposal and 2008 re-proposed EG stating that the testing provision was selected to provide additional assurance that sources continue to operate at the levels established during their first performance test. Existing HMIWI will be required to measure fugitive ash emissions during their next performance test. Specifically, sections 60.37e(a)(2) and 60.37e(b)(2) of the 2009 EG provide that facilities defined in section 60.32e(a)(1) and (a)(2) subject to the emissions limits in section 60.33e(a)(2), 60.33e(a)(3) and 60.33e(b)(2) would no longer be excluded from the requirement for a one-time fugitive emissions test as listed in section 60.56c(b)(14) of subpart Ec. In order for the final amended federal plan to be consistent with the 2009 EG, the EPA is revising section 62.14412(b) in the amendatory regulatory text to clarify that the visible emissions limit only applies to HMIWI as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI. Facilities that were already subject to the visible emissions ash handling standard as new sources under the 1998 NSPS, but which are treated as existing sources under the 2009 EG, remain subject to the limit.

C. Initial and Annual HMIWI Unit Inspection

Comment: One commenter pointed out that section 62.14440(a) and 62.14441(a) and (b) only address initial and annual HMIWI inspection requirements for small rural HMIWI; however section 60.36e(a) (EG) requires each affected source under sections 60.33e(a)(2) and (a)(3) to undergo equipment inspections. Furthermore, the commenter stated that section 62.14463(a)(13) requires records be reported of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection of the time frame established by the EPA Administrator, or delegated enforcement authority. The commenter requests that the EPA revise the amendatory text so that the HMIWI inspection monitoring, recordkeeping and reporting requirements are consistent within 40 CFR part 62 subpart HHH and reflect the intent of 40 CFR part 60 subpart Ce.

Response: The EPA agrees with the commenter's interpretation that the proposed section 62.14440(a) and 62.1441(a) and (b) only address initial and annual HMIWI inspection requirements for small rural HMIWI and this is inconsistent with what is reflected in the EG at 60.36e. The EG requires each affected source subject to emissions limitations under sections 60.33e(b), 60.33e(a)(2) and 60.33e(a)(3) to undergo HMIWI equipment and air pollution control device inspections. The EPA has made minor revisions to sections 62.14440, 62.14441 and 62.14463 in order to clarify that all units are required to conduct initial and annual HMIWI equipment and air pollution control device inspections and the inspections must be documented in a record and reported to the agency. The recordkeeping and reporting requirements include documenting and submitting to the Administrator or the delegated authority any required maintenance and any repairs not completed within 10 days of an inspection. These revisions to the amended federal plan will ensure consistency with the 2009 EG.

V. Summary of Final Amendments to HMIWI Federal Plan

A summary of each amended plan element of the final amended federal plan is described below. The table below lists each amended element and identifies where it is located or codified.

Element of the HMIWI federal plan	Location
Legal authority and enforcement mechanism	Sections 129(b)(3), 111(d), 301(a), and 301(d)(4) of the CAA.
Inventory of affected HMIWI units	Docket EPA–HQ–OAR–2011–0405.
Inventory of emissions	Docket EPA–HQ–OAR–2011–0405.
Emissions limits	40 CFR 62.14410–62.14413.
Compliance schedules	40 CFR 62.14470–62.14472.
Operator training and qualification	40 CFR 62.14420–62.14425.
Waste management plan	40 CFR 62.14430–62.14432.
Record of public hearings	Docket EPA–HQ–OAR–2011–0405.
Testing, monitoring, recordkeeping and reporting	40 CFR 62.14440–62.14465.
Progress reports	Section V.G. of this preamble.

A. What are the final amendments to applicability?

Today's action finalizes the amendments to applicability as proposed. The amended federal plan reflects new dates defining what are ''existing'' and ''new'' sources for purposes of the revised 2009 NSPS and EG. All HMIWI that complied with the 1997 EG (*i.e.,* those units for which construction commenced on or before June 20, 1996, or for which modification commenced on or before March 16, 1998) are still considered ''existing'' sources under the 2009 amended EG and are required to meet the emissions limits by the applicable compliance date for the amended EG. All HMIWI that complied with the 1997 NSPS (*i.e.,* those units for which construction commenced after June 20, 1996, but no later than December 1, 2008, or for which modification commenced after March 16, 1998, but no later than April 6, 2010) are also considered ''existing'' sources under the amended EG. Those HMIWI are required to meet the emissions limits under the amended EG by the applicable compliance date for the amended EG, except where the

corresponding 1997 NSPS is more stringent, in which case those HMIWI are to continue to comply with the 1997 NSPS. In the interim, those 1997 NSPS sources that must meet the amended EG must continue to be subject to the NSPS as promulgated in 1997 until the date for compliance with the revised EG. Those units for which construction commenced after the December 1, 2008, HMIWI proposal, or for which modification commenced on or after April 6, 2010, are considered ''new'' units subject to more stringent revised NSPS emissions limits.

B. What are the final amendments to the emissions limits?

Today's action finalizes the revised emissions limits as proposed. The revised emissions limits mirror the 2009 EG emissions limits which respond to a Court remand of the 1997 regulations and satisfies the 5-year review requirement under CAA section 129(a)(5).

Today's final action removes the SSM exemption from the 2000 federal plan at 40 CFR 62.14413, and finalizes that the emissions limits apply at all times, for the same reasons as outlined in the 2009 EG at 74 FR 51375. Additionally, today's action finalizes two 1997 NSPS emissions limits that are more stringent than the corresponding 2009 amended EG limits. As specified in the 2009 amended EG, those HMIWI that previously complied with the 1997 NSPS and are now considered existing units, would have to continue to comply with the more stringent 1997 NSPS limits. Furthermore, as promulgated in the 2009 amendments to the EG, this final amended federal plan requires that HMIWI as defined in sections 62.14400 conduct a one-time initial ash handling fugitive emissions test using EPA Method 22 to provide additional assurance that sources continue to operate at the levels established during their initial performance test. Furthermore, units as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI are additionally required to demonstrate compliance with a 5 percent visible emissions limit for fugitive emissions and test annually using EPA Method 22. Lastly, as clarified in the 2009 amendments to the EG, the EPA added additional columns to the emissions limits table in the HMIWI federal plan to include averaging times and EPA reference test methods.

Table 1 of this preamble summarizes the amended EG emissions limits in today's final rule.

TABLE 1—SUMMARY OF EG EMISSIONS LIMITS PROMULGATED IN RESPONSE TO THE REMAND FOR EXISTING HMIWI [3]

Pollutant (units)	Unit size [1]	Final limit [2]
HCl (ppmv)	L	6.6
	M	7.7
	S	44
	SR	810
CO (ppmv)	L	11
	M	5.5
	S, SR	20
Pb (mg/dscm)	L	0.036
	M	0.018
	S	0.31
	SR	0.50
Cd (mg/dscm)	L	0.0092
	M	0.013
	S	0.017
	SR	0.11
Hg (mg/dscm)	L	0.018
	M	0.025
	S	0.014
	SR	0.0051
PM (gr/dscf)	L	0.011
	M	0.020
	S	0.029
	SR	0.038
Dioxins/furans, total (ng/dscm).	L	9.3
	M	0.85
	S	16
	SR	240
Dioxins/furans, TEQ (ng/dscm).	L	0.054
	M	0.020
	S	0.013
	SR	5.1
NO_X (ppmv)	L	140
	M, S	190
	SR	130
SO_2 (ppmv)	L	9.0
	M, S	4.2
	SR	55
Opacity (%)	L, M, S, SR	6.0

[1] L = Large (>500 lb/hr of waste); M = Medium (>200 to ≤500 lb/hr of waste); S = Small (≤200 lb/hr of waste); SR = Small rural (small HMIWI >50 miles from boundary of nearest SMSA, burning <2,000 lb/wk of waste).

[2] All emissions limits are reported as corrected to 7 percent oxygen.

[3] The 2009 EG requires that the emissions limits as listed above in Table 1, regardless of a SSM event, be met at all times. However, in one provision of the NSPS, section 60.56c(d)(2), the EPA inadvertently failed to delete a SSM exemption we had intended to eliminate, and to better reflect the EPA's intent in the 2009 final rule, today's final action also amends that section of the NSPS to remove the accidentally retained SSM exemption. Please see section VI of this preamble.

C. What are the final amendments to the waste management plan requirements?

Today's action finalizes the waste management plan as proposed. The amended federal plan's waste management plan provisions reflect the 2009 EG to promote the segregation of chlorinated plastics and PCB-containing wastes and specify that commercial facilities train and educate their clients to conduct their own waste segregation.

D. What are the final amendments to the inspection requirements?

Today's action finalizes additional rule language that clarify inspection requirements that all units are required to conduct HMIWI equipment and air pollution control device inspections. The rule requires that an initial inspection be conducted, and, starting 1 year after that initial inspection, annual inspections must be completed, documented in a record, and reported to the agency. The recordkeeping and reporting requirements include documenting and submitting to the Administrator or the delegated authority any required maintenance and any repairs not completed within 10 days of an inspection. These provisions reflect the amended 2009 EG.

E. What are the final amendments to the performance testing and monitoring requirements?

Today's action finalizes the testing and monitoring requirements as proposed.

1. Performance Testing

First, today's final amended federal plan requires that all HMIWI, including small rural units, conduct initial performance tests for all nine pollutants and opacity to demonstrate initial compliance with the revised emissions limits and conduct annual performance tests on Co, HCl, opacity and PM. The amended federal plan allows for less frequent testing if the facility demonstrates that it is in compliance with the emissions limits for three consecutive performance tests.

Second, today's final amended federal plan requires existing HMIWI to conduct a test to assess fugitive ash emissions during their next performance test to provide additional assurance that sources continue to operate at the levels established during their initial performance test. Hospital/Medical/Infectious Waste Incinerators as defined in section 62.14400(a)(2)(ii) and utilizing a large HMIWI are additionally required to meet this provision annually in order to demonstrate compliance with the 5 percent visible emissions limit.

Third, today's final amended federal plan allows sources to use results of their previous emissions tests to demonstrate initial compliance with the revised emissions limits as long as the sources certify that the previous test results are representative of current operations. Only those sources who could not certify and/or whose previous

emissions tests do not demonstrate compliance with one or more revised emissions limits would be required to conduct another emissions test for those pollutants. (Note that most sources were already required under the 1997 EG to test for CO, HCl, opacity and PM on an annual basis and those annual tests are still required.)

Fourth, today's final amended federal plan incorporates by reference two alternatives to EPA reference test methods, American Society of Mechanical Engineers (ASME) PTC 19.10–1981 and American Society for Testing and Materials International (ASTM) D6784–02)), discussed further in section X.I. titled, ''National Technology Transfer and Advancement Act (NTTAA),'' of this preamble.

2. Monitoring

Today's final amended federal plan retains previous parameter monitoring requirements and, as proposed, adds a parameter requirement for those HMIWI expected to install selective noncatalytic reduction (SNCR) systems in order to comply with the more stringent NO_X emissions limits. Those HMIWI installing SNCR technology to comply with the NO_X emissions limit are required to continuously monitor the charge rate, secondary chamber temperature and reagent (*e.g.,* ammonia or urea) flow rate. Further, although existing HMIWI equipped with fabric filters (FFs) are not required to install bag leak detectors, use of bag leak detectors is an option for these HMIWI.

Although HMIWI units are not required to use CO, HCl, PM, Hg or multi-metal continuous emissions monitoring systems (CEMS) or sorbent trap biweekly Hg and dioxin/furan monitoring systems, such systems are considered alternative monitoring requirements in lieu of annual testing for all sources.

3. Electronic Data Submittal

Today's action finalizes the electronic data submittal requirements as proposed. The EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Hospital/Medical/Infectious Waste Incinerator facilities have the option of submitting to the EPA electronic database an electronic copy of annual stack test reports. Hard-copy paper reporting will remain as an available option for HMIWI facilities.

As stated in the proposed preamble, should facilities choose the option of electronic data submittal, the data will be collected through an electronic emissions test report structure called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report which will be submitted to the EPA's Central Data Exchange (CDX) through the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the ERT can be found at: *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site: (*www.epa.gov/cdx*).

The option to submit performance test data electronically to the EPA does not create any additional performance testing requirements and will only be an option for those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the previously mentioned ERT Web site. The EPA believes, through this flexible approach, industry will save time in the performance test submittal process. Should HMIWI choose the electronic reporting option, the industry will benefit by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept on-site.

As mentioned in the proposed preamble, state, local and tribal agencies will benefit from more streamlined and accurate review of electronic data that will be available on the EPA WebFIRE database (*http://cfpub.epa.gov/webfire/*). Additionally performance test data will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. The major advantages of electronic reporting are more fully explained in the preamble to the proposed rule (77 FR 24272).

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an option of an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and the data used in developing air quality regulations.

F. What are the final amendments to recordkeeping and reporting requirements?

Today's action finalizes the recordkeeping and reporting requirements as proposed and clarifies which records and reports are associated with unit and air pollution control device inspections.

1. Recordkeeping

Today's final amended federal plan adds the requirement that owners and operators must maintain records of the amount and type of NO_X reagent used, records of the annual unit and air pollution control device inspections (including any maintenance), and a description, included with each test report, of how operating parameters were established during the initial performance test and re-established during subsequent performance tests.

2. Reporting

Today's final amended federal plan adds requirements for existing HMIWI to submit, along with each test report, a description of how operating parameters were established or re-established and submit records of annual air pollution control device inspections (including any maintenance).

G. What are the final amendments to the compliance schedule?

Today's action finalizes the compliance schedule with revisions to the proposed schedule. Today's final revised federal plan requires owners or operators of HMIWI to either: (1) Come into compliance with the plan within 1 year after the plan is promulgated; or (2) meet increments of progress and come into compliance by October 6, 2014. This final amended federal plan, includes as its compliance schedule the same five increments of progress from 40 CFR 62.14470(b)(2), along with defined and enforceable dates for completion of each increment.

The EPA has determined it necessary to adjust the schedule for the increments of progress to account for the timeframe of promulgation of this federal plan and to avoid retroactive application of any of the increment deadlines. The proposed rule would have set forth the first two increments of progress deadline on October 6, 2012, and May 6, 2013, respectively. Since this federal plan will be finalized after the October 6, 2012 date, the EPA revised the schedule for the first two incremental deadlines. The EPA has set the first and second incremental date to be 3 and 7 months following publication of this federal plan. The EPA developed this schedule using EPA guidance drafted for enabling states to draft state plans and set increments of progress. The 2010 State Implementation Guidance Document is available in this rulemaking docket and through the EPA's TTN.

The HMIWI owner or operator is responsible for meeting each of the five increments of progress for each HMIWI no later than the applicable compliance date. The owner or operator must notify the EPA as each increment of progress

is achieved, as well as when any is missed. The notification must identify the increment and the date the increment is achieved (or missed). If an owner or operator misses an increment deadline, the owner or operator must also notify the EPA when the increment is finally achieved. The owner or operator must mail the notification to the applicable EPA Regional Office within 10 business days after the increment date defined in the amended federal plan. (See the table under section II.C. of this document for a list of Regional Offices.)

The definition of each increment of progress, along with its required completion date, follows.

Submit Final Control Plan. To meet this increment, the owner or operator of each HMIWI must submit a plan that describes, at a minimum, the air pollution control device and/or process changes that will be employed so that each HMIWI complies with the emissions limits and other requirements. A final control plan is not required for units that will be shutdown.

Completion Date: August 13, 2013.

Award Contract. To award a contract means the HMIWI owner or operator enters into legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the owner or operator. The EPA anticipates that the owner or operator may award a number of contracts to complete the retrofit. To meet this increment of progress, the HMIWI owner or operator must award a contract or contracts to initiate on-site construction, to initiate on-site installation of air pollution control devices, and/or to incorporate process changes. The owner or operator must mail a copy of the signed contract(s) to the EPA within 10 business days of entering the contract(s).

Completion Date: December 13, 2013.

Begin On-site Construction. To begin on-site construction, installation of air pollution control devices or process change means to begin any of the following:

(1) Installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(2) Physical preparation necessary for the installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(3) Alteration of an existing air pollution control device in order to comply with the final emissions limits as outlined in the final control plan;

(4) Alteration of the waste combustion process to accommodate installation of an air pollution control device in order to comply with the final emissions limits as outlined in the final control plan; or

(5) Process changes identified in the final control plan in order to meet the emissions standards.

Completion Date: January 6, 2014.

Complete On-site Construction. To complete on-site construction means that all necessary air pollution control devices or process changes identified in the final control plan are in place, on-site and ready for operation on the HMIWI.

Completion Date: August 6, 2014.

Final Compliance. To be in final compliance means to incorporate all process changes or complete retrofit construction in accordance with the final control plan and to connect the air pollution control equipment or process changes such that, if the HMIWI is brought online, all necessary process changes or air pollution control equipment will operate as designed.

Completion Date: October 6, 2014.

If a HMIWI does not achieve final compliance by October 6, 2014, the final amended federal plan, requires the HMIWI to shutdown by October 6, 2014, complete the retrofit while not operating and be in compliance upon restarting. Shutdown is necessary in order to avoid being out of compliance and subject to possible enforcement action.

H. What are the other final amendments?

Today's action finalizes certain other amendments as proposed, including amending and adding definitions for further clarification and updating toxic equivalency factors (TEF).

1. Definitions

Today's final action includes the following definitions:

- ''Minimum secondary chamber temperature'';
- ''Modification or modified HMIWI'';
- ''Bag leak detection system'';
- ''Commercial HMIWI''; and
- ''Minimum reagent flow rate.''

2. Toxicity Equivalence Factors

Today's final amended federal plan incorporates the latest revisions to the TEFs as listed in amended Table 2 to subpart HHH in today's action. These revisions are a result of the January 6, 2011, **Federal Register** notice, where the EPA announced the availability of the final ''Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds'' (EPA/100/R–10/005).

The revised methodology includes the following changes to TEFs that HMIWI would use to determine compliance with the HMIWI dioxin/furan TEQ emissions limits:

Dioxin/furan congener	Toxicity equivalency factors	
	1997 EG/2000 federal plan	Today's proposed amendments to federal plan
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5	1
Octachlorinated dibenzo-p-dioxin	0.001	0.0003
2,3,4,7,8-pentachlorinated dibenzofuran	0.5	0.3
1,2,3,7,8-pentachlorinated dibenzofuran	0.05	0.03
Octachlorinated dibenzofuran	0.001	0.0003

VI. Summary of Final Amendments to HMIWI NSPS

A. What are the final amendments to the emissions limits?

Today's action finalizes the NSPS amendments as proposed. The final amendment to the HMIWI NSPS removes section 60.56c(d)(2) of subpart Ec which excluded HMIWI units from having to comply with standards during periods of SSM provided that no hospital waste or medical/infectious waste was being charged to the unit during those SSM periods. The EPA inadvertently failed to delete the SSM exemption we had intended to eliminate in the 2009 NSPS. The 2009 EG and NSPS requires that the emissions limits, regardless of a SSM event, be met at all times. To better reflect the EPA's intent

in the 2009 final rule, today's final action also amends that section of the NSPS to remove the accidentally retained SSM exemption.

This action is necessary to make the NSPS continuously applicable, as required under CAA section 302(k) and under the Court's 2008 *Sierra Club* v. *EPA* ruling. Our rationale for this amendment was presented in the October 6, 2009, final rule, at 74 FR 51368, 51375 and 51393–95 (October 6, 2009), and we hereby incorporate by reference that rationale in order to complete the regulatory amendments we intended to make at the time. Today's action also finalizes the removal of the SSM exemption from the 2000 federal plan at 40 CFR 62.14413, and finalizes the requirement that the emissions limits apply at all times, for the same reasons.

VII. HMIWI That Have or Will Shutdown

A. Units That Plan To Close Rather Than Comply

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Under today's final amended federal plan if, for compliance purposes, you plan to permanently close your currently operating HMIWI, you must do so by May 13, 2014. As described in the proposed preamble, the final amendments will allow HMIWI owners or operators who are planning to shutdown, the opportunity to petition the EPA for an extension beyond the 1-year compliance date (but no later than October 6, 2014). An example of a facility that might petition the EPA for such an extension is a facility installing an on-site alternative waste treatment technology. It is possible that installation cannot be completed within 1 year and the facility has no feasible waste disposal options other than on-site incineration while the alternative technology is being installed. The requirements for a petition for an extension to shutdown under today's final federal plan will update the compliance date requirements set forth at § 62.14471 of subpart HHH.

If you continue to operate your HMIWI 1 year after May 13, 2014, then you must comply with the operator training and qualification requirements and the inspection requirements of the plan by May 13, 2014. This requirement includes HMIWI that comply within 1 year, as well as those that have been granted an extension beyond the 1-year compliance date (*i.e.,* HMIWI with extended retrofit schedules and HMIWI granted an extension to shutdown after the 1-year compliance date). In addition, while still in operation, you are subject to the same requirements for Title V operating permits that apply to units that will not shutdown.

B. Inoperable Units

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Today's final amended federal plan, includes that in cases where a HMIWI has already shutdown, has been rendered inoperable and does not intend to restart, the HMIWI may be left off the source inventory in a revised/new state plan or this final amended federal plan. A HMIWI that has been rendered inoperable will not be covered by this amended federal plan. The HMIWI owner or operator may do one of the following to render a HMIWI inoperable: (1) Weld the waste charge door shut, (2) remove stack (and by-pass stack, if applicable), (3) remove combustion air blowers, or (4) remove burners or fuel supply appurtenances.

C. HMIWI That Have Shutdown

The EPA did not receive any adverse comments on this provision and is therefore finalizing this section as proposed at 77 FR 24283. Today's final amended federal plan includes any HMIWI that are known to have already shutdown (but are not known to be inoperable) in the source inventory. These HMIWI should be identified in any revised/new state plan submitted to the EPA.

1. Restarting Before the Final Compliance Date

If the owner or operator of an inactive HMIWI plans to restart before the final compliance date, the owner or operator must submit a control plan for the HMIWI and bring the HMIWI into compliance with the applicable compliance schedule. Final compliance is required for all pollutants and all HMIWI no later than the final compliance date.

2. Restarting After the Final Compliance Date

Under this federal plan, as amended, a control plan is not needed for inactive HMIWI that restart after the final compliance date. However, before restarting, operators of these HMIWI would have to complete the operator training and qualification requirements and inspection requirements (if applicable) and complete any needed retrofit or process modifications prior to restarting. Performance testing to demonstrate compliance would be required within 180 days after restarting. There is no need to show that the increments of progress have been met since these steps would have occurred before restart while the HMIWI was shutdown and not generating emissions. A HMIWI that operates out of compliance after the final compliance date would be in violation of the final amended federal plan and subject to enforcement action.

VIII. Implementation of the Federal Plan and Delegation

A. Background of Authority

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. Under sections 111(d) and 129(b) of the CAA, the EPA is required to adopt EG that are applicable to existing solid waste incineration sources. These EG are not enforceable until the EPA approves a state plan or adopts a federal plan that implements and enforces them and the state or federal plan has become effective. As discussed above, the federal plan regulates HMIWI in states that do not have approved plans in effect to implement the amended EG.

Congress has determined that the primary responsibility for air pollution prevention and control rests with state and local agencies. (See section 101(a)(3) of the CAA.) Consistent with that overall determination, Congress established sections 111 and 129 of the CAA with the intent that the state and local agencies take the primary responsibility for ensuring that the emissions limitations and other requirements in the EG are achieved. Also, in section 111(d) of the CAA, Congress explicitly required that the EPA establish procedures that are similar to those under section 110(c) for state implementation plans. Although Congress required the EPA to propose and promulgate a federal plan for states that fail to submit approvable state plans on time, states may submit approvable revised/new plans after promulgation of the amended HMIWI federal plan. The EPA strongly encourages states that are unable to submit approvable revised/new plans to request delegation of the amended federal plan so that they can have primary responsibility for implementing the revised EG, consistent with the intent of Congress.

Approved and effective revised/new state plans or delegation of the amended federal plan is the EPA's preferred outcome because the EPA believes that state and local agencies not only have

the responsibility to carry out the revised EG but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. For these reasons, the EPA will do all that it can to expedite delegation of the amended federal plan to state and local agencies, whenever possible, in cases where states are unable to develop and submit approvable state plans.

B. Delegation of the Federal Plan and Retained Authorities

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. As similarly described in the 2000 federal plan, if a state or tribe intends to take delegation of the amended federal plan, the state or tribe should submit to the appropriate EPA Regional Office a written request for delegation of authority. The state or tribe should explain how it meets the criteria for delegation. See generally ''Good Practices Manual for Delegation of NSPS and NESHAP'' (EPA, February 1983). The letter requesting delegation of authority to implement the amended federal plan should: (1) Demonstrate that the state or tribe has adequate resources, as well as the legal and enforcement authority to administer and enforce the program, (2) include an inventory of affected HMIWI units, which includes those that have ceased operation but have not been dismantled, include an inventory of the affected units' air emissions and a provision for state progress reports to the EPA, (3) certify that a public hearing is held on the state delegation request, and (4) include a memorandum of agreement between the state or tribe and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement, and the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional Office would publish an approval notice in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a state or tribe, the EPA will implement the amended federal plan. Also, if a state or tribe fails to properly implement a delegated portion of the amended federal plan, the EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the state or tribe even when a state or tribe has received delegation of the amended federal plan. In all cases where the amended federal plan is delegated, the EPA will retain and will not transfer authority to a state or tribe to approve the following items that include additional items to those listed in the 2000 federal plan as to correspond to those changes promulgated in the 2009 HMIWI rules:

(1) Alternative site-specific operating parameters established by facilities using HMIWI controls other than a wet scrubber, dry scrubber followed by a FF, or dry scrubber followed by a FF and wet scrubber;

(2) Alternative methods of demonstrating compliance, including the following methods outlined in the October 6, 2009, amendments to the HMIWI EG:

- Approval of CEMS for PM, HCl, multi-metals and Hg where used for purposes of demonstrating compliance;
- Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance; and
- Approval of major alternatives to test methods;

(3) Approval of major alternatives to monitoring (added in 2009 amended EG);

(4) Waiver of recordkeeping requirements (added in 2009 amended EG); and

(5) Performance test and data reduction waivers under 40 CFR 60.8(b) (added in 2009 amended EG).

Retaining what was established in the 2000 federal plan, today's final amended federal plan also specifies that HMIWI owners or operators who wish to establish alternative operating parameters, alternative methods of demonstrating compliance, major alternatives to monitoring, waiver of recordkeeping requirements or performance test and data reduction waivers should submit a request to the Regional Office Administrator with a copy to the appropriate state.

C. Mechanisms for Transferring Authority

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as proposed at 77 FR 24284. There are two mechanisms for transferring implementation authority to state and local agencies: (1) the EPA approval of a revised/new state plan after the amended federal plan is in effect; and (2) if a state does not submit or obtain approval of its own revised/new plan, the EPA delegation to a state of the authority to implement certain portions of this amended federal plan to the extent appropriate and if allowed by state law. Both of these options are the same as those first outlined in the 2000 federal plan and are described in more detail below.

1. Federal Plan Becomes Effective Prior To Approval of a State Plan

After HMIWI in a state become subject to the amended federal plan, the state or local agency may still adopt and submit a revised/new plan to the EPA. If the EPA determines that the revised/new state plan is as protective as the revised EG, the EPA will approve the revised/new state plan. If the EPA determines that the plan is not as protective as the revised EG, the EPA will disapprove the plan and the HMIWI covered in the state plan would remain subject to the amended federal plan until a revised state plan covering those HMIWI is approved and effective. Prior to disapproval, the EPA will work with states to attempt to reconcile areas of the plan that remain not as protective as the revised EG.

Upon the effective date of a revised/new state plan, the amended federal plan would no longer apply to HMIWI covered by such a plan and the state or local agency would implement and enforce the revised/new state plan in lieu of the amended federal plan. When an EPA Regional Office approves a revised/new state plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State Takes Delegation of the Federal Plan

The EPA, in its discretion, may delegate to state agencies the authority to implement this amended federal plan. As discussed above, the EPA believes that it is advantageous and the best use of resources for state or local agencies to agree to undertake, on the EPA's behalf, administrative and substantive roles in implementing the amended federal plan to the extent appropriate and where authorized by state law. If a state requests delegation, the EPA will generally delegate the entire amended federal plan to the state agency. These functions include administration and oversight of compliance reporting and recordkeeping requirements, HMIWI inspections and preparation of draft notices of violation but will not include any authorities retain by the EPA. State agencies that have taken delegation, as well as the EPA, will have responsibility for bringing enforcement actions against sources violating federal plan provisions.

D. Implementing Authority

The EPA did not receive any adverse comments on this section and is therefore finalizing this section as

proposed at 77 FR 24285. The EPA Regional Administrators have been delegated the authority for implementing the HMIWI federal plan amendments. All reports required by these amendments to the federal plan should be submitted to the appropriate Regional Office Administrator. Section II.C. of this preamble includes a table that lists names and addresses of the EPA Regional Office contacts and the states they cover.

IX. Title V Operating Permits

The EPA did not receive any comments on this section and is therefore finalizing this section as proposed at 77 FR 24285. All existing HMIWI regulated under state or federal plans implementing the 1997 EG and any HMIWI that was regulated under the 1997 NSPS should have already applied for and obtained Title V operating permits, as required under the EG. Title V operating permits assure compliance with all applicable federal requirements for HMIWI, including all applicable CAA section 129 requirements. (See 40 CFR 70.2,70.6(a)(1), 71.2 and 71.6(a)(1).) Title V operating permits for the above-noted sources may, however, need to be reopened to incorporate the requirements of a revised/new state plan, this amended federal plan or more stringent NSPS requirements.

For more background information on the interface between CAA section 129 and Title V, including the EPA's interpretation of CAA section 129(e), as well as information on submitting Title V permit applications, updating existing Title V permit applications and reopening existing Title V permits, see the final Federal Plan for Commercial and Industrial Solid Waste Incinerators, October 3, 2003 (68 FR 57518, 57532). See also the final Federal Plan for Hospital Medical Infectious Waste Incinerators, August 15, 2000 (65 FR 49868, 49877).

As described in the April 23, 2012 proposal, today's final amended federal plan maintains the 2000 federal plan approach, specifying that owners or operators of HMIWI that burn only pathological waste, low-level radioactive waste and/or chemotherapeutic waste and co-fired combustors, as defined in § 62.14490 of subpart HHH, must comply only with certain recordkeeping and reporting requirements set forth in today's final amended federal plan. (See § 62.14400.) These HMIWI and co-fired combustors would not be subject to the emissions control-related requirements of the amended federal plan as long as they comply with the recordkeeping and reporting requirements, including maintaining records for five years, set forth as conditions for their exemption. As described in the April 23, 2012 proposal, the EPA or delegated enforcement authority will maintain facilities' exemption claims for as long as the source is operating under such exempt status.

Consistent with the 2000 federal plan, owners and operators of these sources as listed above would not be required to obtain Title V operating permits as a matter of federal law if the only reason they would potentially be subject to Title V is these non-emissions control-related recordkeeping and reporting requirements. (See § 62.14480.) Originally explained in the 2000 federal plan, today's rule maintains that owners and operators of HMIWI that burn only pathological waste, low-level radioactive waste and/or chemotherapeutic waste and co-fired combustors that do not comply with the recordkeeping and reporting requirements necessary to qualify for exemption from the other requirements of the amended federal plan would become subject to those other requirements and would have to obtain Title V permits. Moreover as stated in the 2000 federal plan and again in today's final rule, if, in the future, the EPA promulgates regulations subjecting any of these sources to requirements other than these recordkeeping and reporting requirements, these sources could become subject to Title V at that time.

A. Title V and Delegation of a Federal Plan

We have previously stated that issuance of a Title V permit is not equivalent to the approval of a state plan or delegation of a federal plan.[2] Legally, delegation of a standard or requirement results in a delegated state or tribe standing in for the EPA as a matter of federal law. This means that obligations a source may have to the EPA under a federally promulgated standard become obligations to a state (except for functions that the EPA retains for itself) upon delegation.[3] Although a state or tribe may have the authority under state or tribal law to incorporate section 111/129 requirements into its Title V permits, and implement and enforce these requirements in these permits without first taking delegation of the section 111/129 federal plan, the state or tribe is not standing in for the EPA as a matter of federal law in this situation. Where a state or tribe does not take delegation of a section 111/129 federal plan, obligations that a source has to the EPA under the federal plan continue after a Title V permit is issued to the source. As a result, the EPA continues to maintain that an approved part 70 operating permits program cannot be used as a mechanism to transfer the authority to implement and enforce the federal plan from the EPA to a state or tribe.

As mentioned above, a state or tribe may have the authority under state or tribal law to incorporate section 111/129 requirements into its Title V permits, and implement and enforce these requirements in that context without first taking delegation of the section 111/129 federal plan.[4] Some states or tribes, however, may not be able to implement and enforce a section 111/129 standard in a Title V permit until the section 111/129 standard has been delegated. In these situations, a state or tribe should not issue a part 70 permit to a source subject to a federal plan before taking delegation of the section 111/129 federal plan.

If a state or tribe can provide an Attorney General's (AG's) opinion delineating its authority to incorporate section 111/129 requirements into its Title V permits, and then implement and enforce these requirements through its Title V permits without first taking delegation of the requirements, then a state or tribe does not need to take delegation of the section 111/129 requirements for purposes of Title V permitting.[5] In practical terms, without approval of a state or tribal plan, delegation of a federal plan, or an adequate AG's opinion, states and tribes with approved part 70 permitting programs open themselves up to potential questions regarding their

[2] *See, e.g.,* the ''Title V and Delegation of a Federal Plan'' section of the proposed federal plan for Commercial Industrial Solid Waste Incinerators (CISWI), November 25, 2002 (67 FR 70640, 70652). The preamble language from this section in the proposed federal plan for CISWI was reaffirmed in the final federal plan for CISWI, October 3, 2003 (68 FR 57518, 57535).

[3] If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, *e.g.,* alternative methods of demonstrating compliance.

[4] The EPA interprets the phrase ''assure compliance'' in section 502(b)(5)(A) to mean that permitting authorities will implement and enforce each applicable standard, regulation or requirement which must be included in the Title V permits the permitting authorities issue. *See* definition of ''applicable requirement'' in 40 CFR 70.2. *See also* 40 CFR 70.4(b)(3)(i) and 70.6(a)(1).

[5] It is important to note that an AG's opinion submitted at the time of initial Title V program approval is sufficient if it demonstrates that a state or tribe has adequate authority to incorporate CAA section 111/129 requirements into its Title V permits and to implement and enforce these requirements through its Title V permits without delegation.

authority to issue permits containing section 111/129 requirements and to assure compliance with these requirements. Such questions could lead to the issuance of a notice of deficiency for a state's or tribe's part 70 program. As a result, prior to a state or tribal permitting authority drafting a part 70 permit for a source subject to a section 111/129 federal plan, the state or tribe, the EPA Regional Office and source in question are advised to ensure that delegation of the relevant federal plan has taken place or that the permitting authority has provided to the EPA Regional Office an adequate AG's opinion.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a federal plan, a section 111/129 source subject to the federal plan in that state must simultaneously submit to both the EPA and the state or tribe all reports required by the standard to be submitted to the EPA. Given that these reports are necessary to implement and enforce the section 111/129 requirements when they have been included in Title V permits, the permitting authority needs to receive these reports at the same time as the EPA.

In the situation where a permitting authority chooses to rely on an AG's opinion and not take delegation of a federal plan, the EPA Regional Offices will be responsible for implementing and enforcing section 111/129 requirements outside of any Title V permits. Moreover, in this situation, the EPA Regional Offices will continue to be responsible for developing progress reports and conducting any other administrative functions required under this federal plan or any other section 111/129 federal plan. See the section V.G. of this preamble titled ''What are the final amendments to the compliance schedule?''.

It is important to note that the EPA is not using its authority under 40 CFR part 70.4(i)(3) to request that all states and tribes which do not take delegation of this federal plan submit supplemental AG's opinions at this time. However, the EPA Regional Offices shall request, and permitting authorities shall provide, such opinions when the EPA questions a state's or tribe's authority to incorporate section 111/129 requirements into a Title V permit and implement and enforce these requirements in that context without delegation.

X. Statutory and Executive Order Reviews

This section addresses the following administrative requirements: Executive Orders 12866 and 13563, 13132, 13175, 13045, 13211 and 12898, PRA, RFA, UMRA and the NTTAA. This two-part action finalizes an amended federal plan and finalizes amendments to the 2009 NSPS. Since this final amended federal plan rule merely implements the amended HMIWI EG promulgated on October 6, 2009 (codified at 40 part 60, subpart Ce) as they apply to HMIWI and the final NSPS amendments clarify the EPA's original intent removing the SSM exemption in the final NSPS rule October 6, 2009 (codified at 40 part 60, subpart Ec) and does not impose any new requirements, much of the following discussion of administrative requirements refers to the documentation of applicable administrative requirements in the preamble to the 2009 rule promulgating the amended EG and NSPS (74 FR 51368–51402, October 6, 2009).

A. Executive Order 12866 and 13563: Regulatory Planning and Review

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden. This action finalizes amendments to the HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that do not have an approved revised/new state plan implementing the EG. Additionally, this action also finalizes amendments to the NSPS to better reflect the EPA's original intent in the October 6, 2009, final rule in eliminating an exemption during SSM periods from the requirement to comply with standards at all times. However, the OMB has previously approved the information collection requirements contained in the existing regulations 40 CFR part 60 subparts CE and EC under the provisions on the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB Control Number 2060–0422. The OMB Control Numbers for EPA's regulation in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (SISNOSE). Small entities include small businesses, small organizations and small governmental jurisdictions.

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

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. During the 2009 HMIWI EG rulemaking, the EPA estimated that a substantial number of small entities would not be significantly impacted by the promulgated EG. (See 74 FR at 51400–51401.) This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act (UMRA)

This final action does not contain a federal mandate that may result in expenditures of $100 million or more for state and local governments, in the aggregate, or the private sector in any one year. In the preamble to the 2009 EG, the national total cost to comply with the final rule was estimated to be approximately $15.5 million in each of the first 3 years of compliance. This final federal plan, as amended, will apply to only a subset of the units considered in the cost analysis for the EG, and less than 10 percent of the units nationwide are state or locally owned. Thus, this rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA has determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because, as noted above, the burden is small and the regulation does not unfairly apply to small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national

government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final action will not impose substantial direct compliance costs on state or local governments and will not preempt state law. Thus, Executive Order 13132 does not apply to this proposed action.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicited comments on the April 23, 2012, proposal from state and local officials. The EPA did not receive any comments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The EPA is not aware of any HMIWI owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this final action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885; April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This final action is not subject to Executive Order 13045 because it is based solely on technology performance.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This final action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

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

This final rulemaking involves technical standards. The EPA finalizes to use two VCS in today's action. One VCS, ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' is cited in the 2009 EG and the final rule, as proposed, for its manual method of measuring the content of the exhaust gas as an acceptable alternative to EPA Method 3B of appendix A–2. This standard is available from the ASME, P.O. Box 2900, Fairfield, NJ 07007–2900; or Global Engineering Documents, Sales Department, 15 Inverness Way East, Englewood, CO 80112.

Another VCS, ASTM D6784–02, ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),'' is cited in the 2009 EG and the final rule, as proposed, as an acceptable alternative to EPA Method 29 of appendix A–8 (portion for Hg only) for measuring Hg. This standard is available from the ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959; or ProQuest, 300 North Zeeb Road, Ann Arbor, MI 48106.

As discussed in the April 23, 2012, proposed rule preamble, while the EPA has identified 16 VCS as being potentially applicable to the final rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would be impractical because they do not meet the objectives of the standards cited in this final rule. See the docket for the 2009 EG (Docket ID Number EPA–HQ–OAR–2006–0534), which is being implemented under today's final action, for the reasons for these determinations.

Under 40 CFR 62.14495, the EPA Administrator retains the authority of approving alternative methods of demonstrating compliance as established under 40 CFR 60.8(b) and 60.13(i) of 40 CFR part 60, subpart A (NSPS General Provisions). A source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required EPA test methods, performance specifications or procedures.

The EPA did not receive any comments on this aspect of the proposed rulemaking.

J. Executive Order 12898: Federal Actions To Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations

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

The EPA has determined that this final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

This final action implements national standards in the 2009 amendments to the HMIWI EG that would result in reductions in emissions of Cd, CO, dioxins/furans, HCl, Pb, Hg, NO_X, PM and SO_2 from all HMIWI and thus decrease the amount of such emissions to which all affected populations are exposed.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C., 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C., 804(2). This final rule will be effective on June 12, 2013.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure,

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 62

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

Dated: April 4, 2013

Bob Perciasepe,

Acting Administrator.

For reasons set out in the preamble, 40 CFR parts 60 and 62 are amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES: HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS

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

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

■ 2. The subpart heading for subpart Ec is revised to read as follows:

Subpart Ec—Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators

■ 3. Section 60.56c is amended by revising the first sentence of paragraph (d)(2) to read as follows:

§ 60.56c Compliance and performance testing.

* * * * *

(d) * * *

(2) Following the date on which the initial performance test is completed or is required to be completed under § 60.8, whichever date comes first, ensure that the affected facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in table 3 of this subpart and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. * * *

* * * * *

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 4. The authority citation for part 62 continues to read as follows:

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

■ 5. The subpart heading for subpart HHH is revised to read as follows:

Subpart HHH—Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On Or Before December 1, 2008

■ 6. Section 62.14400 is amended by revising paragraphs (a) introductory text, (a)(2), and (c) to read as follows:

§ 62.14400 Am I subject to this subpart?

(a) You are subject to this subpart if paragraphs (a)(1), (2)(i) or (ii), and (3) of this section are all true:

* * * * *

(2)(i) Construction of the HMIWI commenced on or before June 20, 1996, or modification of the HMIWI commenced on or before March 16, 1998; or

(ii) Construction of the HMIWI commenced after June 20, 1996 but no later than December 1, 2008, or modification of the HMIWI commenced after March 16, 1998 but no later than April 6, 2010; and

* * * * *

(c) Owners or operators of sources that qualify for the exemptions in paragraphs (b)(1) or (2) of this section must submit records required to support their claims of exemption to the EPA Administrator (or delegated enforcement authority) upon request. Upon request by any person under the regulation at part 2 of this chapter (or a comparable law or regulation governing a delegated enforcement authority), the EPA Administrator (or delegated enforcement authority) must request the records in (b)(1) or (2) from an owner or operator and make such records available to the requestor to the extent required by part 2 of this chapter (or a comparable law governing a delegated enforcement authority). Records required under paragraphs (b)(1) and (2) of this section must be maintained by the source for a period of at least 5 years. Notifications of exemption claims required under paragraphs (b)(1) and (2) of this section must be maintained by the EPA or delegated enforcement authority for as long as the source is operating under such exempt status. Any information obtained from an owner or operator of a source accompanied by a claim of confidentiality will be treated in accordance with the regulations in part 2 of this chapter (or a comparable law governing a delegated enforcement authority).

■ 7. Section 62.14401 is revised to read as follows:

§ 62.14401 How do I determine if my HMIWI is covered by an approved and effective State or Tribal plan?

This part (40 CFR part 62) contains a list of all states and tribal areas with approved Clean Air Act (CAA) section 111(d)/129 plans in effect. However, this part is only updated once a year. Thus, if this part does not indicate that your state or tribal area has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office to determine if approval occurred since publication of the most recent version of this part. A state may also meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the federal plan that meets the requirements of this section. This is the only other option for a state to meet its 111(d)/129 obligations.

(a) An acceptable Federal plan delegation request must include the following:

(1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan.

(2) The items under §§ 60.25(a) and 60.39e(c).

(3) Certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(4) A commitment to enter into a Memorandum of Agreement with the Regional Administrator who sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority. Additional guidance and information is given in the EPA's Delegation Manual, Item 7–139, Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal plans.

(b) A state with an already approved HMIWI CAA section 111(d)/129 state plan is not precluded from receiving EPA approval of a delegation request for the revised Federal plan, providing the requirements of paragraph (a) of this section are met, and at the time of the delegation request, the state also requests withdrawal of the EPA's previous state plan approval.

(c) A state's CAA section 111(d)/129 obligations are separate from its obligations under Title V of the CAA.

■ 8. Section 62.14402 is revised to read as follows:

§ 62.14402 If my HMIWI is not listed on the Federal plan inventory, am I exempt from this subpart?

Not necessarily. Sources subject to this subpart include, but are not limited to, the inventory of sources listed in Docket ID Number EPA–HQ–OAR–2011–0405 for the federal plan. Review the applicability of § 62.14400 to determine if you are subject to this subpart.

■ 9. Section 62.14403 is revised to read as follows:

§ 62.14403 What happens if I modify an existing HMIWI?

(a) If you commenced modification (defined in 40 CFR 62.14490) of an existing HMIWI after April 6, 2010, you are subject to 40 CFR part 60, subpart Ec (40 CFR 60.50c through 60.58c), as amended, and you are not subject to this subpart, except as provided in paragraph (b) of this section.

(b) If you made physical or operational changes to your existing HMIWI solely for the purpose of complying with this subpart, these changes are not considered a modification and you are not subject to 40 CFR part 60, subpart Ec (40 CFR 60.50c through 60.58c), as amended. You remain subject to this subpart.

■ 10. Section 62.14412 is revised to read as follows:

§ 62.14412 What stack opacity and visible emissions requirements apply?

(a) Your HMIWI (regardless of size category) must not discharge into the atmosphere from the stack any gases that exhibit greater than 6 percent opacity (6-minute block average).

(b) Your HMIWI as defined in § 62.14400(a)(2)(ii) and utilizing a large HMIWI must not discharge into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (*i.e.,* 9 minutes per 3-hour period), as determined by EPA Reference Method 22 of 40 CFR part 60, appendix A–7, except as provided in paragraphs (b)(1) and (2) of this section.

(1) The emissions limit specified in paragraph (b) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emissions limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

(2) The provisions specified in paragraph (b) of this section do not apply during maintenance and repair of ash conveying systems. Maintenance and/or repair must not exceed 10 operating days per calendar quarter unless you obtain written approval from the state agency establishing a date when all necessary maintenance and repairs of ash conveying systems are to be completed.

■ 11. Section 62.14413 is revised to read as follows:

§ 62.14413 When do the emissions limits and stack opacity and visible emissions requirements apply?

The emissions limits, stack opacity, and visible emissions requirements of this subpart apply at all times.

■ 12. Section 62.14422 is amended by revising paragraph (a)(13) and adding paragraph (a)(14) to read as follows:

§ 62.14422 What are the requirements for a training course that is not part of a State-approved program?

(a) * * *

(13) Recordkeeping requirements; and

(14) Training in waste segregation according to § 62.14430(c)

* * * * *

■ 13. Section 62.14425 is amended by revising paragraph (b) to read as follows:

§ 62.14425 When must I review the documentation?

* * * * *

(b) You must conduct your initial review of the information listed in § 62.14424 by [date 6 months after publication of final rule], or prior to assumption of responsibilities affecting HMIWI operation, whichever is later.

* * * * *

■ 14. Section 62.14431 is revised to read as follows:

§ 62.14431 What must my waste management plan include?

(a) Your waste management plan must identify both the feasibility of, and the approach for, separating certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. The waste management plan you develop may address, but is not limited to, elements such as segregation and recycling of paper, cardboard, plastics, glass, batteries, food waste and metals (*e.g.,* aluminum cans, metals-containing devices); segregation of non-recyclable wastes (*e.g.,* polychlorinated biphenyl-containing waste, pharmaceutical waste, and mercury-containing waste such as dental waste); and purchasing recycled or recyclable products. Your waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. When you develop your waste management plan, it should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and any other potential environmental or energy impacts they might have. In developing your waste management plan, you must consider the American Hospital Association (AHA) publication titled ''Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities.'' This publication (AHA Catalog Number 057007) is available for purchase from AHA Services, Inc., Post Office Box 933283, Atlanta, Georgia 31193–3283.

(b) If you own or operate commercial HMIWI, you must conduct training and education programs in waste segregation for each of your waste generator clients and ensure that each client prepares its own waste management plan that includes, but is not limited to, the provisions listed in this section.

(c) If you own or operate commercial HMIWI, you must conduct training and education programs in waste segregation for your HMIWI operators.

■ 15. Section 62.14432 is revised to read as follows:

§ 62.14432 When must my waste management plan be completed?

As specified in §§ 62.14463 and 62.14464, you must submit your waste management plan with your initial report, which is due 60 days after you demonstrate initial compliance with the amended emissions limits, by conducting an initial performance test or submitting the results of previous emissions tests, provided the conditions in § 62.14451(e) are met.

■ 16. Section 62.14440 is revised to read as follows:

§ 62.14440 Which HMIWI are subject to inspection requirements?

(a) All HMIWI, including small rural HMIWI (defined in § 62.14490) and each HMIWI (subject to emissions limits and visible emissions requirements in §§ 62.14411 and 62.14412) are subject to the HMIWI equipment inspection requirements.

(b) All HMIWI equipped with one or more air pollution control devices are subject to the air pollution control device inspection requirements.

■ 17. Section 62.14441 is revised to read as follows:

§ 62.14441 When must I inspect my HMIWI equipment and air pollution control devices?

(a) You must inspect your large, medium, small or small rural HMIWI equipment by May 13, 2014.

(b) You must conduct inspections of your large, medium, small or small rural HMIWI equipment as outlined in § 62.14442(a) annually (no more than 12 months following the initial inspection or previous annual HMIWI equipment inspection).

(c) You must inspect the air pollution control devices on your large, medium, small or small rural HMIWI by May 13, 2014.

(d) You must conduct the air pollution control device inspections on your large, medium, small or small rural HMIWI as outlined in § 62.14442(b) annually (no more than 12 months following the initial inspection or previous annual air pollution control device inspection).

■ 18. Section 62.14442 is amended as follows:

■ a. By redesignating paragraphs (a) through (q) as paragraphs (a)(1) through (a)(17);

■ b. By redesignating introductory text as paragraph (a) introductory text and revising it;

■ c. By redesignating newly redesignated paragraph (a)(17) as (a)(18) and adding new paragraph (a)(17); and

■ d. By adding new paragraph (b).

The revisions and additions read as follows:

§ 62.14442 What must my inspections include?

(a) At a minimum, you must do the following during your HMIWI equipment inspection:

* * * * *

(17) Include inspection elements according to manufacturer's recommendations; and

* * * * *

(b) At a minimum, you must do the following during your air pollution control device inspection:

(1) Inspect air pollution control device(s) for proper operation, if applicable;

(2) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

(3) Include inspection elements according to manufacturer's recommendations; and

(4) Generally observe that the equipment is maintained in good operating condition.

■ 19. Section 62.14443 is revised to read as follows:

§ 62.14443 When must I do repairs?

(a) You must complete any necessary repairs to the HMIWI equipment within 10 operating days of the HMIWI equipment inspection unless you obtain written approval from the EPA Administrator (or delegated enforcement authority) establishing a different date when all necessary repairs of your HMIWI equipment must be completed.

(b) You must complete any necessary repairs to the air pollution control device within 10 operating days of the air pollution control device inspection unless you obtain written approval from the EPA Administrator (or delegated enforcement authority) establishing a different date when all necessary repairs of your air pollution control device must be completed. During the time that you conduct repairs to your air pollution control device, all emissions standards remain in effect according to § 62.14413.

§ 62.14450 [Removed and Reserved]

■ 20. Section 62.14450 is removed and reserved.

■ 21. Section 62.14451 is amended as follows:

■ a. By revising paragraph (a);

■ b. By adding paragraph (b)(3);

■ c. By redesignating paragraph (c) as paragraph (d);

■ d. By adding new paragraph (c); and

■ e. By adding paragraph (e).

The revisions and additions read as follows:

§ 62.14451 What are the testing requirements?

(a) Except as specified in paragraph (e) of this section, you must conduct an initial performance test for PM, opacity, CO, dioxin/furan, HCl, Pb, Cd, Hg, SO_2, NO_X and fugitive ash emissions using the test methods and procedures outlined in § 62.14452.

(b) * * *

(3) If you use a large HMIWI that commenced construction or modification according to § 62.14400(a)(2)(ii), determine compliance with the visible emissions limits for fugitive emissions from flyash/bottom ash storage and handling by conducting a performance test using EPA Reference Method 22 of 40 CFR part 60, appendix A–7 on an annual basis (no more than 12 months following the previous performance test).

(c) The 2,000 lb/wk limitation for small rural HMIWI does not apply during performance tests.

* * * * *

(e) You may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that the conditions in paragraphs (e)(1) through (3) of this section are met:

(1) Your previous emissions tests must have been conducted using the applicable procedures and test methods listed in § 62.14452. Previous emissions test results obtained using the EPA-accepted voluntary consensus standards are also acceptable.

(2) The HMIWI at your facility must currently be operated in a manner (*e.g.,* with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s), and the HMIWI may not have been modified such that emissions would be expected to exceed the results from previous emissions test(s).

(3) The previous emissions test(s) must have been conducted in 1996 or later.

■ 22. Section 62.14452 is amended as follows:

■ a. By revising paragraphs (c), (d), and (f);

■ b. By redesignating paragraph (l) as paragraph (o) and revising it;

■ c. By redesignating paragraph (m) as paragraph (r);

■ d. By redesignating paragraphs (g) through (k) as paragraphs (i) through (m) and revising them;

■ f. By adding new paragraphs (g) and (h); and

■ g. By adding paragraphs (n), (p), and (q).

The revisions and additions read as follows:

§ 62.14452 What test methods and procedures must I use?

* * * * *

(c) You must use EPA Reference Method 1 of 40 CFR part 60, appendix A–1 to select the sampling location and number of traverse points;

(d) You must use EPA Reference Method 3, 3A or 3B of 40 CFR part 60, appendix A–2 for gas composition analysis, including measurement of oxygen concentration. You must use EPA Reference Method 3, 3A or 3B of 40 CFR part 60, appendix A–2 simultaneously with each reference method. You may use ASME PTC–19–10–1981–Part 10 (incorporated by reference in 40 CFR 60.17) as an alternative to EPA Reference Method 3B;

* * * * *

(f) You must use EPA Reference Method 5 of 40 CFR part 60, appendix A–3 or Method 26A or Method 29 of 40 CFR part 60, appendix A–8 to measure

particulate matter (PM) emissions. You may use bag leak detection systems, as specified in § 62.14454(e), or PM continuous emissions monitoring systems (CEMS), as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the PM emissions limit;

(g) You must use EPA Reference Method 6 or 6C of 40 CFR part 60, appendix A–4 to measure SO_2 emissions;

(h) You must use EPA Reference Method 7 or 7E of 40 CFR part 60, appendix A–4 to measure NO_X emissions;

(i) You must use EPA Reference Method 9 of 40 CFR part 60, appendix A–4 to measure stack opacity. You may use bag leak detection systems, as specified in § 62.14454(e), or PM CEMS, as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the opacity requirements;

(j) You must use EPA Reference Method 10 or 10B of 40 CFR part 60, appendix A–4 to measure the CO emissions. You may use CO CEMS, as specified in paragraph (o) of this section, as an alternative to demonstrate compliance with the CO emissions limit;

(k) You must use EPA Reference Method 23 of 40 CFR part 60, appendix A–7 to measure total dioxin/furan emissions. The minimum sample time must be 4 hours per test run. You may elect to sample dioxins/furans by installing, calibrating, maintaining and operating a continuous automated sampling system, as specified in paragraph (p) of this section, as an alternative to demonstrate compliance with the dioxin/furan emissions limit. If you have selected the toxic equivalency (TEQ) standards for dioxin/furans under § 62.14411, you must use the following procedures to determine compliance:

(1) Measure the concentration of each dioxin/furan tetra-through octa-congener emitted using EPA Reference Method 23 of 40 CFR part 60, appendix A–7;

(2) For each dioxin/furan congener measured in accordance with paragraph (k)(1) of this section, multiply the congener concentration by its corresponding TEQ factor specified in Table 2 of this subpart;

(3) Sum the products calculated in accordance with paragraph (k)(2) of this section to obtain the total concentration of dioxins/furans emitted in terms of TEQ.

(l) You must use EPA Reference Method 26 or 26A of 40 CFR part 60, appendix A–8 to measure HCl emissions. You may use HCl CEMS as an alternative to demonstrate compliance with the HCl emissions limit;

(m) You must use EPA Reference Method 29 of 40 CFR part 60, appendix A–8 to measure Pb, Cd and Hg emissions. You may use ASTM D6784–02 (incorporated by reference in 40 CFR 60.17) as an alternative to EPA Reference Method 29 for measuring Hg emissions. You may also use Hg CEMS, as specified in paragraph (o) of this section, or a continuous automated sampling system for monitoring Hg emissions, as specified in paragraph (q) of this section, as an alternative to demonstrate compliance with the Hg emissions limit. You may use multi-metals CEMS, as specified in paragraph (o) of this section, as an alternative to EPA Reference Method 29 to demonstrate compliance with the Pb, Cd or Hg emissions limits;

(n) You must use EPA Reference Method 22 of 40 CFR part 60, appendix A–7 to measure fugitive ash emissions and determine compliance with the fugitive ash emissions limit, as applicable, under § 60.52c(c). The minimum observation time must be a series of three 1-hour observations.

(o) If you are using a CEMS to demonstrate compliance with any of the emissions limits under §§ 62.14411 or 62.14412, you:

(1) Must determine compliance with the appropriate emissions limit(s) using a 12-hour rolling average, calculated as specified in section 12.4.1 of EPA Reference Method 19 of 40 CFR part 60, appendix A–7. Performance tests using EPA Reference Methods are not required for pollutants monitored with CEMS.

(2) Must operate a CEMS to measure oxygen concentration, adjusting pollutant concentrations to 7 percent oxygen as specified in paragraph (e) of this section.

(3) Must operate all CEMS in accordance with the applicable procedures under appendices B and F of 40 CFR part 60. For those CEMS for which performance specifications have not yet been promulgated (HCl, multi-metals), this option takes effect on the date a final performance specification is published in the **Federal Register** or the date of approval of a site-specific monitoring plan.

(4) May substitute use of a CO CEMS for the CO annual performance test and minimum secondary chamber temperature to demonstrate compliance with the CO emissions limit.

(5) May substitute use of an HCl CEMS for the HCl annual performance test, minimum HCl sorbent flow rate and minimum scrubber liquor pH to demonstrate compliance with the HCl emissions limit.

(6) May substitute use of a PM CEMS for the PM annual performance test and minimum pressure drop across the wet scrubber, if applicable, to demonstrate compliance with the PM emissions limit.

(p) If you are using a continuous automated sampling system to demonstrate compliance with the dioxin/furan emissions limits, you must record the output of the system and analyze the sample according to EPA Reference Method 23 of 40 CFR part 60, appendix A–7. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to dioxin/furan from monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan. If you elect to continuously sample dioxin/furan emissions instead of sampling and testing using EPA Reference Method 23 of 40 CFR part 60, appendix A–7, you must install, calibrate, maintain and operate a continuous automated sampling system and comply with the requirements specified in 40 CFR 60.58b(p) and (q) of subpart Eb.

(q) If you are using a continuous automated sampling system to demonstrate compliance with the Hg emissions limits, you must record the output of the system and analyze the sample at set intervals using any suitable determinative technique that can meet appropriate performance criteria. This option to use a continuous automated sampling system takes effect on the date a final performance specification applicable to Hg from monitors is published in the **Federal Register** or the date of approval of a site-specific monitoring plan. If you elect to continuously sample Hg emissions instead of sampling and testing using EPA Reference Method 29 of 40 CFR part 60, appendix A–8, or an approved alternative method for measuring Hg emissions, you must install, calibrate, maintain and operate a continuous automated sampling system and comply with the requirements specified in 40 CFR 60.58b(p) and (q) of subpart Eb.

* * * * *

■ 23. Section 62.14453 is amended by revising paragraphs (a) introductory text, (a)(2) and (b) to read as follows:

§ 62.14453 What must I monitor?

(a) If your HMIWI uses combustion control only, or your HMIWI is equipped with a dry scrubber followed by a fabric filter (FF), a wet scrubber, a dry scrubber followed by a FF and wet

scrubber, or a selective noncatalytic reduction (SNCR) system:

* * * * *

(2) After the date on which the initial performance test is completed or is required to be completed under § 62.14470, whichever comes first, your HMIWI must not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table 3 and measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours), at all times except during performance tests.

(b) If you are using an air pollution control device other than a dry scrubber followed by a FF, a wet scrubber, a dry scrubber followed by a FF and a wet scrubber, or a SNCR system to comply with the emissions limits under § 62.14411, you must petition the EPA Administrator for site-specific operating parameters to be established during the initial performance test and you must continuously monitor those parameters thereafter. You may not conduct the initial performance test until the EPA Administrator has approved the petition.

■ 24. Section 62.14454 is amended by revising paragraphs (a) through (c) and adding paragraph (e) to read as follows:

§ 62.14454 How must I monitor the required parameters?

(a) Except as provided in §§ 62.14452(o) through (q), you must install, calibrate (to manufacturers' specifications), maintain and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 3 of this subpart (unless CEMS are used as a substitute for certain parameters as specified) such that these devices (or methods) measure and record values for the operating parameters at the frequencies indicated in Table 3 of this subpart at all times. For charge rate, the device must measure and record the date, time and weight of each charge fed to the HMIWI. This must be done automatically, meaning that the only intervention from an operator during the process would be to load the charge onto the weighing device. For batch HMIWI, the maximum charge rate is measured on a daily basis (the amount of waste charged to the unit each day).

(b) For all HMIWI, you must install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack, including the date, time and duration of such use.

(c) For all HMIWI, if you are using controls other than a dry scrubber followed by a FF, a wet scrubber, a dry scrubber followed by a FF and a wet scrubber, or a SNCR system to comply with the emissions limits under § 62.14411, you must install, calibrate (to manufacturers' specifications), maintain and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to § 62.14453(b).

* * * * *

(e) If you use an air pollution control device that includes a FF and are not demonstrating compliance using PM CEMS, you must determine compliance with the PM emissions limit using a bag leak detection system and meet the requirements in paragraphs (e)(1) through (12) of this section for each bag leak detection system.

(1) Each triboelectric bag leak detection system must be installed, calibrated, operated and maintained according to the ''Fabric Filter Bag Leak Detection Guidance,'' (EPA–454/R–98–015, September 1997). This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality Planning and Standards; Sector Policies and Programs Division; Measurement Policy Group (D–243–02), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emissions Measurement Center Continuous Emissions Monitoring. Other types of bag leak detection systems must be installed, operated, calibrated and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

(2) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(3) The bag leak detection system sensor must provide an output of relative PM loadings.

(4) The bag leak detection system must be equipped with a device to continuously record the output signal from the sensor.

(5) The bag leak detection system must be equipped with an audible alarm system that will sound automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(6) For positive pressure FF systems, a bag leak detector must be installed in each baghouse compartment or cell.

(7) For negative pressure or induced air FF, the bag leak detector must be installed downstream of the FF.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(9) The baseline output must be established by adjusting the range and the averaging period of the device and establishing the alarm set points and the alarm delay time according to section 5.0 of the ''Fabric Filter Bag Leak Detection Guidance.''

(10) Following initial adjustment of the system, the sensitivity or range, averaging period, alarm set points or alarm delay time may not be adjusted. In no case may the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless such adjustment follows a complete FF inspection that demonstrates that the FF is in good operating condition. Each adjustment must be recorded.

(11) Record the results of each inspection, calibration and validation check.

(12) Initiate corrective action within 1 hour of a bag leak detection system alarm; operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period. If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

■ 25. Section 62.14455 is amended as follows:

■ a. By revising paragraphs (a) through (e);

■ b. By redesignating paragraphs (f) through (h) as paragraphs (g) through (i);

■ c. By adding new paragraph (f) ; and

■ d. By revising newly redesignated paragraphs (g) and (h).

The revisions and addition read as follows:

§ 62.14455 What if my HMIWI goes outside of a parameter limit?

(a) Operation above the established maximum or below the established minimum operating parameter(s) constitutes a violation of established operating parameter(s). Operating parameter limits do not apply during performance tests.

(b) Except as provided in paragraph (g) or (h) of this section, if your HMIWI uses combustion control only:

And your HMIWI . . .	Then you are in violation of . . .
Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The PM, CO and dioxin/furan emissions limits.

(c) Except as provided in paragraph (f) or (g) of this section, if your HMIWI is equipped with a dry scrubber followed by a FF:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum FF inlet temperature (3-hour rolling average), above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), and below the minimum dioxin/furan sorbent flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum HCl sorbent flow rate (3-hour rolling average) simultaneously.	The HCl emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum Hg sorbent flow rate (3-hour rolling average) simultaneously.	The Hg emissions limit.
(5) Uses the bypass stack	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(6) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(7) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the PM emissions limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The PM emissions limit.[a]
(8) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the opacity limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The opacity limit.[a]
(9) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(10) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(11) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(12) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(13) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.
(14) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(15) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

[a] If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(d) Except as provided in paragraph (g) or (h) of this section, if your HMIWI is equipped with a wet scrubber:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum pressure drop across the wet scrubber (3-hour rolling average) or below the minimum horsepower or amperage to the system (3-hour rolling average) simultaneously.	The PM emissions limit.

And your HMIWI . . .	Then you are in violation of . . .
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), below the minimum secondary chamber temperature (3-hour rolling average), and below the minimum scrubber liquor flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum scrubber liquor pH (3-hour rolling average) simultaneously.	The HCl emissions limit.
(5) Operates above the maximum flue gas temperature (3-hour rolling average) and above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) simultaneously.	The Hg emissions limit.
(6) Uses the bypass stack	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(7) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(8) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(9) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(10) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(11) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(12) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.
(13) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(14) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

(e) Except as provided in paragraph (g) or (h) of this section, if your HMIWI is equipped with a dry scrubber followed by a FF and a wet scrubber:

And your HMIWI . . .	Then you are in violation of . . .
(1) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum secondary chamber temperature (3-hour rolling average) simultaneously.	The CO emissions limit.
(2) Operates above the maximum fabric filter inlet temperature (3-hour rolling average), above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), and below the minimum dioxin/furan sorbent flow rate (3-hour rolling average) simultaneously.	The dioxin/furan emissions limit.
(3) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum scrubber liquor pH (3-hour rolling average) simultaneously.	The HCl emissions limit.
(4) Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI) and below the minimum Hg sorbent flow rate (3-hour rolling average) simultaneously.	The Hg emissions limit.
(5) Uses the bypass stack	The PM, dioxin/furan, HCl, Pb, Cd and Hg emissions limits.
(6) Operates above the CO emissions limit as measured by a CO CEMS, as specified in § 62.14452(o).	The CO emissions limit.
(7) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the PM emissions limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The PM emissions limit.[a]
(8) Uses a bag leak detection system, as specified in § 62.14454(e), to demonstrate compliance with the opacity limit and either fails to initiate corrective action within 1 hour of a bag leak detection system alarm or fails to operate and maintain the FF such that the alarm is not engaged for more than 5 percent of the total operating time in a 6-month block reporting period.	The opacity limit.[a]
(9) Operates above the PM emissions limit as measured by a PM CEMS, as specified in § 62.14452(o).	The PM emissions limit.
(10) Operates above the HCl emissions limit as measured by an HCl CEMS, as specified in § 62.14452(o).	The HCl emissions limit.
(11) Operates above the Pb emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Pb emissions limit.
(12) Operates above the Cd emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Cd emissions limit.
(13) Operates above the Hg emissions limit as measured by a multi-metals CEMS, as specified in § 62.14452(o).	The Hg emissions limit.

And your HMIWI . . .	Then you are in violation of . . .
(14) Operates above the dioxin/furan emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(p).	The dioxin/furan emissions limit.
(15) Operates above the Hg emissions limit as measured by a continuous automated sampling system, as specified in § 62.14452(q).	The Hg emissions limit.

[a] If inspection of the FF demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm is counted as a minimum of 1 hour. If it takes longer than 1 hour to initiate corrective action, the alarm time is counted as the actual amount of time taken to initiate corrective action.

(f) Except as provided in paragraph (g) or (h) of this section, if your HMIWI is equipped with a SNCR system:

And your HMIWI . . .	Then you are in violation of . . .
Operates above the maximum charge rate (3-hour rolling average for continuous and intermittent HMIWI, daily average for batch HMIWI), below the minimum secondary chamber temperature (3-hour rolling average), and below the minimum reagent flow rate (3-hour rolling average) simultaneously.	The NO_X emissions limit.

(g) You may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that your HMIWI is not in violation of the applicable emissions limit(s). You must conduct repeat performance tests pursuant to this paragraph using the identical operating parameters that indicated a violation under paragraph (b), (c), (d), (e), or (f) of this section.

(h) If you are using a CEMS to demonstrate compliance with any of the emissions limits in table 1 of this subpart or § 62.14412, and your CEMS indicates compliance with an emissions limit during periods when operating parameters indicate a violation of an emissions limit under paragraphs (b), (c), (d), (e) or (f) of this section, then you are considered to be in compliance with the emissions limit. You need not conduct a repeat performance test to demonstrate compliance.

* * * * *

■ 26. Section 62.14460 is amended as follows:

■ a. By revising paragraph (b)(1)

■ b. By redesignating paragraphs (b)(7) through (15) as paragraphs (b)(8) through (16);

■ c. By adding new paragraph (b)(7);

■ d. By revising newly designated paragraph (b)(16);

■ e. By adding paragraphs (b)(17) through (19); and

■ f. By revising paragraphs (c), (e), and (f).

The revisions and additions read as follows:

§ 62.14460 What records must I maintain?

* * * * *

(a) * * *

(b) * * *

(1) Concentrations of any pollutant listed in table 1, measurements of opacity and visible ash;

* * * * *

(7) Amount and type of NO_X reagent used during each hour of operation, as applicable;

* * * * *

(16) All operating parameter data collected, if you are complying by monitoring site-specific operating parameters under § 62.14453(b).

(17) Concentrations of CO, PM, HCl, Pb, Cd, Hg and dioxin/furan, as applicable, as determined by the CEMS or continuous automated sampling system, as applicable.

(18) Records of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the timeframe established by the Administrator.

(19) Records of each bag leak detection system alarm, the time of the alarm, the time corrective action was initiated and completed and a brief description of the cause of the alarm and the corrective action taken, as applicable.

(c) Identification of calendar days for which data on emissions rates or operating parameters specified under paragraph (b)(1) through (19) of this section were not obtained, with an identification of the emissions rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken;

* * * * *

(e) Identification of calendar days for which data on emissions rates or operating parameters specified under paragraphs (b)(1) through (19) of this section exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances and a description of corrective actions taken.

(f) The results of the initial, annual and any subsequent performance tests conducted to determine compliance with the emissions limits and/or to establish or re-establish operating parameters, as applicable, including sample calculations, of how the operating parameters were established or re-established, if applicable.

* * * * *

■ 27. Section 62.14463 is amended as follows:

■ a. By redesignating paragraphs (a) through (c) as paragraphs (a)(1) through (3);

■ b. By revising newly designated paragraphs (a)(1) and (2);

■ c. By adding paragraph (a)(4);

■ d. By redesignating the section introductory text as paragraph (a) introductory text;

■ e. By redesignating paragraphs (d) through (k) as paragraphs (a)(5) through (12);

■ f. By revising newly designated paragraphs (a)(5), (11), and (12);

■ g. By adding paragraphs (a)(13) through (15); and

■ h. By adding new paragraph (b).

The revisions and additions read as follows:

§ 62.14463 What reporting requirements must I satisfy?

(a) * * *

(1) The initial performance test data as recorded under § 62.14451(a);

(2) The values for the site-specific operating parameters established pursuant to § 62.14453, as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test;

* * * * *

(4) If you use a bag leak detection system, analysis and supporting documentation demonstrating conformance with the EPA guidance and specifications for bag leak detection systems in § 62.14454(e);

(5) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to § 62.14453, as applicable;

* * * * *

(11) Any use of the bypass stack, duration of such use, reason for malfunction and corrective action taken;

(12) Records of the annual equipment inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the time frame established by the EPA Administrator (or delegated enforcement authority);

(13) Records of the annual air pollution control device inspections, any required maintenance and any repairs not completed within 10 days of an inspection or the time frame established by the EPA Administrator (or delegated enforcement authority);

(14) Concentrations of CO, PM, HCl, Pb, Cd, Hg and dioxin/furan, as applicable, as determined by the CEMS or continuous automated sampling system, as applicable; and

(15) Petition for site-specific operating parameters under § 62.14453(b).

(b) If you choose to submit an electronic copy of stack test reports to the EPA's WebFIRE database, as of December 31, 2011, you must enter the test data into the EPA's database using the Electronic Reporting Tool (ERT) located at *http://www.epa.gov/ttn/chief/ert/ert_tool.html.*

■ 28. Section 62.14464 is amended as follows:

■ a. By revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 62.14464 When must I submit reports?

(a) You must submit the information specified in § 62.14463(a)(1) through (4) no later than 60 days following the initial performance test.

(b) You must submit an annual report to the EPA Administrator (or delegated enforcement authority) no more than 1 year following the submission of the information in paragraph (a) of this section, and you must submit subsequent reports no more than 1 year following the previous report (once the unit is subject to permitting requirements under Title V of the CAA, you must submit these reports semiannually). The annual report must include the information specified in § 62.14463(a)(5) through (14), as applicable.

* * * * *

(d) You must submit your petition for site-specific operating parameters specified in § 62.14463(a)(15) prior to your initial performance test. You may not conduct the initial performance test until the EPA Administrator has approved the petition.

■ 29. Section 62.14470 is amended as follows:

■ a. By revising paragraph (a) introductory text;

■ b. By revising paragraphs (a)(1) through (a)(3);

■ c. By revising paragraph (b) introductory text;

■ d. By revising paragraph (b)(1);

■ e. By revising paragraphs (b)(2)(i) through (v); and

■ f. By revising paragraph (b)(3).

The revisions read as follows:

§ 62.14470 When must I comply with this subpart if I plan to continue operation of my HMIWI?

* * * * *

(a) If you plan to continue operation and come into compliance with the requirements of this subpart by May 13, 2014, then you must complete the requirements of paragraphs (a)(1) through (a)(4) of this section.

(1) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by May 13, 2014.

(2) You must achieve final compliance by May 13, 2014. This includes incorporating all process changes and/or completing retrofit construction, connecting the air pollution control equipment or process changes such that the HMIWI is brought online, and ensuring that all necessary process changes and air pollution control equipment are operating properly.

(3) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you are required to achieve final compliance under paragraph (a)(2) of this section.

* * * * *

(b) If you plan to continue operation and come into compliance with the requirements of this subpart after May 13, 2014, but before October 6, 2014, then you must complete the requirements of paragraphs (b)(1) through (4) of this section.

(1) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by May 13, 2014.

(2) * * *

(i) You must submit a final control plan by May 13, 2016. Your final control plan must, at a minimum, include a description of the air pollution control device(s) or process changes that will be employed for each unit to comply with the emissions limits and other requirements of this subpart.

(ii) You must award contract(s) for on-site construction, on-site installation of emissions control equipment or incorporation of process changes by December 13, 2013. You must submit a signed copy of the contract(s) awarded.

(iii) You must begin on-site construction, begin on-site installation of emissions control equipment or begin process changes needed to meet the emissions limits as outlined in the final control plan by January 6, 2014.

(iv) You must complete on-site construction, installation of emissions control equipment or process changes by August 6, 2014.

(v) You must achieve final compliance by October 6, 2014. This includes incorporating all process changes and/or completing retrofit construction as described in the final control plan, connecting the air pollution control equipment or process changes such that the HMIWI is brought online and ensuring that all necessary process changes and air pollution control equipment are operating properly.

(3) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you are required to achieve final compliance under paragraph (b)(2)(v) of this section.

* * * * *

■ 30. Section 62.14471 is amended as follows:

■ a. By revising paragraph (a);

■ b. By revising paragraph (b) introductory text;

■ c. By revising paragraphs (b)(1) introductory text and (b)(1)(i); and

■ d. By revising paragraphs (b)(2) and (3).

The revisions read as follows:

§ 62.14471 When must I comply with this subpart if I plan to shutdown?

* * * * *

(a) If you plan to shutdown by May 13, 2014, rather than come into compliance with the requirements of this subpart, then you must shutdown by May 13, 2014, to avoid coverage under any of the requirements of this subpart.

(b) If you plan to shutdown rather than come into compliance with the

requirements of this subpart but are unable to shutdown by [May 13, 2014, then you may petition the EPA for an extension by following the procedures outlined in paragraphs (b)(1) through (3) of this section.

(1) You must submit your request for an extension to the EPA Administrator (or delegated enforcement authority) by [date 90 days after publication of final rule]. Your request must include:

(i) Documentation of the analyses undertaken to support your need for an extension, including an explanation of why your requested extension date is sufficient time for you to shutdown while May 13, 2014, does not provide sufficient time for shutdown. Your documentation must include an evaluation of the option to transport your waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(ii) * * *

(2) You must shutdown no later than October 6, 2014.

(3) You must comply with the operator training and qualification requirements and inspection requirements (if applicable) of this subpart by May 13, 2014.

■ 31. Section 62.14472 is amended as follows:

■ a. By revising paragraph (a);

■ b. By revising paragraph (b) introductory text;

■ c. By revising paragraphs (b)(1) and (4);

■ d. By revising paragraph (c) introductory text; and

■ e. By revising paragraph (c)(1).

The revisions read as follows:

§ 62.14472 When must I comply with this subpart if I plan to shutdown and later restart?

* * * * *

(a) If you plan to shutdown and restart prior to October 6, 2014, then you must:

(1) Meet the compliance schedule outlined in § 63.14470(a) if you restart prior to May 13, 2014; or

(2) Meet the compliance schedule outlined in § 62.14470(b) if you restart after May 13, 2014. Any missed increments of progress need to be completed prior to or upon the date of restart.

(b) If you plan to shutdown by May 13, 2014, and restart after October 6, 2014, then you must complete the requirements of paragraphs (b)(1) through (b)(5) of this section.

(1) You must shutdown by May 13, 2014.

* * * * *

(4) You must conduct the initial performance test required by § 62.14451(a) within 180 days after the date when you restart.

* * * * *

(c) If you plan to shutdown after May 13, 2014, and restart after October 6, 2014, then you must complete the requirements of paragraphs (c)(1) and (2) of this section.

(1) You must petition the EPA for an extension by following the procedures outlined in § 63.14471(b)(1) through (3).

* * * * *

■ 32. Section 62.14490 is amended as follows:

■ a. By adding a definition for ''Bag leak detection system'';

■ b. By adding a definition for ''Commercial HMIWI'';

■ c. By revising the definition for ''Maximum design waste burning capacity'';

■ d. By adding a definition for ''Minimum reagent flow rate'';

■ e. By revising the definition for ''Minimum secondary chamber temperature''; and

■ f. By revising the introductory text to the definition for ''Modification'' or ''Modified HMIWI.''

The revisions and additions read as follows:

§ 62.14490 Definitions.

Bag leak detection system means an instrument that is capable of monitoring PM loadings in the exhaust of a FF in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light-scattering, light-transmittance or other effects to monitor relative PM loadings.

* * * * *

Commercial HMIWI means a HMIWI which offers incineration services for hospital/medical/infectious waste generated offsite by firms unrelated to the firm that owns the HMIWI.

* * * * *

Maximum design waste burning capacity means:

(1) For intermittent and continuous HMIWI,

$$C = P_V \times 15{,}000/8{,}500 \quad (Eq.\ 2)$$

Where:

C = HMIWI capacity, lb/hr

P_V = primary chamber volume, ft^3

15,000 = primary chamber heat release rate factor, $Btu/ft^3/hr$

8,500 = standard waste heating value, Btu/lb;

(2) For batch HMIWI,

$$C = P_V \times 4.5/8 \quad (Eq.\ 3)$$

Where:

C = HMIWI capacity, lb/hr

P_V = primary chamber volume, ft^3

4.5 = waste density, lb/ft^3

8 = typical hours of operation of a batch HMIWI, hours.

* * * * *

Minimum reagent flow rate means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the SNCR technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the NO_X emissions limit.

* * * * *

Minimum secondary chamber temperature means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, dioxin/furan or NO_X emissions limits.

Modification or *Modified HMIWI* means any change to a HMIWI unit after April 6, 2010, such that:

* * * * *

■ 33. Section 62.14495 is amended by revising paragraph (b) and adding paragraphs (c) through (e) to read as follows:

§ 62.14495 What authorities will be retained by the EPA Administrator?

* * * * *

(b) Approval of alternative methods of demonstrating compliance under 40 CFR 60.8, including:

(1) Approval of CEMS for PM, HCl, multi-metals and Hg where used for purposes of demonstrating compliance,

(2) Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance, and

(3) Approval of major alternatives to test methods;

(c) Approval of major alternatives to monitoring;

(d) Waiver of recordkeeping requirements; and

(e) Performance test and data reduction waivers under 40 CFR 60.8(b).

34. Table 1 to Subpart HHH is revised to read as follows:

TABLE 1 TO SUBPART HHH OF PART 62—EMISSIONS LIMITS FOR SMALL RURAL, SMALL, MEDIUM AND LARGE HMIWI

For the air pollutant	You must meet this emissions limit				With these units (7 percent oxygen, dry basis)	Using this averaging time [a]	And determining compliance using this method [b]
	HMIWI size						
	Small rural	Small	Medium	Large			
Particulate matter ..	87 (0.038) ...	66 (0.029) ...	46 (0.020) [c] 34 (0.015) [d]	25 (0.011) ...	Milligrams per dry standard cubic meter (grains per dry standard cubic foot).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 5 of appendix A–3 of part 60, or EPA Reference Method M 26A or 29 of appendix A–8 of part 60
Carbon monoxide	20	20	5.5	11	Parts per million by volume.	3-run average (1-hour minimum sample time per run).	EPA Reference Method 10 or 10B of appendix A–4 of part 60
Dioxins/furans	240 (100) or 5.1 (2.2).	16 (7.0) or 0.013 (0.0057).	0.85 (0.37) or 0.020 (0.0087).	9.3 (4.1) or 0.054 (0.024).	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet).	3-run average (4-hour minimum sample time per run).	EPA Reference Method 23 of appendix A–7 of part 60
Hydrogen chloride	810	44 [c] ..... 15 [d]	7.7	6.6	Parts per million by volume.	3-run average (1-hour minimum sample time per run).	EPA Reference Method 26 or 26A of appendix A–8 of part 60
Sulfur dioxide	55	4.2	4.2	9.0	Parts per million by volume.	3-run average (1-hour minimum sample time per run).	EPA Reference Method 6 or 6C of appendix A–4 of part 60
Nitrogen oxides	130	190	190	140	Parts per million by volume.	3-run average (1-hour minimum sample time per run).	EPA Reference Method 7 or 7E of appendix A–4 of part 60
Lead	0.50 (0.22) ..	0.31 (0.14) ..	0.018 (0.0079).	0.036 (0.016).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A–8 of part 60
Cadmium	0.11 (0.048)	0.017 (0.0074).	0.013 (0.0057).	0.0092 (0.0040).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A–8 of part 60
Mercury	0.051 (0.0022).	0.014 (0.0061).	0.025 (0.011).	0.018 (0.0079).	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet).	3-run average (1-hour minimum sample time per run).	EPA Reference Method 29 of appendix A–8 of part 60

[a] Except as allowed under §§ 62.14452(o)–(q) for HMIWI equipped with CEMS or continuous automated sampling systems.
[b] Does not include CEMS, continuous automated sampling systems, and approved alternative non-EPA test methods allowed under § 62.14452(d) and (m).
[c] Limits for those HMIWI for which construction or modification was commenced according to § 62.14400(a)(2)(i).
[d] Limits for those HMIWI for which construction or modification was commenced according to § 62.14400(a)(2)(ii).

35. Table 2 to Subpart HHH is revised to read as follows:

TABLE 2 TO SUBPART HHH OF PART 62—TOXIC EQUIVALENCY FACTORS

Dioxin/furan congener	Toxic equivalency factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	1
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
Octachlorinated dibenzo-p-dioxin	0.0003
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.3
1,2,3,7,8-pentachlorinated dibenzofuran	0.03
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
Octachlorinated dibenzofuran	0.0003

36. Table 3 to Subpart HHH is revised to read as follows:

TABLE 3 TO SUBPART HHH OF PART 62—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES

Operating parameters to be monitored	Minimum frequency		HMIWI				
	Data measurement	Data recording	HMIWI with combustion control only	HMIWI with dry scrubber followed by FF	HMIWI with wet scrubber	HMIWI with dry scrubber followed by FF and wet scrubber	HMIWI with SNCR system
Maximum operating parameters:							
Maximum charge rate.	Once per charge	Once per charge	✓	✓	✓	✓	✓
Maximum FF inlet temperature.	Continuous	Once per minute		✓		✓	
Maximum flue gas temperature.	Continuous	Once per minute			✓	✓	
Minimum operating parameters:							
Minimum secondary chamber temperature.	Continuous	Once per minute	✓	✓	✓	✓	✓
Minimum dioxin/furan sorbent flow rate.	Hourly	Once per hour		✓		✓	
Minimum HCl sorbent flow rate.	Hourly	Once per hour		✓		✓	
Minimum mercury (Hg) sorbent flow rate.	Hourly	Once per hour		✓		✓	

TABLE 3 TO SUBPART HHH OF PART 62—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES—Continued

Operating parameters to be monitored	Minimum frequency		HMIWI				
	Data measurement	Data recording	HMIWI with combustion control only	HMIWI with dry scrubber followed by FF	HMIWI with wet scrubber	HMIWI with dry scrubber followed by FF and wet scrubber	HMIWI with SNCR system
Minimum pressure drop across the wet scrubber or minimum horsepower or amperage to wet scrubber.	Continuous	Once per minute			✓	✓	
Minimum scrubber liquor flow rate.	Continuous	Once per minute			✓	✓	
Minimum scrubber liquor pH.	Continuous	Once per minute			✓	✓	
Minimum reagent flow rate.	Hourly	Once per hour					✓

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Part IV

Consumer Product Safety Commission

16 CFR Part 1110
Certificates of Compliance; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1110

[CPSC Docket No. CPSC–2013–0017]

Certificates of Compliance

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Consumer Product Safety Commission (Commission, CPSC, or we) is issuing a proposed rule that would amend the existing regulation on certificates of compliance. The proposed amendment is intended to update the rule to clarify requirements in light of new regulations on testing and labeling pertaining to product certification, and component part testing. The proposed amendment would, among other things, use newly defined terms such as ''finished product certificate'' and ''component part certificate''; require that regulated finished products that are privately labeled be certified by the private labeler for products manufactured in the United States; clarify requirements for the form, content, and availability of certificates of compliance; and require that importers of regulated finished products manufactured outside of the United States file the required certificate electronically with U.S. Customs and Border Protection (CBP) at the time of filing the CBP entry or at the time of filing the entry and entry summary, if both are filed together.

DATES: Written comments must be received by July 29, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2013–0017, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov*.

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 rulemaking. 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 electronically. 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*.

Comments related to the Paperwork Reduction Act aspects of the proposed rule should be directed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Carol Cave, Director, Office of Import Surveillance, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; *ccave@cpsc.gov*; telephone (301) 504–7677.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background on 16 CFR Part 1110

The Commission promulgated a direct final rule on ''certificates of compliance,'' also referred to as ''certificates,'' on November 18, 2008 (73 FR 68328), which is codified at 16 CFR part 1110 (the existing 1110 rule). The Commission published the existing 1110 rule shortly after the Consumer Product Safety Improvement Act of 2008 (CPSIA) was enacted on August 14, 2008, to clarify for stakeholders the certificate requirements imposed by the newly amended section 14(a) of the Consumer Product Safety Act (CPSA) and section 14(g) of the CPSA. The CPSIA amended section 14(a) of the CPSA to require that manufacturers and private labelers of children's products subject to a children's product safety rule certify such products as compliant based on testing conducted by a third party conformity assessment body, and that manufacturers and private labelers of regulated non-children's products certify compliance based on a test of each product, or on a reasonable testing program. Section 14(g) of the CPSA states requirements for certificate content. Thus, the existing part 1110 rule sets forth certificate requirements, such as:

- Limiting the parties who must issue a certificate to the importer, for products manufactured outside the United States, and, in the case of domestically manufactured products, to the manufacturer;
- Allowing certificates to be in hard copy or electronic form;
- Clarifying requirements for an electronic form of certificate; and
- Providing certificate content requirements.

B. Why is the Commission proposing to amend the 1110 rule now?

The Commission is proposing to amend the 1110 rule now to clarify certificate requirements in light of new rules related to testing and certification of consumer products and to implement section 14(g)(4) of the CPSA, which allows the Commission, in consultation with the Commissioner of Customs, to require that certificates for imported products be filed electronically with CBP up to 24 hours before arrival of an imported product.

Since the existing 1110 rule was promulgated in 2008, the Commission has been working diligently to implement the requirements of the CPSIA, including the requirements in section 14 of the CPSA for testing, labeling, and certification of consumer products. Recently, the Commission issued two key rules: (1) *Testing and Labeling Pertaining to Product Certification,* 16 CFR part 1107 (the Testing Rule or the 1107 rule), and (2) *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification, to Meet Testing and Certification Requirements,* 16 CFR part 1109 (the Component Part Rule or the 1109 rule). Both rules were published in the **Federal Register** on November 8, 2011 (76 FR 69482 and 76 FR 69546, respectively). The Testing Rule sets forth requirements for the testing, certification, and labeling of regulated children's products. It became effective on February 8, 2013. The Component Part Rule, which allows for component part testing and certification to meet testing and certification requirements, became effective on December 8, 2011. Amending the existing 1110 rule would allow the Commission to define and use new terms introduced by the 1107 and 1109 rules, and to describe and explain how certificates must be integrated and consistent with these new rules.

C. What statutory requirements apply to certificates of compliance?

This section of the preamble describes the statutory requirements that apply to certificates and the Commission's authority to implement such requirements. Section 14(a)(1) of the

CPSA, as amended by the CPSIA, requires that except for certificates that apply to children's products, every manufacturer, or private labeler if there is one, of a consumer product that is subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission that is imported for consumption or warehousing, or distributed in commerce, must issue a certificate. Section 3(a)(8) of the CPSA defines ''distribute in commerce'' to mean ''to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.'' For non-children's products, the certificate must be based on a test of each product or on a reasonable testing program. The certificate must specify each applicable rule, ban, standard, or regulation enforced by the Commission and certify that the product complies with all such listed rules.

Similarly, section 14(a)(2) of the CPSA requires that every manufacturer or private labeler, if there is one, of a children's product that is subject to a children's product safety rule must have the children's product tested by a third party conformity assessment body, and based on such testing, certify that the product is compliant with all applicable rules. Before importing such children's products for consumption or warehousing, or before distributing such children's products in commerce, manufacturers or private labelers must submit sufficient samples of the children's product, or samples that are identical in all material respects to the children's product, to a third party conformity assessment body, whose accreditation has been accepted by the Commission to perform such testing, to be tested for compliance with all applicable children's product safety rules. The manufacturer or private labeler must issue a certificate or certificates based on such testing, certifying that the children's products covered by the certificate(s) comply with all applicable children's product safety rules. Section 14(a)(2)(B) of the CPSA states that a certificate can be issued for each applicable children's product safety rule, or one certificate for the product can combine all applicable rules, by listing each applicable children's product safety rule separately and certifying compliance with all of them.

Section 3(a)(11) of the CPSA defines the term ''manufacturer'' as any person who manufactures or imports a consumer product. As such, any statutory obligation assigned to a manufacturer, by definition, applies to an importer. Thus, as written, the statutory obligation to issue a certificate for children's and non-children's products falls to the manufacturer, importer, or the private labeler of a consumer product, if the product is privately labeled under section 3(a)(12) of the CPSA. Section 14(a)(4) of the CPSA provides that in the case of a consumer product that has more than one manufacturer or private labeler, the Commission may, by rule, designate which person is responsible for issuing a certificate, and exempt all other persons from issuing certificates.

Section 14(g) of the CPSA contains certificate requirements. Section 14(g)(1) of the CPSA requires that a certificate shall identify the manufacturer (including importer) or private labeler issuing the certificate, as well as any third party conformity assessment body on whose testing the certificate depends. At a minimum, certificates are required to include: the date and place of manufacture; the date and place where the product was tested; each party's name, full mailing address, and telephone number; and contact information for the individual responsible for maintaining records of test results. Additionally, section 14(g)(2) of the CPSA requires that every certificate be legible and that all contents must be in English. Contents may also be in any other language. Moreover, pursuant to section 14(g)(3) of the CPSA, certificates must accompany the applicable product or shipment of products covered by the certificate, and a copy of the certificate must be furnished to each distributor or retailer of the product. Upon request, the manufacturer (including importer) or private labeler issuing the certificate must provide a copy of the certificate to the Commission. Finally, section 14(g)(4) of the CPSA states that in consultation with the Commissioner of Customs, the CPSC may, by rule, provide for the electronic filing of certificates up to 24 hours before arrival of an imported product. Upon request, the manufacturer (including importer) or private labeler issuing the certificate must provide a copy of such certificate to the Commission or to CBP.

In addition to the statutory authority to require certificates for regulated products, as outlined in sections 14(a) and (g) of the CPSA, the Commission has general implementing authority with regard to certificates, pursuant to section 3 of the CPSIA, which provides: ''[t]he Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.''

II. Description of the Proposed Rule

Because of the number of proposed changes, the Commission intends to strike the existing 1110 rule in its entirety and replace it with the proposed rule set forth below.

A. What is the purpose and scope of this part?—Proposed § 1110.1

Proposed § 1110.1 would continue to describe the purpose of part 1110 but does so in language that is clearer and more simple. The changes also clarify which provisions of this part apply to component part certificates. Existing § 1110.1(a)(1) states that the purpose of the rule is to ''limit'' the entities required to issue certificates because the existing rule does not cover private labelers. The proposed rule would increase the number of entities responsible for issuing certificates and therefore would state that the purpose is to ''specify'' the entities that must issue certificates. The proposed rule also would implement section 14(g)(4) and require certificates for imported products to be filed electronically with CBP. Proposed § 1110.1(b) would reflect this change.

B. What definitions apply to this part?—Proposed § 1110.3

Existing § 1110.3 defines an ''electronic certificate,'' and incorporates definitions from section 3 of the CPSA as well as definitions set forth in the CPSIA. Proposed § 1110.3 would maintain these provisions, with minor grammatical changes, and would add 13 new definitions. The proposed new definitions would clarify the different types of certificates outlined in the Testing and Component Part Rules, such as ''Children's Product Certificate (CPC),'' ''General Conformity Certificate (GCC),'' ''finished product certificate,'' and ''component part certificate.'' For example, two types of finished product certificates would be defined in the proposed rule: CPCs and GCCs. Either a CPC or GCC would only be required for ''finished products'' but not for ''component parts'' of consumer products under the proposed rule. Only certain regulated finished products would be required to be certified because our regulations typically are based on finished products. Under the Component Part Rule certification of component parts is voluntary, so not all component parts will be tested or certified, unless and until they become part of a regulated finished product; and component part suppliers may not know how the component part will be used and whether it will become part of a regulated finished product.

The proposed new definitions would also make part 1110 consistent with the Component Part Rule, by including and clarifying terminology used in that rule, such as ''component part'' and ''finished product.'' Proposed § 1110.3(b)(6) would define a ''component part'' as ''a component part of a consumer product or other product or substance regulated by the Commission, as defined in § 1109.4(b) of this chapter, that is intended to be used in the manufacture or assembly of a finished product, and is not intended for sale to or use by consumers as a finished product.'' Thus, the term ''component part'' would refer only to parts of products that are intended to be used in the manufacture or assembly of a finished product. In contrast, the term ''finished product'' refers to a product that is ''imported for consumption or warehousing or is distributed in commerce.'' Under the proposed definition, parts of such products that are packaged, sold, or held for sale to or use by consumers would also be considered finished products.

The distinction between a ''component part'' and a ''finished product'' is important because it defines when a product must be accompanied by a certificate under the proposed rule. ''Finished products'' are intended for sale to, or use by, consumers. ''Component parts'' are intended for incorporation into a finished product, and are not packaged, sold, or held for sale for use by consumers. In contrast, replacement parts of finished products that are sold separately would be considered finished products under the proposed rule. Because use of the Component Part Rule is voluntary, not every component part will be certified. It is only at the finished product stage that finished product certifiers will know all of the regulations that apply to a product and whether it must be accompanied by a certificate.

For example, doll clothing can be packaged and sold directly to consumers as a doll accessory. Such doll clothing that is packaged for sale to consumers would be considered a finished product under the proposed rule and must be certified. However, the same doll clothing could also be imported for use in the final assembly of a doll. Doll clothing that is imported for the purpose of being assembled with a doll for sale to consumers would be considered a component part under the proposed rule, and it would not be required to be accompanied by a certificate. If such doll clothing is a portion of a children's product, however, it still must comply with the applicable rules. Moreover, such doll clothing would need to be certified as compliant as part of a finished children's product.

Proposed § 1110.3(b)(11) would define a ''finished product certifier'' as ''a party that is required to issue a finished product certificate pursuant to § 1110.7.'' Note that § 1107.2 of the Testing Rule defines a ''manufacturer'' as ''the parties responsible for certification of a consumer product pursuant to 16 CFR part 1110.'' Thus, changing the party responsible for issuing a certificate in the proposed rule would also change the party responsible for third party testing under the Testing Rule.

The proposed rule would continue to place on the importer the obligation to certify finished products manufactured outside the United States that are not delivered directly to consumers in the United States. Proposed § 1110.3(b)(13) would define an ''importer'' as the importer of record, as defined under the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)) (Tariff Act). Pursuant to the Tariff Act, the importer of record is either ''the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid'' customs broker's license, pursuant to 19 U.S.C. 1641.

C. When are certificates required?—Proposed § 1110.5

Existing § 1110.5 states that a certificate that is in hard copy or electronic form ''and complies with all applicable requirements of this part 1110 meets the certificate requirements of section 14 of the CPSA,'' and that such a certificate ''does not relieve the importer or domestic manufacturer from the underlying statutory requirements concerning the supporting testing and/or other bases to support certification and issuance of certificates.'' Requirements for certificate format have been moved to proposed § 1110.9.

Proposed § 1110.5 would clarify when consumer products are required to be certified. Proposed § 1110.5 would require that only finished products that are subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, which are imported for consumption or warehousing or are distributed in commerce, must be accompanied by a GCC or a CPC, as applicable. Component parts of a consumer product are not required to be accompanied by a certificate.

The issue of whether banned products require certificates presents an unusual question. It could be argued that if a product is banned and no longer on the market, the need for a certificate is moot since there are theoretically no products to test and certify. However, very few CPSC bans completely remove all products in a specific category from the market. Instead, they generally remove the subset of products with hazardous characteristics, but still leave some products subject to CPSC regulation. In sum, manufacturers of products in a category where a subset of the products are subject to a ban must still issue certificates.

For example, the Commission's ban on non-children's lawn darts at 16 CFR 1306.1 *et seq.* states that ''any lawn dart is a banned hazardous product.'' This appears to ban the entire product category, yet the Commission is aware that certain manufacturers continue to sell products advertised as plastic-tipped lawn darts. These lawn darts appear not to present the hazard of death or injury that metal-tipped lawn darts do. In such a case, the Commission expects such manufacturers to issue GCCs that certify that the plastic-tipped lawn darts do not fit within the class of banned lawn darts.

The Commission acknowledges it may be difficult at times to distinguish those bans that function more like a standard from those that ban an entire product category. To address this concern, Table A provides guidance as to which bans require certification. For those bans listed in which the Commission is not requiring certification we do so because either the entire product category should not exist so there is nothing to certify to or certification is captured by certification to another rule, standard or regulation (*e.g.,* certain fireworks are covered by certification to 16 CFR part 1507). For example, the Commission is proposing to not require the issuance of GCCs to show compliance with the ban on soluble cyanide salts. However, we realize the use of this chemical may have changed since the ban was first issued in 1972 and are seeking comments on the current use of cyanide salts in consumer products. Please see section III.3 of this preamble for additional information on this issue.

TABLE A

Ban	Description	GCC Required
1301	Ban of unstable refuse bins	Yes.
1302	Ban of extremely flammable contact adhesives	No.
1303	Ban of lead-containing paint and certain consumer products bearing lead-containing paint —General Use: Applies to consumer paints and paint used on non-metal furniture	Yes.
1304	Ban of consumer patching compounds containing respirable free-form asbestos	Yes.
1305	Ban of artificial emberizing materials (ash and embers) containing respirable free-form asbestos	Yes.
1306	Ban of hazardous lawn darts	Yes.
1500.17(a)(1)	Ban of ''extremely flammable'' interior masonry wall sealers	No.
1500.17(a)(2)	Ban of carbon tetrachloride and mixtures containing it	No.
1500.17(a)(3)	Ban of fireworks with audible effects produced by a charge of more than 2 grains of pyrotechnic composition	No.
1500.17(a)(4)	Ban of liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide, unless packaged in special packaging under the PPPA.	No.
1500.17(a)(5)	Ban of products containing soluble cyanide salts	No.
1500.17(a)(7)	Ban of general-use garments containing asbestos	No.
1500.17(a)(8)	Ban of firecrackers with audible effects produced by a charge of more than 50 mg of pyrotechnic composition.	No.
1500.17(a)(9)	Ban of all fireworks, other than firecrackers, unless they meet the requirements of 1507	No.
1500.17(a)(10)	Ban of self-pressurized products intended or suitable for household use that contain vinyl chloride monomer	No.
1500.17(a)(11)	Ban of reloadable tube aerial shell fireworks that use shells larger than 1.75 inches in outer diameter	No.
1500.17(a)(12)	Ban of multiple-tube mine and shell fireworks that have any tube measuring 1.5 inches (3.8cm) or more in inner diameter, and that have a minimum tip angle less than 60 degrees when tested in accordance with 1500.12.	No.
1500.17(a)(13)	Candles with metal-cored wicks	Yes.
CPSA	Butyl Nitrite	No.
CPSA	Isopropal Nitrites	No.

D. Who must certify finished products?—Proposed § 1110.7

Existing § 1110.7 provides that, except as otherwise provided in a specific standard, in the case of a product manufactured outside the United States, only the importer must certify a product and provide a certificate in accordance with section 14(a) of the CPSA, and that only the manufacturer must certify a product and provide a certificate for products manufactured in the United States. As explained below, the proposed rule would modify this section.

1. Imports—Proposed § 1110.7(a)

Proposed § 1110.7 would retitle the section to read: ''Who must certify finished products?'' to state more accurately the focus of proposed § 1110.7 and to clarify that only finished products must be certified. Proposed § 1110.7(a) would maintain the requirement that an importer certify products manufactured outside the United States, except in the circumstance of products that are delivered directly to consumers in the United States, such as products purchased through an Internet Web site. In such a case, the proposed rule would require that the foreign manufacturer certify the product, unless the product bears a private label. The private labeler would be required to issue a certificate for products that bear a private label that are delivered directly to a consumer in the United States, unless the foreign manufacturer issues the certificate.

The proposed rule would continue to place on the importer the obligation to certify products manufactured outside the United States that are not delivered directly to a consumer. Section 1110.3(b)(13) of the proposed rule would define ''importer'' to be the importer of record, as defined under the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)) (Tariff Act). Pursuant to the Tariff Act, the importer of record is either ''the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid'' customs broker's license, pursuant to 19 U.S.C. 1641. Thus, a validly licensed customs broker who serves as the importer of record for the imported products would be responsible for issuing the certificate required by section 14(a) of the CPSA and this rule with respect to the imported products.

Some common carriers, contract carriers, third party logistics providers, and freight forwarders (collectively, carriers), in addition to their delivery and transportation services, also may become licensed customs brokers and may serve as importer of record when bringing goods into the United States. Like any other customs broker that agrees to serve as an importer of record, when such a carrier chooses to serve as the importer, the carrier would be responsible for issuing a required certificate under the proposed rule.

Treating a carrier who also serves as an importer of record as an ''importer'' under the proposed rule is consistent with section 3(b) of the CPSA, which provides:

> A common carrier, contract carrier, third party logistics provider, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer [including importer], distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

This provision protects carriers from being ''deemed'' a manufacturer, importer, distributor, or retailer, based ''solely'' on ''receiving or transporting a consumer product'' in the ordinary course of business as a carrier. Under the proposed rule, imposing importer-related certification requirements on a carrier that chooses to become a licensed customs broker and that agrees to serve as the importer of record is based on the carrier's status as importer of record and related customs functions rather than on the carrier's transportation-related functions.

Additionally, the proposed rule would place the obligation to certify products that are delivered directly to consumers in the United States, such as products purchased through an Internet Web site, on the foreign manufacturer, unless the product bears a private label. This proposed revision would clarify and remove any doubt about which

entity has the burden to certify products directly delivered to consumers. The Commission recognizes that when a foreign entity delivers products directly to a consumer in the United States, the consumer could be considered the importer. Placing the obligation to test and certify consumer products on the purchasing consumer would be inconsistent with the goals of the statute, in that it would not protect consumers as intended by the testing and certification scheme set forth by Congress, and implemented by the Commission. Accordingly, the proposed rule would not place the burden of ensuring such compliance on consumers; rather, the Commission believes that the appropriate way to ensure compliance is to require companies that purposefully send their products into the United States to test and certify their products, as required by United States law.

For the vast majority of products imported into the United States through CBP, the proposed rule would continue to require that the importer of record certify the product, to provide a uniform, consistent, and predictable means of enforcing testing and certification requirements for imported products. We understand that some private labelers and brand owners with foreign manufacturing facilities want to test and certify their products. The Component Part Rule, which is already in effect, allows an importer to rely on testing or certification conducted by another party, as long as the importer meets the requirements of the 1109 rule, including exercising due care (*see* 16 CFR 1109.5(i)). Thus, private labelers and brand owners already can test and certify products on which an importer can then rely to issue their own certificate. The proposed rule would clarify that a finished product certificate must be issued by a required finished product certifier. An importer cannot simply pass along a component supplier's certificate. Thus, proposed § 1110.7(a) would ensure that the certificate required by the CPSC must be issued by the importer, who is required to certify the product. The ability of finished product certifiers, such as importers, to rely on another party's testing or certification under the 1109 rule allows a private labeler to test and certify, as needed, while maintaining the Commission's ability to enforce its regulations against the party responsible for importing the product.

2. Domestic Products—Proposed § 1110.7(b)

For products manufactured in the United States, the proposed rule would continue to place the responsibility for issuing a required finished product certificate on the manufacturer, except in circumstances where a product is privately labeled, as defined in the CPSA. If a product is privately labeled, the proposed rule would place the obligation to certify the product on the private labeler, unless the manufacturer certifies the product. The Commission recognizes that under the existing 1110 rule, privately labeled products are required to be certified by the manufacturer. This relationship may continue as long as the product is certified. The proposed rule, however, would shift the obligation to ensure compliance for privately labeled products on to the private labeler.

Duplication of effort to issue a certificate should not occur by requiring the private labeler to certify privately labeled products. A ''private labeler'' is a defined term in the CPSA. Pursuant to section 3(a)(12) of the CPSA, the term applies only to products that carry the private labeler's brand or trademark on the product and not the manufacturer's brand or trademark. Therefore, all products manufactured in the United States that contain a brand or trademark in addition to a manufacturer brand or trademark are not considered privately labeled under the CPSA, and the manufacturer would remain the required finished product certifier under the proposed rule. The proposed rule would change only the obligation to certify a product to the private labeler for products manufactured in the United States that bear a private label, which are those products that do not contain the brand or trademark of the manufacturer.

A ''brand owner'' is not defined in the CPSA. A brand owner would not be a required finished product certifier under the proposed rule, unless that entity imports products, manufactures products in the United States, or meets the definition of a ''private labeler'' for products made in the United States. We understand that some brand owners license their brand or trademark to appear on consumer products. Like ''brand owner,'' ''licensee'' and ''licensor'' are not defined terms under the CPSA, and the Commission cannot require a ''licensee'' or a ''licensor'' to issue a certificate. Regardless of who the required finished product certifier is under the proposed rule, brand owners can already test and certify products under § 1109.5(i) of the Component Part Rule. If the product is imported, an importer can rely on a brand owner's testing or certification as a basis to issue the required finished product certificate. Moreover, a domestic manufacturer can rely on a brand owner's testing or certification to issue a required certificate, as long as all parties follow the requirements in the 1109 rule.

The proposed revisions to expand the required finished product certifier to include the private labeler for privately labeled products should not necessarily result in a change to existing relationships with regard to testing products and issuing certificates. Testing and certification can already be conducted by other parties under the Component Part Rule, and in both cases, where the private labeler has been included, the manufacturer can continue to issue the certificate.

E. What form(s) may the certificate take?—Proposed § 1110.9

Existing § 1110.9, titled, ''Form of certificate,'' states that ''the information on a hard copy or electronic certificate must be provided in English and may be provided in any other language.'' Proposed § 1110.9 would revise and elaborate on this concept, establishing requirements for language, format, and electronic certificates. This section would restate the statutory requirement that certificates must be in English, and may also contain the same content in any other language. The section would state that, except as provided in proposed § 1110.13(a)(1), which requires an electronic certificate for products imported into the United States, certificates may be provided in hard copy or electronically.

Proposed § 1110.9(c) would set forth requirements for electronic certificates in all cases, except certificates that would be required to be filed electronically with CBP at importation. The proposed rule would continue to allow a broad range of formats for electronic certificates, as long as they are identified by a unique identifier and can be accessed via a World Wide Web uniform resource locator (URL) or other electronic means. However, several changes are proposed. First, proposed § 1110.9(c) would provide requirements for electronic certificates other than the filing of certificates electronically with CBP for imported products, which is discussed in detail in proposed § 1110.13(a)(1) in section II.G of this preamble. Accordingly, proposed § 1110.9(c) would apply only to: products manufactured in the United States; foreign-manufactured products that are delivered directly to a consumer in the United States; and imported finished products after importation, such as when requested by CPSC or CBP, or when certificates are furnished to retailers and distributors.

Second, proposed § 1110.9(c) would still allow for use of a ''unique identifier'' to access a certificate electronically, but it would require that the unique identifier be ''identified prominently on the finished product, shipping carton, or invoice.'' Experience with electronic certificates has shown that they can be effective as long as they are easily accessible. Searching products and paperwork for a certificate identifier should not require significant time and resources because it detracts from the efficiencies achieved by allowing electronic certificates. Requiring the placement of a unique identifier to be ''prominent'' and limiting the placement to three distinct options is intended to ensure the efficiency of allowing electronic certificates.

Third, proposed § 1110.9(c) would state that electronic certificates must be accessible ''without password protection.'' This amendment would ensure that access to electronic certificates is easy and efficient and does not require significant CPSC time and resources. If accessing information electronically is cumbersome, it defeats any efficiency achieved by electronic certificates. Thousands of entities, including manufacturers, private labelers, and importers, likely must certify consumer products. Maintenance of password information by the CPSC could become burdensome for CPSC's import surveillance and other enforcement efforts. Accordingly, we propose that electronic certificates be accessible without password protection.

Finally, existing § 1110.13(a)(1) requires that electronic certificates be available to ''the Commission or to the Customs authorities as soon as the product or shipment itself is available for inspection.'' Neither CPSC nor CBP regulations define or interpret this phrase, so it is currently unclear when the obligation to present a certificate on demand actually vests. Proposed § 1110.9(c) would clarify that electronic certificates, the URL, or other electronic means, and the unique identifier be accessible to the Commission, CBP, distributors, and retailers, ''on or before the date the finished product is distributed in commerce,'' to set forth a definite point in a finished product's distribution chain when the certificate must be available. This requirement is intended to prevent a scenario where the CPSC or a retailer or distributor attempts to access an electronic certificate to find that it does not exist yet or is unavailable.

F. What must the certificate contain?—Proposed § 1110.11

Existing § 1110.11 restates and interprets the requirements for the contents of certificates, as provided in sections 14(a) and 14(g) of the CPSA. Proposed § 1110.11 would revise content requirements to reflect that such content requirements apply to all three types of certificates: GCCs, CPCs, and component part certificates. In addition, proposed § 1110.11 would add three content requirements to a certificate: (a) Date of initial certification (proposed § 1110.11(a)(2)); (b) scope of the certificate (proposed § 1110.11(a)(3)); and (c) an attestation of compliance (proposed § 1110.11(a)(10)). Each requirement in the proposed rule is discussed below.

1. Identification of the Component Part or Finished Product—Proposed § 1110.11(a)(1)

The existing rule requires: ''Identification of the product covered by the certificate.'' Proposed § 1110.11(a) would state that each certificate must contain the information described therein, and then list each piece of information as numbered items 1 through 10, under proposed § 1110.11(a). Thus, proposed § 1110.11(a)(1) would incorporate the requirement to identify the product being certified, but it would broaden the nature of the ''product'' that can be covered by a certificate to include component parts as well as finished products. The proposed rule would require the certificate to state whether it covers a finished product or a component part to assist with enforcement and to clarify for all other parties the scope of the certificate.

Proposed § 1110.11(a)(1) would further state that ''[a] model number, style, or other unique identifier of the product should be provided, if any, along with a description of the finished product or component part. Certifiers may also include an identifier, such as a universal product code (UPC), a global trade item number (GTIN), or other identifying code that may assist with product identification.'' This clarification is intended to provide guidance on the type of information that would be considered to be identifying information for a product. Providing a model number or style number, if they exist, would be the most useful way for the CPSC to identify the product, along with a narrative description of the product. Certifiers may also provide a stock-keeping unit, or SKU, to assist in product identification. Additionally, the CPSC is aware that many manufacturers use codes for purposes of product identification, such as UPC codes and GTINs. This type of information is also useful for CPSC to identify products. Certifiers would be encouraged to include any type of identifying code on the certificate, if it would aid in product identification. UPCs and GTINs are examples of identifying codes. Stakeholders are encouraged to comment on whether other types of codes should be stated specifically in the codified text. Although harmonized tariff codes may be placed on a certificate, they are insufficient, alone, to identify a product on a certificate. Similarly, a registered identification number, or RN, on wearing apparel, alone, is insufficient to identify a product on a certificate. An RN is a number, assigned by the Federal Trade Commission, which identifies a business, and does not distinguish products. This type of information can be used in conjunction with other identifying information to identify a product adequately on a certificate but is not sufficient by itself to identify a product.

Certifiers are reminded that they may rely on one certificate to certify more than one product, if products are manufactured at the same facility and the tests apply to all of the products on the certificate. For example, several sizes of a garment may be listed on one certificate, if they were manufactured at the same facility and the testing on the component parts (*e.g.,* fabric, buttons, and zippers) is applicable to each size garment produced. Certificates can be based on the one set of tests. The manufacturer could create one certificate, or it could create a certificate for each product. For example, under the Component Part Rule, a manufacturer of plastic trains that uses the same plastic resin in five different molds to create five different types of trains may test the plastic resin under the 1109 rule and then use those test results to support certification of all products made with the plastic resin. If that were the only testing required, the manufacturer could create one certificate for all five types of trains, or it could create five separate certificates relying on the same testing. The certificate must be explicit as to which product or products it is intended to cover. If additional testing is required that is unique to each product, certifiers should certify each product, but may rely on the same testing, where warranted.

2. Date of Initial Certification—Proposed § 1110.11(a)(2)

Proposed § 1110.11(a)(2) would require the certificate to: ''[s]tate the date of initial certification of the finished product(s) or component part(s) to which the certificate refers.'' This would be a new content requirement on the certificate, but the requirement is drawn from a current requirement in existing § 1110.13(b), which requires that electronic certificates have a means to verify the date of creation or last modification. In practice, many certificates, regardless of whether they are electronic or paper based, contain a date. The proposed rule would standardize the date required to be provided to reflect the date the product was originally certified. If a children's product undergoes a material change, a new certificate must be issued, pursuant to the Testing Rule. Accordingly, we anticipate that the certification date would be updated after a material change to reflect that the product was subjected to testing for applicable consumer product safety rules affected by the material change, and a new certificate was issued, as required.

3. Identification of Certificate Scope—Proposed § 1110.11(a)(3)

Proposed § 1110.11(a)(3) would require the certificate to: ''[i]dentify the scope of finished product(s) or component part(s) for which the certificate applies, such as by a start date, a start and end date, by a lot number, starting serial number, serial number range, or other means to identify the set of finished product(s) or component part(s) that are covered by the certificate.'' This would be a new content requirement on the certificate that would assist the Commission in understanding the scope of the products covered by a certificate. By adding this requirement, the Commission does not intend to require certifiers to modify or create certificates to change the scope of the certificate for each shipment. Certifiers can identify the scope of products covered by a certificate through any reasonable means, such as a date or dates, lot numbers, or serial numbers, providing such information will assist the Commission in understanding the scope of each certificate. Certifiers are required to maintain information on the scope of certificates for children's products, pursuant to § 1107.26 of the Testing Rule and § 1109.5(g) and (j) of the Component Part Rule, when applicable.

4. List of Rules Being Certified—Proposed § 1110.11(a)(4)

Existing § 1110.11(b) requires: ''Citation to each CPSC product safety regulation or statutory requirement to which the product is being certified. Specifically, the certificate shall identify separately each applicable consumer product safety rule under the Consumer Product Safety Act and any similar rule, ban, standard or regulation under any other Act enforced by the Commission that is applicable to the product.'' Proposed § 1110.11(a)(4) would incorporate the statutory requirement in section 14(a) of the CPSA to specify each rule on a certificate, but it would broaden the nature of the ''product'' that can be covered by the certificate to include component parts of a product. Accordingly, the first sentence in proposed § 1110.11(a)(4) would require the certifier to: ''State each consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any law enforced by the Commission, to which the finished product(s) or component part(s) are being certified.''

Moreover, proposed § 1110.11(a)(4) would clarify the different requirements for finished product certificates versus component part certificates. A finished product certificate would need to ''identify separately all applicable rules, bans, standards, or regulations.'' A finished product certifier is responsible for knowing what rules, bans, standards, or regulations apply to each product and for listing all of them on the certificate, or providing a certificate for each applicable rule. However, a component part certifier would have the option to certify a component part to specific rules or parts of rules, even though such certification may not ultimately cover all applicable rules. This is because the component part certifier might not know the final use of the component part, and thus, not know the scope of all applicable rules or because additional tests may be required to be conducted on a finished product. Accordingly, a component part certificate would need to ''identify all rules, or parts of rules, standards, bans, or regulations for which the component part(s) are being certified.'' The proposed component part requirement recognizes that some component parts can be certified to portions of a standard. For example, an accessory used on a children's product may be tested separately from the children's product with regard to lead in paint. It would remain the responsibility of a finished product certifier, relying on a component part test or certification, to ensure that all component parts of a finished children's product are tested and certified not only to the lead in paint standard, but also to all other applicable rules, bans, standards, and regulations.

5. Identification of the Certifying Party—Proposed § 1110.11(a)(5)

Existing § 1110.11(c) requires: ''Identification of the importer or domestic manufacturer certifying compliance of the product, including the importer or domestic manufacturer's name, full mailing address, and telephone number.'' Proposed § 1110.11(a)(5) would incorporate the statutory requirement in section 14(g)(1) of the CPSA to ''identify the manufacturer or private labeler issuing the certificate'' and provide ''each party's name, full mailing address, telephone number,'' but would broaden the requirement to include certificates for both finished products and component parts. Regardless of the type of certificate being issued, proposed § 1110.11(a)(5) would require the certificate to ''[i]dentify the party certifying compliance of the finished product(s) or component part(s), including the party's name, electronic mail (email) address, full mailing address, including the street address, and telephone number.'' Note that the proposed rule would broaden the identification requirement to include an electronic mail (email) address and a street address. The email address would provide CPSC with an additional means of contacting and communicating with certifiers, including those located overseas or in different time zones. Providing a street address would ensure that CPSC staff can locate the certifier's place of business should an investigation require a site visit.

6. Contact Information for Records Custodian—Proposed § 1110.11(a)(6)

Existing § 1110.11(d) requires: ''Contact information for the individual maintaining records of test results, including the custodian's name, email address, full mailing address, and telephone number. (CPSC suggests that each issuer maintain test records supporting the certification for at least three years as is currently required by certain consumer product specific CPSC standards, for example at 16 CFR 1508.10 for full-size baby cribs.)''

Proposed § 1110.11(a)(6) would incorporate the statutory requirement in section 14(g)(1) of the CPSA to provide contact information for the individual maintaining records of test results but would broaden it to include contact information for the custodian of all records required for each type of

certificate, as set forth in the Testing Rule and the Component Part Rule. Proposed § 1110.11(a)(6)(ii) would require contact information for the individual ''maintaining records of test results and other records on which a CPC is based.'' Proposed § 1110.11(a)(6)(iii) would require contact information for the individual ''maintaining records of test results and other records on which a component part certificate is based.'' As in proposed § 1110.11(a)(5), proposed § 1110.11(a)(6) would require the record custodian's email address, in addition to a full mailing address and telephone number to provide additional means for CPSC to contact the custodian of records. Further, the proposed rule would delete the portion of existing § 1110.11(d) that requires records be maintained ''for at least three years'' for all records, because the 1107 and 1109 rules require certificates and test results to be maintained for 5 years. Recordkeeping requirements are discussed in section II.I of this preamble.

7. Date and Place of Manufacture—Proposed § 1110.11(a)(7)

Existing § 1110.11(e) requires: ''Date (month and year at a minimum) and place (including city and state, country, or administrative region) where the product was manufactured. If the same manufacturer operates more than one location in the same city, the street address of the factory in question should be provided.''

In addition to requiring that a certificate contain the date and place of manufacture of a product, proposed § 1110.11(a)(7) would use the newly defined term ''finished product'' and broaden the nature of the ''product'' to include component parts. Moreover, proposed § 1110.11(a)(7) would interpret ''place'' to include a street address in all circumstances, not just when a manufacturer operates more than one location in the same city. A post office box would be insufficient to meet this requirement. In addition, the proposed rule would clarify that ''place'' also includes either the name of a state or a province, as well as either the name of a country or an administrative region. To clarify where a product has been ''manufactured,'' the definition of ''manufactured'' is included in the proposed rule. Section 3(a)(10) of the CPSA states: ''manufactured'' means ''to manufacture, produce, or assemble.'' The Commission is also requesting comment on the possibility of requiring additional information on a certificate, such as the name of the manufacturer, including foreign manufacturers. Please see section III.1 of this preamble for further discussion of this issue.

8. Date and Place of Testing To Support the Certificate—Proposed § 1110.11(a)(8)

Existing § 1110.11(f) requires: ''Date and place (including city and state, country or administrative region) where the product was tested for compliance with the regulation(s) cited above in subsection (b).'' In addition to requiring that a certificate contain the date and place where the product was tested, proposed § 1110.11(a)(8) would use the newly defined term ''finished product'' and broaden the nature of the ''product'' to include component parts. Moreover, proposed § 1110.11(a)(8) would make the words ''date'' and ''place'' plural, recognizing that finished products and component parts may be tested in multiple or different locations. The Commission's preference is that all required information be condensed into one certificate, but we acknowledge that section 14(a)(2) of the CPSA allows for a certificate for each applicable standard. Supporting documentation, such as test results, component part certificates, and other finished product certificates, should be available for review upon request, or may be bundled with the required certificate but do not take the place of a required certificate that contains the 10 elements in proposed § 1110.11(a). The proposed rule would also require ''place'' to include a street address, city, state, or province, and country or administrative region. Thus, proposed § 1110.11(a)(8) would state: ''Provide the dates and places (including a street address, city, state or province, and country or administrative region) where the finished product(s) or component part(s) were tested for compliance with the rule(s), ban(s), standard(s), or regulation(s) cited in § 1110.11(a)(4) of this part.''

9. Identification of Parties That Conducted Testing To Support the Certificate—Proposed § 1110.11(a)(9)

Existing § 1110.11(g) requires: ''Identification of any third party laboratory on whose testing the certificate depends, including name, full mailing address and telephone number of the laboratory.'' In addition to requiring that a certificate identify and provide contact information for any third party conformity assessment body on whose testing the certificate depends, proposed § 1110.11(a)(9) would use the statutory language for a third party laboratory, *i.e.,* ''third party conformity assessment body,'' and would broaden the scope to include all parties who conducted testing on which the certificate depends. This provision would allow all parties, including the CPSC, to identify whether a GCC or a CPC is based on first or third party testing. Finally, required contact information would be broadened to include an email address and a street address, in addition to a name, mailing address, and telephone number. Providing an email address would provide CPSC with additional means of contacting and communicating with parties conducting testing, including those located overseas or in different time zones. Providing a street address would ensure that CPSC staff can locate the third party conformity assessment body if an on-site visit becomes necessary.

10. Attestation of Compliance—Proposed § 1110.11(a)(10)

Proposed § 1110.11(a)(10) would be a new section of the certificate that would require an attestation that the finished products or component parts covered by the certificate are compliant with the applicable rules. The attestation would be made by the party identified as the certifier under proposed § 1110.11(a)(5). The certifier would attest that the finished products or component parts covered under the certificate comply with the rules, bans, standards, and regulations stated in the certificate, at proposed § 1110.11(a)(4), and that the information in the certificate is true and accurate to the best of the certifier's knowledge, information, and belief. Finally, the certifier would acknowledge an understanding that it is a federal crime to knowingly and willfully make any materially false, fictitious, or fraudulent statements, representations, or omissions, on the certificate. The proposed language stems from 18 U.S.C. 1001. The language in this section serves several purposes. First, the certificate is an attestation of compliance. The existing certificate requirements do not state explicitly what attestation or affirmation the certifier is making with regard to the products covered by the certificate. Thus, the proposed language would make plain to everyone the scope and gravity of the obligation being made. Second, requiring each certificate to include this language would educate the certifier, including foreign certifiers, of the certifier's obligations under United States law. Finally, some portions of the applicable consumer product safety rules that require compliance, such as certain labeling requirements, are not subject to testing. The attestation is an affirmation by the certifier that the

product complies with all the requirements of the applicable rules, not only those provisions for which there are test results.

11. Electronic Access to Records—Proposed § 1110.11(b)

Proposed § 1110.11 would contain a new subsection (b) regarding electronic access to records. This new provision would allow a certificate to include a Web address that links to required records, in addition to identification of the custodian of records, as described in proposed § 1110.11(a)(6). Providing contact information for a custodian of records is a statutory requirement, but certifiers may find it efficient for business and regulatory purposes also to provide a direct link to the required records. For example, § 1109.5(g) of the Component Part Rule requires that ''testing parties'' and ''certifiers,'' as defined in that rule, must provide certain documentation, which may include, for example, a component part certificate to certifiers intending to rely upon such documentation to certify a product. Thus, to the extent that such records already exist in an easily accessible electronic format to meet recordkeeping requirements in other rules, access to this same electronic format can be provided on a certificate.

12. Statutory or Regulatory Testing Exclusions—Proposed § 1110.11(c)

Proposed § 1110.11(c) is a new provision that would describe what certifiers must put on a certificate when a certifier is claiming statutory or regulatory testing exclusions for any applicable rules. In such a case, the certifier must list all of the applicable rules, and then state when the product is not subject to testing for a specific rule, and the statutory or regulatory basis for such claim, instead of providing the date and place where testing was conducted. Certifiers are already doing this in many instances, but this requirement would ensure that certifiers are consistent in how they document exceptions on a certificate. So, for example, if a manufacturer makes a children's product (not a toy) that is made entirely of untreated wood, but the product is painted, then the certifier will need to issue a certificate of compliance stating that the paint on the product is compliant with 16 CFR part 1303, the Commission's rule on lead in paint. The children's product is also subject to the lead content requirement in section 101 of the CPSIA, but the manufacturer can rely on the Commission's determination at 16 CFR 1500.91 that untreated wood does not contain more than 100 ppm lead content. The manufacturer must list both the lead in paint and the lead content rule on the certificate. Applicable information on the date and place of testing, and the third party conformity assessment body that conducted testing, must be provided for the testing conducted on lead in paint. For lead content testing, however, the certifier must state on the certificate that it is relying on § 1500.91 to meet the requirement.

13. Duplicative Testing Not Required—Proposed § 1110.11(d)

Finally, proposed § 1110.11(d) is a new section of the rule that would explain that ''[a]lthough certificates must list each applicable rule, ban, standard, or regulation separately, finished product certifiers are not required to conduct duplicative third party testing for any rule that refers to or incorporates fully another applicable consumer product safety rule or similar rule, ban, standard, or regulation under any law enforced by the Commission.'' It has come to the attention of the Commission that some standards, such as some of the durable infant and toddler standards, may fully incorporate or refer to an existing mandatory rule for children's products, such as the rule on lead in paint, codified at 16 CFR part 1303, and the rule on small parts, codified at 16 CFR part 1501. Some testing laboratories have advised their clients that such testing must be conducted twice; once as a standalone requirement and once as part of another, larger standard. This is not the position of the Commission. Although each applicable standard must be listed on the certificate, a certifier may certify compliance to both the standalone rule and the rule as incorporated into another standard, by testing it once as part of the larger standard where it is incorporated. For example, the mandatory standard for toddler beds, codified at 16 CFR part 1217, incorporates the Commission's standard for lead in paint (16 CFR part 1303) and for small parts (16 CFR part 1501). A certificate for a toddler bed must list all three mandatory standards, but may rely on the lead in paint and small parts testing conducted as part of the testing for the toddler bed standard to meet the requirements for 16 CFR parts 1303 and 1501.

G. When must certificates be made available?—Proposed § 1110.13

Existing § 1110.13 states the requirement in section 14(g)(3) of the CPSA that certificates required by section 14(a) ''accompany'' each product or product shipment and be ''furnished to each distributor and retailer of the product in question.'' Existing § 1110.13 states that an electronic certificate satisfies the ''accompany'' requirement if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and are available, along with access to the electronic certificate itself, to the Commission or to the Customs authorities as soon as the product or shipment itself is available for inspection. The existing section also states that an electronic certificate satisfies the ''furnish'' requirement if the distributor(s) and retailer(s) of the product are provided a reasonable means to access the certificate and it further provides that ''[a]n electronic certificate shall have a means to verify the date of its creation or last modification.''

Proposed § 1110.13 would modify the existing section in several ways, and incorporate the concept of availability in existing § 1110.7(c). Unlike the current provision, proposed § 1110.13 would not be limited to requirements for electronic certificates because requirements for electronic certificates generally have been moved to proposed § 1110.9(c). Accordingly, proposed § 1110.13 would set forth requirements for when certificates must accompany regulated products, and when they must be made available to CPSC and furnished to retailers or distributors.

The proposed rule would describe requirements for when a certificate must accompany a finished product or finished product shipment that is required to be certified pursuant to § 1110.5. It would require that such certificates be issued by a finished product certifier and state that only finished products would be required to be accompanied by a certificate. The Commission would limit the requirement for products to be accompanied by a certificate to finished products because component part certification is voluntary, and not all component parts are certified. Component part certificates must be maintained as supporting documentation, as described in the 1109 rule, if such component part certificates are being relied upon by a required finished product certifier to issue a finished product certificate.

1. Accompanying Certificates for Imported Products—Proposed § 1110.13(a)(1)

Proposed § 1110.13(a)(1) would require that for finished products that are manufactured outside the United States and are imported for consumption or warehousing, the importer must file the required GCC or CPC electronically with the CBP at the time of filing the CBP entry or at the time of filing the entry and entry summary, if both are filed together. Such a change would aid the Commission in enforcing the requirement to certify regulated products that require a certificate; and, if the certificate were required to be filed with CBP in the form of data elements, would aid the Commission to search the data elements on a certificate by uploading the information into a database. A database containing certificate information would enhance the Commission's ability to target shipments for inspection and track the accuracy of certificates. Because the proposed rule would require filing certificates electronically with CBP, the certificate, of necessity, would be available to the Commission and to CBP upon import; accordingly, the ''accompany'' requirement does not need to be restated as in the existing version of § 1110.13(a)(1).

Note that the requirements for certificates filed electronically with CBP in proposed § 1110.13(a)(1) would be specifically excluded from electronic certificate requirements for all other purposes as described in proposed § 1110.9(c). The Commission would leave the technical requirements for filing certificates electronically with CBP broad, to accommodate CBP's system resources. The Commission's ultimate goal would be to require filing of certificates with CBP in the form of data elements so that certificate contents can be uploaded into a database for targeting purposes. However, we realize that such a requirement may require software upgrades by CBP, CPSC, and stakeholders that must be completed in stages. Additionally, CPSC requires the assistance and cooperation of CBP to implement and maintain the receipt of certificates in an electronic format, and the CPSC must be mindful of resource limitations and stakeholder adjustments in implementing this new requirement. Initially, if the Commission requires electronic filing of certificates at the point of entry, we would likely allow such filing of certificates in two ways: (1) Inserting an electronic copy of the certificate with the entry, such as a pdf file of the document; or (2) uploading the 10 required data points on a certificate into CBP's designated system of record.[1]

We welcome comments on the resources required to file the certificates electronically with CBP. Stakeholders are encouraged to comment on the format for filing certificates with CBP, including the two formats discussed (pdf format versus data elements format). The Commission is requesting comment on an additional option for filing electronic certificates at an earlier point in the import process, at manifest, in section III.2 of this preamble.

2. Accompanying Certificates for Products Made in the United States—Proposed § 1110.13(a)(2)

Proposed § 1110.13(a)(2) would require that in the case of finished products manufactured in the United States, certificates shall not be filed with CPSC. Instead, the ''accompany'' requirement is met if a finished product certifier, as defined in proposed § 1110.3(11), makes a certificate available for inspection by CPSC on or before the date the finished product is distributed in commerce. Pursuant to proposed § 1110.9(b), this may be accomplished, for example, by placing a copy of the certificate in the shipping container with the product, or by meeting the requirements for an electronic certificate. Unlike imported products, we do not want certificates for products made in the United States to be filed with the government as a matter of course. We do not have the infrastructure in place to accommodate or review certificates for all regulated products made in the United States. Enforcement of these certificates will continue to be based on Commission resources and targeting efforts.

3. Accompanying Certificates for Imported Products Delivered Directly to Consumers in the United States—Proposed § 1110.13(a)(3)

Proposed § 1110.13(a)(3) would require that in the case of finished products that are manufactured outside the United States and are imported for consumption or warehousing, that are delivered directly to consumers in the United States, the foreign manufacturer or the importer, as provided in § 1110.7(a), has the option to either file the required GCC or CPC electronically with the CBP as provided for in paragraph (1), or may make the certificate available for inspection by CPSC on or before the date the finished product is distributed in commerce as provided in paragraph (2). Whether the certificates are filed with CBP depends on whether formal entry is made. If no formal entry is made for these products with CBP, then the certificate must still be made available to the Commission, either in hard copy or electronically, as set forth in § 1110.9, on or before the products are distributed into United States commerce.

4. Furnishing Certificates—Proposed § 1110.13(b)

Existing § 1110.13(b) states that an electronic certificate must have a means to verify the date of its creation or the last modification. The proposed rule would delete this provision because proposed § 1110.11(a)(2) would require the certificate to state the date of initial certification. Proposed § 1110.13(b) would state the statutory requirement in section 14(g)(3) of the CPSA that a copy of the certificate shall be furnished to each distributor or retailer of the product. The proposed rule would clarify who must provide such a certificate (a ''finished product certifier,'' which is defined in § 1110.3(11) as a party that is required to issue a finished product certificate pursuant to § 1110.7), and for what types of products (finished products).

5. Availability of Certificates—Proposed § 1110.13(c)

Proposed § 1110.13(c) is a new section that would state the requirement contained in sections 14(g)(3) and (g)(4) of the CPSA, that certificates must be provided to the Commission and to CBP upon request. The proposed rule would state: ''Certifiers must make certificates available for inspection immediately upon request by CPSC or CBP.'' This provision would apply to all types of certifiers, to all types of certificates (GCCs, CPCs, and component part), and at any time after a product is offered for import or distributed in commerce. The Commission interprets the word ''immediately'' consistent with other CPSC rules, to mean ''within 24 hours.'' However, we would expect that GCCs and CPCs would be made available to CPSC in a very short time, either at the time of request, or shortly afterward, because finished products are required to be accompanied by a certificate that is generated before importation or distribution in commerce, and must be either in hard copy with the product, or electronically available, as described in proposed § 1110.9(c).

[1] Electronic filing of entries is required by CBP rule, titled, *Importer Security Filing and Additional Carrier Requirements* commonly known as ''10+2.''

H. Who is responsible for the information in a certificate?—Proposed § 1110.15

Existing § 1110.15 states: ''Any entity or entities may maintain an electronic certificate platform and may enter the requisite data. However, the entity or entities required by CPSA section 14(a) to issue the certificate remain legally responsible for the accuracy and completeness of the certificate information required by statute and its availability in timely fashion.'' This provision was intended to allow third parties to assist with electronic certificate maintenance, while ensuring that the party certifying the product remained responsible for its contents.

Proposed § 1110.15 would maintain this concept but would broaden it to include component part certifiers by using the term ''certifiers'' in the first sentence. Certifiers may have any entity maintain an electronic certificate platform, or enter the requisite data, but the certifier would remain responsible for the contents of a certificate. The description of the certifier's responsibility with regard to certificate content would be broadened in the proposed rule to include its validity, accuracy, completeness, and availability, as applicable.

I. What recordkeeping requirements apply to certificates?—§ 1110.17

Proposed § 1110.17 would be a new provision intended to summarize the existing recordkeeping requirements that apply to certificates. The requirement to create and maintain certificates based on third party testing of children's products arises from § 1107.26 of the Testing Rule. Recordkeeping for component part certificates, and reliance on another party's certificate or testing to certify a finished product, arises out of §§ 1109.5(g) and 1109.5(j) of the Component Part Rule. To assist stakeholders in understanding the various recordkeeping provisions that apply to certificates, proposed § 1110.17 restates such requirements.

While some consumer product safety rules, and other similar rules, bans, standards, or regulations, may already have a recordkeeping requirement; other regulations may not be subject to a recordkeeping provision. For example, the Commission's safety standard for bicycle helmets (16 CFR part 1203) contains a recordkeeping provision, but the safety standard for swimming pool slides (16 CFR part 1207) does not. For all GCCs, regardless of whether there are underlying record keeping requirements or not, the proposed rule states that certifiers of GCCs must maintain the certificate and supporting test records where required for at least 5 years. Maintenance of such records, for example, may aid both the certifier and the Commission in the event of an investigation or product recall.

J. What requirements apply to component part certificates?—§ 1110.19

Proposed § 1110.19 would be a new provision to explain which requirements in part 1110 apply to component part certificates. It would state that component part certificates are voluntary and that component parts of consumer products would not be required to be accompanied by a certificate, nor would such certificates need to be furnished to retailers and distributors, as described in proposed § 1110.13(b). CPSC also would not want component part certificates to be filed with CBP upon importation of component parts. Instead, certifiers of component parts would need to meet the requirements in the Component Part Rule, and component part certificates would also need to meet the form, content, and availability requirements described in the proposed rule in sections 1110.9, 1110.11, 1110.13(c), 1110.15, and 1110.17.

III. Request for Comments

The Commission encourages stakeholders to comment on all sections of the proposed amendments to 16 CFR part 1110, and specifically request comment on the following additional issues. Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

1. The Commission is considering requiring certificates to state not only the place of manufacture in proposed § 1110.11(a)(7), but also to identify the name of the manufacturer, including foreign manufacturers. Stakeholders have argued in other contexts that the name of a foreign manufacturer is proprietary. This information, however, would be useful to the Commission and distributors in recall situations, and it would also be useful to the Commission for enforcement purposes. Investigating facts and limiting recalls would be enhanced, and thus, enforcement would be enhanced. We welcome comments on the nature of the information, whether, why, and how it may be confidential, and how the information being available outside the Commission advances, or does not advance, safety. The Commission is also interested in ideas that would allow manufacturers to be named on a certificate for disclosure to the Commission, but would protect their name from others, should it be an issue. The Commission, for example, could allow a private labeler or distributor to redact the name of a foreign manufacturer or supplier, as long as this information is readily available to CPSC. What reasons are there for retailers or others to know the names of suppliers on a certificate, if the CPSC has ready access to this information?

2. The Commission is also considering allowing, but not requiring, certificates to be filed electronically with CBP in advance of filing an entry, such as at the time of manifest. We welcome stakeholder input on this concept.

3. Proposed § 1110.5 states that finished products subject to a ban enforced by the Commission, which are imported for consumption or warehousing or are distributed in commerce, must be accompanied by a GCC or CPC. The Commission has provided guidance regarding which bans require certification because we recognize it may be difficult at times to distinguish those bans that ban an entire product category leaving no products left to certify. Some bans enforced by the Commission apply to multiple products or more than one product category. For example, when the ban on products containing soluble cyanide salts, (16 CFR 1500.17(a)(5)) was first established in 1972, it was known that cyanide salts were used in different products or product categories such as soldering solutions, coin cleaning solutions, and some silver polishes. The banning rule excludes unavoidable manufacturing residues of cyanide salts in other chemicals that under reasonable and foreseeable conditions of use will not result in a concentration of cyanide greater than 25 part per million. The Commission seeks comments from stakeholders regarding the current use of cyanide salts in consumer products as it considers its guidance as to whether manufacturers must issue a GCC to show compliance with the ban on soluble cyanide salts.

4. When the Commission originally issued part 1110 in 2008, it did so as a direct final rule and without performing a Paperwork Reduction Act analysis. Therefore, the Commission seeks comments now from the public on ways that the economic burden of part 1110 could be reduced, consistent with the Commission's underlying obligation to enforce 15 U.S.C. 2063.

5. The Commission has proposed language at § 1110.5 that identifies the products subject to a ban that would be required to provide certificates under this rule. Table A in section II.C of this preamble provides the agency staff's

assessment identifying which banning rules apply to products that would require a certificate. The Commission seeks comments regarding Table A.

6. Although the Commission believes that the recordkeeping provision to harmonize the time period for keeping GCCs and CPCs will not present any significant compliance challenges, we seek comments on whether any recordkeeping provisions contained in a specific CPSC rule will present difficult or unusual compliance challenges due to the unique recordkeeping requirements of the specific rule.

7. Proposed § 1110.9(c) states that an electronic certificate can meet the requirements of the relevant provisions if it is identified prominently by a unique identifier and can be accessed via a World Wide Web uniform resource locature (URL) or other electronic means by the Commission (and others) without password protection. The Commission seeks comments on ways to make that information available only to the agency, CBP, distributors, and retailers.

IV. Environmental Impact

Generally, the Commission's regulations are considered to have little or no potential for affecting the human environment, and environmental assessments and impact statements are not usually required. *See* 16 CFR 1021.5(a). The certificate requirements in the proposed rule are not expected to have an adverse impact on the environment, and fall within the categorical exclusion in 16 CFR 1021.5(c)(2) for product certification rules. Accordingly, an environmental assessment or environmental impact statement is not required.

V. Executive Order 12988 (Preemption)

Executive Order 12988 (February 5, 1996) requires agencies to state in clear language the preemptive effect, if any, of new regulations. The proposed rule would be issued under the authority of the CPSA and the CPSIA. The CPSA provision on preemption appears at section 26 of the CPSA. The CPSIA provision on preemption appears at section 231 of the CPSIA. The preemptive effect of this rule would be determined in an appropriate proceeding by a court of competent jurisdiction.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that proposed rules be reviewed for the potential economic impact on small entities, including small businesses. Section 603 of the RFA requires agencies to prepare and make available for public comment an Initial Regulatory Flexibility Analysis (IRFA), describing the impact of the proposed rule on small entities and identifying impact-reducing alternatives. In addition, the IRFA must contain a description of any significant alternatives to the proposed rule that would minimize any significant economic impact of the proposed rule on small entities. This section summarizes CPSC staff's initial regulatory flexibility analysis for the proposed rule amending 16 CFR part 1110.

A. Reasons for Agency Action and Objective of the Proposed Rule

The proposed revisions to *16 CFR Part 1110: Certificates of Compliance* are needed to add definitions, clarify language, and make the requirements consistent with new regulations, *Testing and Labeling Pertaining to Certification* (16 CFR part 1107) and *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification, to Meet Testing and Certification Requirements* (16 CFR part 1109). The proposed rule would also implement part of section 14(g) of the CPSA by requiring that importers of regulated finished products file the required certificate electronically with CBP.

More specifically, the proposed rule revises the existing regulation by adding 13 new definitions. The new definitions clarify the three different types of certificates of compliance: General Conformity Certificates, Children's Product Certificates, and component part certificates. The definitions also clarify the types of products that can be certified as either finished products or component parts. The proposed rule clarifies when certificates are required to accompany a finished product, who must certify a finished product, as well as the form and content requirements for certificates. Among these clarifications is new language holding foreign manufacturers responsible for certification of products delivered directly to consumers in the United States, such as products purchased through an Internet Web site, unless private labelers certify the products. The proposed rule revises the certificate requirement for domestically manufactured products to require a private labeler to certify a privately labeled product, unless a domestic manufacturer certifies the product. Finally, the proposed rule requires importers of regulated finished products manufactured outside of the United States to file the required certificate electronically with CBP at the time of filing the CBP entry or at the time of filing the entry and entry summary, if both are filed together.

B. Small Entities Subject to the Proposed Rule

The proposed revisions to part 1110 will apply to importers and domestic manufacturers, and will be extended to include private labelers for privately labeled domestic products (unless certificates are provided by manufacturers). It is difficult to know the number of small businesses that would, with certainty, be affected by the rule. Research of CBP data by CPSC staff found that during 2009, there were 231,094 distinct importers of products categorized in import codes likely to include products under CPSC's jurisdiction. The great majority of these firms (perhaps 90 percent or more) are likely to be small businesses under U.S. Small Business Administration (SBA) size standards for manufacturers, wholesalers, or retailers. On the basis of this information, each year as many as 210,000 small businesses might import products under CPSC jurisdiction that would make them subject to the proposed rule. However, firms that only import consumer products that are not subject to product safety rules requiring certification would not be affected by the electronic filing requirement.

In most cases, domestic manufacturers will continue to have the responsibility of providing certificates for products subject to a consumer product safety rule under the CPSA or other laws enforced by the Commission. According to Census of Manufactures data for 2007, about 104,000 companies manufactured products in the North American Industry Classification System (NAICS) codes that are likely to have included products under CPSC jurisdiction.[2] Although more than 90 percent of these firms (*i.e.,* close to 100,000) are considered small businesses under SBA guidelines, a significant percentage probably are not engaged in manufacturing products that are subject to a product safety rule. Still, tens of thousands of small manufacturers currently are responsible for providing certificates. Under the proposed rule, some of the burden of providing certificates could be transferred to small private labelers.

[2] U.S. Census Bureau, 2007 Economic Census, Manufacturing: Industry Series: Detailed Statistics by Industry for the United States: 2007. *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_31I1&prodType=table.*

C. Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

The proposed revisions to part 1110 include the imposition of the new reporting requirement on importers of regulated finished products to file certificates of compliance (General Conformity Certificates or Children's Product Certificates) electronically with CBP at the time of filing the CBP entry or at the time of filing the entry and entry summary, if both are filed together. This electronic filing requirement would be in addition to other electronic importer security filing requirements already imposed by CBP. It is important to note that many importers, including those that are small businesses, already make electronic certificates available under the existing part 1110, to satisfy the requirement that certificates accompany products, are furnished to distributors and retailers, and are available to the CPSC ''as soon as the product or shipment is available for inspection.'' Thus, for these firms, the incremental requirement would simply call for these certificates also to be provided electronically to the CBP.

Because the proposed requirement for electronic filing of certificates for imported products does not specify how that is to be accomplished, importers will have some flexibility in their method of compliance. For example, the preamble of the proposed rule discusses that certificates could be maintained as pdf files, or certificates could be provided in the form of data elements and uploaded to CBP's system of records. Importers relying on paper certificates of compliance for distributors and retailers would have to create electronic certificates; however, these firms are likely to have the necessary office equipment and personnel to create and transmit these certificates electronically. Since 2010, small businesses that import merchandise (including products under CPSC jurisdiction) by ocean vessel have been required to file information related to the shipments electronically with CBP no later than 24 hours prior to the ship's arrival at a U.S. port, pursuant to CBP's rule titled, *Importer Security Filing and Additional Carrier Requirements* (commonly known as ''10+2''). Small importers often hire Customs brokers licensed by CBP to handle the procedures that must be followed to import goods; the proposed requirement of electronic filing of certificates will likely be added to the duties performed by these brokers.

Based on the current business practices of small businesses that import consumer products, the incremental costs of the requirement to file an electronic certificate of compliance should be minor. If electronic filing costs are similar to typical fees reportedly charged by Customs brokers for filing the required Importer Security Filing data elements, they might be $25 or less, per filing. CBP estimated that ''in 2005, more than 70 to 85 percent of all importers imported fewer than 12 shipments.'' [3] Assuming this applies to importers of consumer products, annual incremental costs of electronic filing of certificates of compliance could be less than $275 for most small businesses that import products that require certificates of compliance. This estimate is based on the assumption that one certificate of conformance would be required per shipment. If multiple certificates are required per shipment, costs could be higher. As noted by CBP in its assessment of costs of security filing requirements, some small importers of consumer products subject to electronic filing of certificates under part 1110 could choose to file the certificates electronically themselves with CBP, if their own filing costs are lower than fees charged by brokers.[4]

Another proposed revision to part 1110 revises the requirement for certification of domestically manufactured products to require that privately labeled products be certified by the private labeler, unless the domestic manufacturer issues a certificate. This amendment would result in a shift in the obligation to provide certificates from some small manufacturers to some small private labelers. However, these small private labelers can choose to continue to rely on the certificates that the manufacturers are currently required to provide, or they can use such certificates as a basis for issuing their own certificates. Moreover, the revisions would grant private labelers the authority to issue certificates, which some may prefer. While some private labelers may experience some impact, this impact should not be significant because it is expected that some manufacturers will continue to issue certificates as they are now legally required to do.

D. Other Federal Rules

For small businesses importing consumer products by containerized shipping vessel, this electronic filing requirement would be in addition to other electronic importer security filing requirements already imposed by CBP. Since 2010, small businesses that import merchandise (including products under CPSC jurisdiction) by ocean vessel have been required to file information related to the shipments electronically with CBP no later than 24 hours prior to the ship's arrival at a U.S. port. One of the elements required to be filed under the CBP's rule (*Importer Security Filing and Additional Carrier Requirements,* or ''10+2 rule'') is the name and address of the manufacturer or supplier of the finished goods in the country or origin, although alternative forms of manufacturer identification, such as identification numbers, are also acceptable. This CBP element is similar, but not identical, to the required information on date and place of manufacture required by certificates of compliance.

E. Alternatives to the Proposed Rule

One alternative to the proposed rule would be *allowing,* rather than *requiring* certificates for imported products to be filed at entry. If this alternative were to be adopted, the certificate would still have to be available for inspection upon request, as it is now. Allowing, instead of requiring certificates to be filed electronically at entry would reduce the burden on small businesses, but it might not enhance the Commission's ability to target shipments for inspection and to track the accuracy of certificates.

VII. Paperwork Reduction Act

This proposed rule to amend 16 CFR part 1110 would create a new 5-year recordkeeping retention burden for GCCs and would also create a new reporting requirement by mandating that certificates for imported products be filed electronically with CBP. Accordingly, this proposed rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

In addition to the new recordkeeping and reporting burden associated with the proposed rule, our burden estimates presented below provide additional estimates to cover categories of burdens omitted in previous information

[3] Department of Homeland Security, Bureau of Customs and Border Protection, *Importer Security Filing and Additional Carrier Requirements,* Interim final rule. **Federal Register**, Vol. 73, No. 228, November 25, 2008, p. 11765. Retrieved from *http://www.gpo.gov/fdsys/pkg/FR-2008-11-25/pdf/E8-27048.pdf.*

[4] Industrial Economics, Incorporated, Importer Security Filing and Additional Carrier Requirements: Regulatory Assessment and Final Regulatory Flexibility Analysis for the Interim Final Rule, November 6, 2008, p. 4–7 (97 of 266). Retrieved from *http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/carriers/security_filing/ra.ctt/ra.pdf.*

collections. The existing 1110 rule was issued by direct final rule in November 2008, and implemented the requirements in sections 14(a) and (g) of the CPSA to issue certificates for regulated products. For over four years now, regulated entities have incurred the costs associated with complying with these statutory requirements. Because a burden analysis for the creation and disclosure of certificates was not conducted in 2008, we provide here an estimated burden of $118,166,724 for those statutory requirements imposed by existing 16 CFR 1110 for costs associated with documenting test results, creating GCCs, and disclosing GCCs to third parties. We note these costs are separate from the $56,118,876 in estimated costs associated with filing GCCs with CBP and retaining GCCs and supporting test records for at least five years as required by this proposed amendment to 16 CFR 1110.

The recordkeeping burden analysis for the creation and maintenance of certificates based on third party testing of regulated children's products, CPCs, was set forth in 2011, in the Testing Rule and the Component Part Rule, culminating in a collection of information titled, Third Party Testing of Children's Products. That analysis did not cover third party disclosure of certificates for regulated children's products. Therefore, we provide here an estimated burden of $14,936,000 for third party disclosure of certificates for regulated children's products as required by 16 CFR 1107. We note this cost is separate from the $18,700,000 in estimated costs associated with filing CPCs with CBP as required by this proposed amendment to 16 CFR 1110.

Pursuant to section 14(a)(1) of the CPSA, non-children's products that are subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, must be certified as compliant with such rules, bans, standards or regulations. Certificates must meet the content, form, and availability requirements in the 1110 rule. For non-children's products that are required to be certified, the CPSC intends to create a new collection of information to estimate the burden of: recording test results or other information to support GCCs; creating GCCs; disclosing certificates to retailers or distributors, CPSC, and CBP; and maintaining GCCs and supporting test records for 5 years. Some of the applicable underlying rules already have certificate and recordkeeping requirements that have previously been described in an information collection request to OMB, but many do not. In addition to recordkeeping requirements in an underlying rule, the proposed rule would require that GCCs and supporting test records be maintained for at least 5 years.

Even where some rules have certificate requirements, such certificate requirements are not uniform and do not meet the minimum certificate content requirements set forth in section 14(g) of the CPSA, as implemented in the 1110 rule. Pursuant to section 14(g) of the CPSA, each certificate must accompany the applicable product or product shipment, be furnished to each distributor or retailer of the product, and furnished to CPSC, upon request. Additionally, each certificate must identify: The issuer of the certificate; any third party conformity assessment body that performed testing on which the certificate relies; the date and place of manufacture; the date and place of testing; each party's name, full mailing address, telephone number; and contact information for the individual responsible for maintaining records of test results. Thus, the certificate requirement in section 14(g) of the CPSA, as implemented in the 1110 rule, may be seen as an additional requirement for rules that require an on-product certificate, such as 16 CFR part 1205, *Safety Standard for Walk-Behind Power Lawn Mowers.* The statutory certificate requirement also may be seen as adding content requirements to the certificates described in rules that already require a certificate, such as 16 CFR part 1204, *Safety Standard for Omnidirectional Citizens Band Base Station Antennas.*

The recordkeeping burden for the creation and maintenance of certificates required by sections 14(a) and (g) of the CPSA for children's products is already described in the collection of information on Third Party Testing of Children's Products. We propose to amend the collection of information on Third Party Testing of Children's Products to estimate the increase in burden for third party disclosure of CPCs to retailers, distributors, and to CBP, as set forth in the proposed rule.

We invite comments on: (1) Whether the amendment to the collection of information on Third Party Testing of Children's Products, and the new collection of information on Certification of Non-Children's Products, are necessary for the proper performance of the CPSC's functions, including whether the information will have practical utility; (2) the accuracy of the CPSC's estimate of the burden of the proposed collection of information, including the validity of the method 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.

Title: Non-Children's Products—Certification of Non-Children's Products.

Children's Products—Amendment to collection on Third Party Testing of Children's Products (OMB control number 3041–0159).

Description: We would create a new collection of information for regulated non-children's products describing the annual reporting burden to: document test results or other information on which a certificate is based; create GCCs; furnish GCCs to retailers or distributors, the CPSC, and CBP; file certificates for imported products electronically with CBP; and maintain GCCs and supporting test records for 5 years. We would also amend the collection of information related to Third Party Testing of Children's Products to estimate the increase in the annual reporting burden for certifiers of children's products to furnish CPCs to retailers and distributors, and for importers of children's products to file electronic CPCs with CBP.

The burden analysis for GCCs is comprehensive: it includes not only the new burdens associated with the proposed rule but also covers burdens not accounted for in previous rulemakings or in burden analysis submissions to OMB. As noted above, the proposed rule includes a new disclosure requirement for finished products manufactured outside the United States. When products manufactured outside the United States are imported for consumption or warehousing, the importer would be required to file either a CPC or GCC electronically with the CBP at the time of filing the CBP entry or the time of filing the entry and entry summary, if both are filed together. Such a requirement would implement section 14(g)(4) of the CPSA, which states that the Commission, in consultation with the Commissioner of Customs, may, by rule, provide for the electronic filing of certificates up to 24 hours before arrival of an imported product. All other burdens for GCCs are due to the statutory requirements for certificates, as set forth in the direct final rule for part 1110 issued in November 2008.

The burden estimates provided below are broken into four main categories:

Creating GCCs for Non-Children's Products; Furnishing Certificates to Third Parties; Filing Certificates for Imported Products with CBP; and Maintaining GCCs and Test Records. These estimates reflect the burden to the finished product certifier only. We have made no attempt to estimate the additional burden, if any, to the federal government. Our estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Description of the Respondents: Finished product certifiers of products subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, which are imported for consumption or warehousing, or are distributed in commerce.

Estimate of the Burden

A. Creating GCCs for Non-Children's Products

The estimates provided are intended to reflect the recordkeeping burden per product per year. In the collection of information for children's products, we estimated that the recordkeeping burden was about 3 to 5 hours per product, per year, on average. For non-children's products, we generally estimate that the recordkeeping burden to create GCCs and to document testing or other information on which the certificate is based is about 1.5 hours per product per year. This estimate reflects the fact that non-children's products are subject to fewer product safety rules than are children's products. Moreover, although some non-children's products manufacturers use third party testing, non-children's products are not subject to mandatory third party certification, material change, and periodic testing. The 1.5 hours per product estimate is consistent with comments that were received in response to the notice of proposed rulemaking for the Testing Rule. However, where we have information for specific products or rules that deviate from the general estimate, we use the more specific information.

Like children's products, great diversity exists among regulated non-children's products. Thus, certifiers of non-children's products have significant flexibility in procedures for testing and certifying their products. Although each regulated product must have a GCC, the reasonable testing program that generates test results or other information upon which a GCC relies may vary greatly. For example, the criteria for meeting the requirements of 16 CFR part 1202, *Safety Standard for Matchbooks,* can likely be met out of a quality assurance or quality management program, in contrast to the specific testing program that is required in 16 CFR part 1209, *Interim Safety Standard for Cellulose Insulation.* For this reason, as with children's products, we do not have a strong basis for estimating the recordkeeping burden based on specific records for each product or rule.

For each product or rule where no certificate or other recordkeeping requirement is currently in place, or where we have not previously provided an estimate of the recordkeeping burden to OMB, we estimate the burden to document testing or other information on which the certificate is based and to create GCCs to generally be 1.5 hours on average per product. For rules that already have a certificate requirement based on a testing program, we use estimates of less than 1.5 hours, generally 15 to 30 minutes per product, to create the GCC required by part 1110. The reduced burden for these rules reflects the fact that the recordkeeping burden associated with just creating a GCC in the required format should be less than the burden associated with both documenting the results of a reasonable testing program and creating a GCC.

We further note that in many, if not most cases, these records might be prepared several times a year per product. Thus, even if completing the required records for a single set of tests or preparing one GCC might seem to take only a few minutes, if multiple batches are certified annually, or the product is manufactured at more than one location, then the total burden during the year will be higher.

1. Glazing Materials (16 CFR part 1201)

Glazing materials used in or intended for use in doors and storm doors (including combination doors), bathtub doors and enclosures, shower doors and enclosures, and patio type sliding glass doors, are subject to the safety standard for architectural glazing materials (16 CFR part 1201). Part 1201 requires that manufacturers and private labelers of glazing materials certify their products in accordance with the requirements of section 14 of the CPSA. Although the Commission has previously submitted recordkeeping burden estimates to OMB, OMB approval of this collection of information expired in 1985. Accordingly, we will estimate the burden of creating GCCs for compliance with part 1201, as well as documenting test results demonstrating compliance.

The Glass Association of North America reports that it has about 400 members that are engaged in the manufacture, fabrication, and installation of glass and glazing products for residential and commercial applications.[5] The Safety Glass Certification Council (SGCC) maintains a third party certification program for glass and glazing products. SGCC states that it has certified 1,726 individual products from 262 individual participant manufacturers. SGCC believes that its members represent about 70 percent of the square footage of safety glazing materials.[6] Based on the SGCC figures, their 262 industry participants each have an average of just over six products. The estimates below are based on the assumption that the firms that do not participate in the SGCC program have the same number of products. We are estimating that it takes about 1.5 hours per product to document test results and to create GCCs.

Firms	Total models	Hours/Model	Total hours
400	2,400	1.5	3,600

2. Matchbooks (16 CFR part 1202)

Matchbooks are subject to the safety standard for matchbooks (16 CFR part 1202). Although the Commission has submitted previously recordkeeping burden estimates to OMB, OMB approval of this collection of information expired in 1982.

Part 1202 is relatively straightforward, in that compliance to the standard can be determined by simply examining several samples of the product to

[5] Public comment from the Glass Association of North America submitted in response to the notice of proposed rulemaking on the testing and certification rule (16 CFR part 1107).

[6] Information from SGCC provided to Robert Squibb on January 28, 2013.

ensure, for example, that the friction plate is on the outside back cover of the matchbook and that no match head is bridged, split or crumbling. Although the time spent keeping records of compliance for each batch or lot is probably low, multiple batches or lots of each product are likely manufactured annually.

According to one source, four matchbook manufacturers operate in the United States.[7] Although the printed covers might include a wide variety of designs, depending upon the customers, matchbooks generally come in just a few sizes, such as 20 strike, 30 strike, or 40 strike. We assume for purposes of this analysis that certification is based on the broader category of matchbook size, and not each individual matchbook cover design. Based on this assumption, each manufacturer would be certifying 3 different products or models annually.

Firms	Total models	Hours/Model	Total hours
4	12	1.5	18

3. Bicycle Helmets (16 CFR Part 1203)

Bicycle helmets are subject to the safety standard for bicycle helmets (16 CFR part 1203). CPSC has provided some estimates of the recordkeeping burden to OMB in an earlier submission, which includes records for a reasonable testing program, the requirement to place a certification label on bicycle helmets, and a 3-year minimum record retention period. A GCC that meets the requirements specified in section 14(g) of the CPSA and the 1110 rule is now additionally required. Although it could take as little as 10 minutes to prepare a GCC for a given model of bicycle helmet, it is likely that models will be recertified several times during a year.

The most recent submission to OMB regarding bicycle helmets estimates that there are about 30 manufacturers and about 200 models of bicycle helmets. If we assume that about 17.5 percent of the models are intended for children aged 12 years or younger (based on the percentage of such children in the population), we can assume that about 165 of the models are not intended for children and require a GCC.

Firms	Total models	Hours/Model	Total hours
30	165	0.5	83

4. Omnidirectional Citizens Band Base Station Antennas (16 CFR part 1204)

Omnidirectional citizens band base station antennas are subject to a product safety standard that is intended to reduce electrocution hazards associated with the antennas (16 CFR part 1204). Part 1204 requires specific types of testing, certificates, and certain records to be maintained for 3 years. An estimate of the burden for these requirements has previously been detailed in a submission to OMB. The content of the certificate required in part 1204, however, does not contain all of the information required by section 14(g) of the CPSA and the 1110 rule. Therefore, it is necessary to estimate the increased burden of creating GCCs with all of the required information.

One approach to estimating this burden is to assume that it takes about half an hour to prepare a GCC with the required information. Each certificate might take less time to prepare, but there could be multiple batches or lots of product in a given year that must be certified.

The existing PRA submission indicates that five firms manufacture these products. A Google search indicated that each firm might have more than one model, but only one company appeared to have more than three models. Thus, we estimate that each firm has three models.

Firms	Total models	Hours/Model	Total hours
5	15	0.5	8

5. Walk-Behind Power Lawn Mowers (16 CFR part 1205)

Walk behind power lawn mowers are subject to the safety standard for walk-behind power lawn mowers (16 CFR part 1205). Part 1205 prescribes certain testing and recordkeeping requirements, including records of a reasonable testing program and certificates which are on-product labels. Such labels do not require the same content information required by section 14(g) of the CPSA and the 1110 rule. Burden estimates for part 1205 have been submitted to OMB previously. Thus, here we estimate only the increased burden of creating GCCs with all of the required information.

According to the existing PRA submission for part 1205, 1 hour per production day, per manufacturer, is added to the recordkeeping and testing burden to collect the information required for the certificate and to place it on the label. Our existing OMB submission for part 1205 assumes 130 production days a year. Thus, we assumed that each day's production will be certified individually or that there are multiple batches, and therefore, that multiple certificates will be issued for each model annually. We will use the same methodology to estimate the increased burden of creating the required GCC here. Accordingly, we assume 1 hour per day, per manufacturer to create the required GCCs for 130 production days out of the year. The existing PRA submission estimates that there are 20 manufacturers of walk-behind lawn mowers. If each manufacturer is in production 130 days per year and requires 1 hour per day for recordkeeping, then the annual burden per manufacturer will be 130 hours, or

[7] Information about the industry was obtained from a Web site called, ''The Matchcover Vault,'' which is a site aimed at collectors of matchbook covers. The specific URL for the industry information is *http://matchpro.org/Matchindustryhistory.html* (accessed on 01/16/2013).

2,600 hours for all manufacturers together.

Firms	Total models	Hours/Mfr.	Total hours
20	.....	130	2,600

6. Swimming Pool Slides (16 CFR part 1207)

Swimming pool slides are subject to the safety standard for swimming pool slides (16 CFR part 1207). Part 1207 includes requirements for testing swimming pools slides and for issuing a certificate based on a reasonable testing program, but no record retention period is provided. The certificate required in the rule contains fewer data elements than required by section 14(g) of the CPSA and the 1110 rule. We do not appear to have previously reported burden estimates for recordkeeping to OMB for part 1207. Therefore, we estimate the burden for recording test results for a reasonable testing program on which the GCC relies and for creating a GCC.

A retailer's Web site, which states that it offers swimming pool slides from most major manufacturers, has between 100 and 120 different models of pool slides. Some slide models appeared to be duplicates, however, and some of the products might not actually be covered by the standard. Given that the retailer might not offer all models, and allowing for duplicates and for the proposition that some products are not subject to the standard, we assume that there are a total 120 models of swimming pool slides.

Firms	Total models	Hours/Model	Total hours
a few	120	1.5	180

7. Cellulose Insulation (16 CFR part 1209)

Cellulose insulation is subject to the interim cellulose insulation standard (16 CFR part 1209). Part 1209 includes comprehensive testing, recordkeeping, and certification requirements, including a 2-year record retention period. The certification required in part 1209 is in the form of a label on the product, and includes the day, month, and year of production. No prior OMB submission exists for this product, likely because part 1209 was implemented before enactment of the PRA. Therefore, for part 1209, we estimate the burden of documenting test results from the testing program required in part 1209, and creating a GCC.

Thirty-six producer members of the Cellulose Insulation Manufacturers Association (CIMA) were listed on its Web site (*www.cellulose.org*). Additionally, in 2000, CPSC staff identified a few manufacturers that were not members of CIMA, bringing the total estimated number of manufacturers to 44. Because the on-product certificate requirement in part 1209 requires specification of the date, month, and year of manufacture, and because the testing interval required in part 1209 must be short enough to demonstrate compliance with the standard, testing and certification of cellulose insulation is likely to occur several times a year. Thus, the recordkeeping for the required reasonable testing program and for certification is likely to take several hours each year for each manufacturer. Assuming that each manufacturer must issue a new certificate with the date of manufacture, that each manufacturer is in production 240 days a year, and that the recordkeeping requires 15 minutes per day, then the burden per manufacturer per year would be 60 hours.

The estimate of 44 manufacturers is significantly lower than the estimates of the number of firms in the market in the late 1970s. In 1976, there were 100 manufacturers with 125 plants. In 1978, the Federal Trade Commission compiled a list of more than 700 manufacturers.[8] If the current estimate of 44 manufacturers is an underestimate, or if some manufacturers have more than one plant, the total recordkeeping burden would also be underestimated.

Firms	Total models	Hours/Mfr.	Total hours
44	n.a.	60	2,640

8. Cigarette Lighters (16 CFR part 1210) and Multipurpose Lighters (16 CFR part 1212)

Cigarette lighters and multipurpose lighters are subject to the child-resistance requirements established by 16 CFR parts 1210 and 1212, respectively. Parts 1210 and 1212 set forth comprehensive testing, certification, and recordkeeping requirements, including a 3-year minimum retention period. Estimates of the recordkeeping burden for parts 1210 and 1212 have been submitted to OMB previously. Here, we estimate the incremental burden associated with creating a certificate containing the information required by section 14(g) of the CPSA and the 1110 rule because the certificates provided in parts 1210 and 1212 require less information.

Before a manufacturer or importer can distribute a lighter model in the United States, it must first file a report with the CPSC. From October, 2005 to February 12, 2013, CPSC has accepted 6,667 reports of new cigarette or multipurpose lighter models from a total 145 companies. We believe this is a reasonable estimate for the number of lighter models for which GCCs will be required in a given year for the following reasons. First, once CPSC accepts a report of a new model, the lighter model can continue to be distributed without future reports. Second, although only one or two lots of some lighter models might be

[8] Robert D. Kurtz, ''Environmental and Economic Impacts of the Interim Safety Standard for Cellulosic Insulation,'' U.S. Consumer Product Safety Commission, Office of Hazard Identification (June 15, 1978).

manufactured or imported, multiple lots of some lighter models might be manufactured in some years. Finally, there are probably some lighter models that were reported to CPSC prior to FY 2005, which are still being distributed. More than 600 million individual lighters are manufactured or imported into the United States annually.

We estimate the burden to create a GCC to be about 15 minutes per model. Once the certificates are modified, the incremental cost of including additional data could be negligible.

Firms	Total models	Hours/Model	Total hours
145	6,667	0.25	1,667

9. Residential Automatic Garage Door Openers (16 CFR part 1211)

The automatic residential garage door opener standard (16 CFR part 1211) contains guidance for a reasonable testing program, an on-product certificate requirement, and recordkeeping requirements, including a minimum 3-year record retention period. The on-product certificate required by part 1211 does not contain all of the data elements required for a GCC in section 14(g) of the CPSA and the 1110 rule. Moreover, an exemption for on-product certificates is provided under certain circumstances. An estimate of the recordkeeping burden of the rule has been provided to OMB previously. The most recent PRA submission to OMB estimates that there are 21 respondents that require about 40 hours each for maintaining the records required by the regulation. Therefore, here we will estimate only the burden of issuing certificates with the required information. We estimate the annual burden of creating compliant GCCs, separate from the label, to be about 30 minutes per model.

Based on a review of the garage door openers available at some home or building supply retailers, each manufacturer could offer a few different models (*e.g.,* ½ horsepower, ¾ horsepower, with and without battery backup). For purposes of these estimates, we assume that each manufacturer has about four different models.

Firms	Total models	Hours/Model	Total hours
21	84	0.5	42

10. Furniture (16 CFR parts 1303 and 1213)

General use furniture, which is furniture that is not designed or primarily intended for children 12 years of age or younger, is subject to the rule banning the use of lead paint in excess of 90 parts per million (ppm) (16 CFR part 1303). General use bunk beds are also subject to a standard intended to reduce entrapment hazards (16 CFR part 1213). Neither of these rules has explicit recordkeeping or certification requirements, and no recordkeeping burden estimates have previously been submitted to OMB. Furniture subject to parts 1303 and 1213 must be certified as compliant, based on a test of each product, or on a reasonable testing program pursuant to section 14(a)(1) of the CPSA.

16 CFR Part 1303—Lead-in-Paint

When we estimated the recordkeeping burden for testing and certification of furniture that would be considered a children's product in 16 CFR part 1107, we estimated that there were 54,000 models of furniture intended for children 12 years of age or younger. We estimated 54,000 models by counting the models of children's furniture offered by one large online retailer and estimating that it carried only about one-quarter of all the models of furniture available. If we assume that 54,000 models represents about 17.5 percent of all furniture models intended for children and adults, based on the percentage of the U.S. population that is 12 years of age or younger, one could infer that approximately 250,000 [9] furniture models are intended for people over 12 years of age. Metal furniture and furniture that does not have a paint or coating are not subject to part 1303. Unless the bunk bed standard applies, such furniture does not require a certificate. We assume that about half of the furniture items might be subject to the part 1303 lead-in-paint requirement. Based on a comment from a furniture industry trade association, which was submitted in response to the proposed Testing Rule, we derived an estimate of 30 to 45 minutes per model for the recordkeeping associated with a reasonable testing program for part 1303.[10] For purposes of these estimates, we have used the low end of this range.

16 CFR Part 1213—Bunk Beds

One large online retailer had about 1,200 items listed under ''bunk bed.'' If this retailer carries about one-quarter of all bunk bed models, this indicates that there are approximately 4,800 bunk bed models available. A review of the first 75 models indicates that about 12% of the models might be appropriate for people over the age of 12 years. Accordingly, there may be about 600 general use bunk bed models intended for people over the age of 12 years. We estimate the cost to document the reasonable testing program for bunk beds and to create a certificate to be 1.5 hour per model.

Regulation	Total models	Hours/Model	Total hours
1303	125,000	0.5	62,500
1213	600	1.5	900
Total			63,400

[9] The calculation is (54,000/0.175) × 0.825 = 254,571. This could be a low estimate because most children's furniture is limited to the bedroom furniture category. However, general use furniture also includes categories such as ''dining room'' and ''living room'' furniture. The estimate in the memorandum has been rounded.

[10] To derive the estimate, we had to make assumptions concerning the employee compensation and the number of models per manufacturer that were not explicitly stated in the comment.

11. Consumer Paints and Coatings (16 CFR part 1303)

In addition to paints and coatings applied to some furniture, paints and coatings for consumers' use are also subject to the 90 ppm lead limit (16 CFR part 1303). Exemptions to the scope of the paint lead limit include: coatings that are not intended for consumer use, agricultural and industrial products, mirrors, some metal furniture with factory-applied coatings, and artist paints. The recordkeeping burden to create GCCs for consumer paints and coatings has not been submitted to OMB previously.

Based on information available from the American Coatings Association *(http://www.paint.org/about-our-industry/types-of-coatings.html),* just over 50 percent of the paints, by value, would be subject to part 1303. Products subject to part 1303 include architectural coatings and aerosol coatings. Products that are not subject to part 1303 include industrial paints, marine paints, automotive paints, and industrial maintenance coatings.[11] The Bureau of the Census reports that there are 1,002 manufacturers of paint and coatings in the United States.[12] Based on data from the ACA, we assume that half of these manufacturers, 501, create paints and coating that are subject to part 1303.[13] One large manufacturer lists 82 different consumer products on its Web site. While this estimate might not account for all different colors offered by this manufacturer, some smaller manufacturers might not have the full range of products that a large manufacturer might have. Therefore, we estimate that the average number of products, per manufacturer, is 82.

The testing of paint is reasonably simple; therefore, maintaining the records of a reasonable testing program and preparing the required certificate should not be overly time consuming. However, each batch is probably certified and dated, and multiple batches of each product are likely to be produced annually. Accordingly, we assume that 30 minutes, per product, to document testing and to create a GCC.

Firms	Total models	Hours/Model	Total hours
501	41,082	0.5	20,541

12. All-Terrain Vehicles (ATVs) (16 CFR part 1420)

The CPSIA mandated that the Commission adopt the voluntary standard for ATVs as a mandatory standard. The mandatory standard for ATVs is codified at 16 CFR part 1420. No PRA submission has been made previously to OMB regarding part 1420 because that part does not contain specific recordkeeping or certification requirements. Pursuant to section 14(a)(1) of the CPSA, however, ATV manufacturers and private labelers are required to certify that their products meet the requirements of part 1420, based on a reasonable testing program or a test of each product.

While ATV testing is likely to take a minimum of several hours and could take more than a day, documenting the results of testing will likely take less time. We estimate that the burden to document a reasonable testing program for ATVs and to create the required GCC will be about 1.5 hours. One and a half hours could be a low estimate if multiple lots or shipments of ATVs are tested and certified annually. Based on information from the Motorcycle Industry Council and Power Products Marketing, we estimate that there are 32 manufacturers of ATVs that produce a total of 132 general use, non-children's, ATVs.

Firms	Total models	Hours/Model	Total hours
32	132	1.5	198

13. Pools and Spas (16 CFR part 1450)

All pool and spa drain covers must meet the requirements of the Virginia Graeme Baker Pool and Spa Safety Act, which is codified at 16 CFR part 1450. The Commission has not previously estimated a recordkeeping burden associated with testing and certifying drain covers subject to part 1450. Accordingly, we estimate the burden to document a reasonable testing program for drain covers and to create the required GCC. A manufacturer directory, located at *www.poolspanews.com,* listed 12 manufacturers of drain covers. An examination of the Web sites of each of the manufacturers indicates a total of 136 different drain covers that are advertised as being compliant with the VGB requirements. Although this list might not be complete, it likely represents most of the industry. We assume that the recordkeeping burden to document a reasonable testing program and to create the required GCC will be about 1.5 hours per product, per year.

Firms	Total models	Hours/Model	Total hours
12	136	1.5	204

14. Fireworks Devices (16 CFR part 1507; 16 CFR 1500.17(3) and 1500.17(8))

Fireworks that are not banned are subject to requirements set forth in 16 CFR part 1507 and sections 1500.17(3), and 1500.17(8). These fireworks provisions do not contain specific recordkeeping or certification requirements. Thus, the Commission has not provided a paperwork burden estimate to OMB previously. Here, we estimate the burden to document a

[11] Technically some industrial coatings might be subject to the limits on lead in paint in Part 1303 if they are applied on a consumer product. However, in these cases it would be the product manufacturer (e.g., furniture or children's product manufacturer) that would be responsible for the certification.

[12] United States Department of Commerce, Bureau of the Census, 2010 County Business Patterns.

[13] In fact, many large paint manufacturers manufacture both industrial and consumer paints.

reasonable testing program for fireworks and to create the required GCC.

Based on its knowledge of the industry, the Office of Compliance estimates that 115,000 different lots of fireworks devices are certified annually. The recordkeeping burden for documenting the testing and creating the GCCs is estimated to be about one hour per lot.

Firms	Total lots	Hours/Lot	Total hours
	115,000	1	115,000

15. Bicycles (16 CFR part 1512)

Bicycles are subject to the requirements of the safety standard for bicycles, which is codified at 16 CFR part 1512. Part 1512 sets forth test requirements for bicycles and requires certain instructions and an on-product label, but the rule does not provide for specific recordkeeping requirements or a record-retention period. Therefore, no estimate of the recordkeeping burden has been submitted to OMB previously.

When considering children's bicycles previously for part 1107, we estimated that there were approximately 400 models of children's bicycles. Assuming that children's bicycles account for 17.5 percent of bicycle models, based on the percentage of the population that is 12 years of age or younger, there are approximately 1,900 [14] models of non-children's bicycles. Based on a review of a database of bicycle manufacturers, there may be 150 to 200 bicycle manufacturers whose products are sold in the United States. Testing a bicycle to part 1512 takes about 1 day. However, the time to record test results and to create a compliant GCC is likely about 1.5 hours.

Firms	Total models	Hours/Model	Total hours
150	1,900	1.5	2,850

16. Clothing and Apparel (16 CFR parts 1610 and 1611)

Two standards apply to clothing and apparel that are intended to classify fabrics according to their burning rate and prohibit the introduction of dangerously flammable goods into commerce: (1) Standard for the flammability of clothing textiles (16 CFR part 1610), and (2) standard for the flammability of vinyl plastic film (16 CFR part 1611). Parts 1610 and 1611 set forth test requirements and recordkeeping requirements for issuing guaranties, not certificates. Both rules contain a 3-year record retention period. We previously estimated the recordkeeping burden for parts 1610 and 1611 to OMB. Although the certificate requirement in section 14 may be based on the testing required in the rules, creating a GCC is an additional recordkeeping burden. Here, we estimate the time required to create the required GCC.

Certain hats, gloves, footwear, and interlining fabrics are excluded from the scope of part 1610, as set forth in § 1610.1(c). No certificate is required for apparel that is not subject to part 1610. Many fabrics are within the scope of part 1610, but are exempt from testing because they meet the standard based on construction and fabric weight, or fiber content, regardless of construction or fabric weight, as set forth in § 1610.1(d). A GCC is required for all apparel within the scope of the rule, regardless of whether the fabric is exempt from testing. Accordingly, many certificates might state that the fabric is in compliance with part 1610 because the fabric meets one of the testing exemptions specified in § 1610.1(d).

The American Apparel and Footwear Association (AAFA) estimates that there are 20 billion units of clothing sold annually. A representative of AAFA estimated that on average each SKU of clothing has only about 100 units. On the assumption that one SKU is a size and color combination of a particular item, and further based on a review of several catalogs, we estimate an average of about 30 SKUs per clothing item. Based on this assumption, we estimate that approximately 6.7 million apparel items must be certified annually. We further assume that 17.5 percent of the 6.7 million apparel items are intended for people 12 years of age or younger (based on their percentage of the general population). Thus, we estimate that about 5.5 million apparel items require GCCs.

Given that many clothing items are likely produced seasonally, and the total number of units of some apparel items is fairly low, we assume that only a few batches of many items will be certified each year. Many apparel items will be exempt from testing under part 1610 based on the exemptions in § 1610.1(d), and other apparel items will be certified based on testing, guaranties, or certificates from fabric suppliers. Therefore, we assume that the recordkeeping burden per apparel item might be as little as 15 minutes. If multiple certificates must be issued for some apparel items or models, perhaps because different colors or sizes are produced on different dates or at different locations, the estimate could be low.

Firms	Total models	Hours/Model	Total hours
(thousands)	5.5 million	0.25	1,375,000

17. Carpets and Rugs (16 CFR parts 1630 and 1631)

Carpets and rugs are subject to flammability requirements codified at 16 CFR parts 1630 and 1631. Parts 1630 and 1631 set forth testing and recordkeeping requirements, including a 3-year record retention period. However, the recordkeeping requirements apply to persons furnishing guaranties, not necessarily to manufacturers and private labelers. Although the existing OMB submission on these rules discusses the requirement to issue certificates, the burden estimate

[14] This estimate is rounded.

includes the burden associated with third party testing and certification of children's products only, and does not consider certification of general use carpets and rugs. Accordingly, here we provide an estimate for documenting a reasonable testing program and for creating the required GCC for non-children's carpets and rugs.

The existing PRA submission to OMB on carpets and rugs estimates that there are 120 firms subject to the information collection requirements, and that each of these firms is required to conduct between 0 and 200 tests per year. We use the midpoint of 100 tests per year per firm for the current burden estimate. The 2010 County Business Patterns report from the Census Bureau shows that there are close to 240 carpet and rug mills. The lower estimate in the PRA submission is based on an assumption that only half of the firms would either issue guaranties or certify children's products. We estimate that the time to create the certificate and the records of the tests on which it is based is about 1.5 hours per style. The time to conduct the tests is not included in this estimate.

On the assumption that GCCs for non-children's products could simply replace guaranties, one could use most of the assumption in the existing PRA submission, but assume that all firms will have to conduct testing and issue GCCs. Thus, there would be approximately 240 firms conducting about 100 tests annually. However, these estimates are only for domestic manufacturers. If there are a significant number of carpets and rugs that are imported, these estimates are low.

Firms	Total styles	Hours/Style	Total hours
240	24,000	1.5	36,000

18. Mattresses (16 CFR parts 1632 and 1633)

Mattresses are subject to two flammability standards: (1) a smoldering ignition resistance standard codified at 16 CFR part 1632, and (2) an open-flame ignition resistance standard codified at 16 CFR part 1633. Parts 1632 and 1633 have comprehensive testing and recordkeeping requirements, including a 3 year minimum record retention requirement. Part 1633 has an on-product certificate requirement. The Commission previously provided a burden estimate for the recordkeeping requirements in parts 1632 and 1633 to OMB. Accordingly, here we only estimate the burden of creating the GCC required by section 14(g) of the CPSA and the 1110 rule.

The burden for all recordkeeping in these two rules except the generation of a GCC has already been included in the previous PRA submission to OMB. Because the only additional burden is to generate a GCC, we estimate this task to take 15 minutes per mattress. Estimates of the number of manufacturers and models are taken from the existing PRA submission for parts 1632 and 1633.

Firms	Total models	Hours/Model	Total hours
671	13,420	0.25	3,355

19. Poison Prevention Packaging Act (16 CFR part 1700)

The Commission enforces the Poison Prevention Packaging Act (PPPA), which requires special packaging for some hazardous products to reduce the risk of children under 5 years of age from accidently coming into contact with, or ingesting the product, but still allows seniors the ability to access their medication. The Commission has promulgated 32 regulations that require a wide variety of products to be in special packaging. Products requiring special packaging include: All oral prescription drugs, oral prescription drugs that have been switched from requiring a prescription to being available for sale over-the-counter (OTC), many types of OTC drug products and preparations, some personal care products (including baby oil and many mouthwashes), and some hazardous household products (including many drain openers, furniture polishes, kindling and illuminating preparations, methanol, and kerosene). The full list of substances that require special packaging is codified at 16 CFR 1700.14.

The finished product certifier that must issue a GCC is the importer or the domestic party that packages a PPPA regulated substance in special packaging. Each distinct product subject to the PPPA must be covered by a GCC. For example, if a company sells a regulated OTC drug in four different types of special packaging, the company might require four different GCCs to cover each package type. A GCC is required for each type of child-resistant packaging.

We do not have a comprehensive database of all products, by all manufacturers (including but not limited to product manufacturers, packagers, package manufactures, and contract repackagers), that require special packaging. However, based on knowledge we have gained through various actions over the years concerning affected markets, we believe there could be more than 1,000 companies that might be responsible for issuing a GCC for covered products. The number of products that require GCCs may be between 100,000 and 200,000. This includes different packages of the same brand of a product packaged by one company.

The child resistance and senior use effectiveness of each special package type must be established by testing with panels of children and adults according to the protocols codified at 16 CFR § 1700.20. We estimate that the record keeping burden associated with the testing is about 20 hours per package type based on the burden estimate used for the cigarette lighter standard.[15]

One package might be used for many different products. Therefore, the recordkeeping burden could be spread over many different final products. A regulatory summary of the PPPA on the CPSC's Web site that was prepared by Commission staff states:

> The importer or the domestic party that packages a PPPA regulated substance in special packaging must issue the general conformity certificate. The child resistance and senior friendly testing data (also known as protocol data) obtained in accordance with the procedures described under 16 CFR 1700.20 may be used by the importer or domestic packager to support its certification. The packager can rely upon this data as the basis for the reasonable testing program.

[15] This estimate could be low because the cigarette lighter standard does not include an adult use effectiveness protocol. The total time to conduct the tests would exceed 90 hours per package type.

There is no expiration date on these tests and no requirement to retest so long as the tests adequately reflect the current packaging used.

http://www.cpsc.gov/en/Regulations-Laws—Standards/Statutes/Poison-Prevention-Packaging-Act/. This means that a manufacturer of a PPPA-regulated product can rely on test data provided by the package manufacturer. Finished product certifiers that rely on another party's testing or certification to issue a finished product certificate must follow the Component Part Rule, 16 CFR part 1109.

Furthermore, each package does not have to be retested at regular intervals. Testing will generally occur only when a change is made to an existing package that could affect its compliance or a new package is introduced. Sometimes the manufacturer or packager of the final product (*i.e.,* the drug or household substance) will conduct its own compliance testing to ensure that its products meet the requirements of the PPPA. Likewise, the GCCs might not need to be revised or reissued at regular intervals. Manufacturers of a product regulated under the PPPA may be able to rely upon the same GCC for a product until it changes the package or the certification or testing of the package changes.

We do not have concrete data regarding the average number of products for which a typical package is used; nor do we have concrete data on how frequently packages are retested, or how often manufacturers, importers, or private labelers of the final products will issue new GCCs. For purposes of this analysis, however, we are assuming that, on average, each different package is used for 100 different products. We are also assuming that, on average, each package is used for 4 years before it is retested because of a material change, the manufacturer has substituted a new package, or for any other reason. We assume further that the manufacturers, importers, or private labelers of the final products, on average, only issue new GCCs for a product once every 4 years.

As noted above, the recordkeeping burden associated with the protocol testing of a package is about 20 hours. If each package is used for 100 different products, and the testing is conducted, on average, every 4 years, then the average recordkeeping burden of the testing is about 3 minutes annually, per final regulated consumer product (*e.g.,* drug or household product). We believe that it might take about 15 minutes to create and maintain the GCC for each consumer product regulated under the PPPA. If the GCC is created only once every 4 years for the average regulated product, then the annual recordkeeping burden for creating and maintaining the GCC will be about 4 minutes. Therefore, on average, the total recordkeeping burden per product regulated under the PPPA will be about 7 minutes. This includes the time required to create and maintain the records of the protocol testing of the packages and the time to create and maintain the GCC.

Firms	Total products	Minutes/product	Total hours
1,000	150,000	7	17,500

These estimates above are probably low, especially if the month and date of production must be included on the certificates. If so, at least one new certificate would have to be created each year that a product is in production, more if the product is in production more than 1 month per year. If so, the estimate above would be low, by at least a factor of 4.

20. Refrigerators (16 CFR part 1750)

Refrigerators are subject to the Refrigerator Safety Act. A standard to permit the opening of household refrigerator doors from the inside is codified at 16 CFR part 1750. Part 1750 contains a test procedure but does not contain specific recordkeeping or retention requirements. Regardless of the lack of specific recordkeeping requirements, it is likely that most manufacturers keep records demonstrating compliance with part 1750. Because of the lack of recordkeeping requirements in part 1750, we estimate the burden to record results of a reasonable testing program and to create a GCC.

According to the 2010 census, there are 19 manufacturers of household refrigerators and freezers. One major manufacturer had 120 different models of refrigerators listed on a major retailer's Web site, including similar models in different capacities. Assuming that each model requires testing and certification, there could be as many as 2,280 different models of refrigerators that need certification to the Refrigerator Safety Act. If the recordkeeping burden is about 1.5 hours, the total burden for the entire industry would be about 4,200 hours. The number of models estimated here could be high if some smaller manufacturers do not have as many individual models, or if the same component part is used on more than one model, and may be certified based on the same testing. The number of models estimated could be low if some refrigerator manufacturers are not domestic companies and are not listed as refrigerator manufacturers in the 2010 census.

Firms	Total models	Hours/model	Total hours
19	2,280	1.5	3,420

21. Candles with Metal Core Wicks (16 CFR 1500.17(a)(13))

Under the Federal Hazardous Substances Act (FHSA), candles with metal core wicks that contain lead content greater than 0.06 percent of the weight of the metal core are banned. (16 CFR 1500.17(a)(13)). The outer package or wrapper of candles and candle wicks subject to the ban, meaning candles with metal core wicks and metal-cored wicks sold separately, and shipping cartons, must be labeled ''Conforms to 16 CFR 1500.17(a)(13).'' When the regulation was initially proposed, the proposal contained requirements that would have obligated candle manufacturers and importers to test or maintain records of testing performed by the supplier of the metal cored wicks and to label each shipping container with a statement that the candles conformed to the regulation, including a means to identify the test results applicable to that shipment of candles. 67 FR 20062, 20069 (Apr. 24, 2002). Certification and recordkeeping were dropped from the final rule. 68 FR 19142 (Apr. 18, 2003). Accordingly, we have not submitted a burden analysis

for § 1500.17(a)(13) previously to OMB for review.

We estimate the recordkeeping burden associated with documenting test records and creating GCCs for metal-cored candle wicks to be 40 hours per firm, based on the analysis presented in the 2002 proposed rule on metal-cored candle wicks. The National Candle Association states that there are more than 400 commercial, religious, and institutional manufacturers of candles in the United States. The National Candle Association states that the major manufacturers have between 1,000 and 2,000 varieties of candles, which implies that the number of varieties offered by the smaller manufacturers would be less. In comments submitted in response to the proposed rule on metal-cored candle wicks, the National Candle Association estimated that between 10 to 20 percent of the market used metal-core wicks. If we assume that the average candle manufacturer has about 1,000 varieties (to allow for the fact that the non-major manufacturers would be expected to have fewer varieties than the major manufacturers) and that 15 percent of those have metal cores, then the average manufacturer would have approximately 150 varieties that would be subject to the regulation.

Firms	Total lines	Hours/firm	Total hours
400	60,000	40	16,000

The estimates above assume that all manufacturers of candles use metal wicks in some of their products. To the extent that some manufacturers do not use metal core wicks at all, these estimates could be high. On the other hand, the estimates do not include any importers of candles. To the extent that importers of candles use metal-core wicks, the estimates above would be low.

22. Ban of Unstable Refuse Bins (16 CFR part 1301)

The rule banning unstable refuse bins (16 CFR part 1301) applies to metal refuse bins having an internal volume of one cubic yard or greater, which are produced or distributed for the personal use of consumers for in or around a residence, school, in recreation, or otherwise. If such a bin will tip when tested according to the method described in the rule, it is banned. If it does not tip, it must be so certified, based upon a reasonable test program, or a test of each product. Although part 1301 contains test criteria, it does not contain specific recordkeeping provisions. Accordingly, CPSC has not previously submitted a burden estimate to OMB regarding part 1301. A very small subset of refuse bins are not subject to the rule. CPSC staff was unable to find any metal refuse bin that met the criteria for exclusion from part 1301.

In the course of an Internet search on February 8, 2013, we identified 19 suppliers of refuse bins and a total of 358 individual bin models that could be used for refuse collection or storage around a residence, such as an apartment building, or a school or recreation area. Refuse bins that appeared to be intended for industrial or nonresidential use, based on CPSC staff's judgment, were not included. However, many refuse bins may have both consumer and industrial use. Thus, it is possible that some of the suppliers included within this count do not sell refuse bins for consumer use. Moreover, we may not have discovered all suppliers during the Internet search.

The test method in part 1301 is fairly straightforward. We estimate that the recordkeeping for documenting test results and creating a GCC will take an average of 30 minutes per model refuse bin.

Firms	Total models	Hours/model	Total hours
19	358	0.5	179

23. Ban of Lawn Darts (16 CFR part 1306)

Here, we estimate the burden to document testing and to create a GCC for the ban on general use lawn darts in 16 CFR part 1306. We do not estimate the burden for lawn darts intended for children, which are banned by 16 CFR 1500.18. Recordkeeping related to the creation of certificates for children's products is covered in the Testing Rule.

The purpose of part 1306 is to prohibit the sale of lawn darts that have been found to present an unreasonable risk of skull puncture injuries to children. The rule also states that ''any lawn dart is a banned hazardous product.'' For purposes of these estimates, we have counted as lawn darts, products that appear to be intended to be used in a similar manner as the banned lawn darts in that they consist of an elongated projectile that can be thrown toward a target on the ground and that contact the ground tip first. We have attempted to eliminate any product that appears to be primarily intended for children. Moreover, we have not included games such as horse shoes and ring toss. We estimate that the recordkeeping burden for recording test results and creating a GCC is about 1.5 hours per product.

A search of several large Internet retailers on February 13, 2013, turned up six products by six different manufacturers that could be considered to be lawn darts; although none of the products appeared to have sharp tips designed to stick into the ground. Other similar products may be available that were not discovered during this Internet search. The actual number of lawn dart products available could be higher if some of the available products were not found during the Internet search. The number of products could be lower if some products that were found are intended for children 12 years of age and younger.[16]

[16] One product was found that was obviously intended for children under the age of 13 years and is not included in these estimates.

Firms	Total models	Hours/model	Total hours
6	6	1.5	9

24. Ban of Artificial Emberizing Materials Containing Asbestos (16 CFR part 1305)

Artificial emberizing materials are used in decorative gas fireplace systems to simulate the ashes and embers in wood-burning fireplaces. The use of respirable, free-form asbestos in these products is banned by 16 CFR part 1305. Not banned are emberizing materials that consist of other materials, such as vermiculite, rock wool, mica, or synthetic fibers. The emberizing materials that are not banned must be certified as not containing respirable, free-form asbestos, based on a test of each product or on a reasonable testing program. We estimate that the recordkeeping burden for recording test results and creating GCCs is about 1.5 hours per product per year.

Included in these estimates are any materials that are intended for use with fireplace logs to simulate ashes or embers. An Internet search on November 14, 2013, identified a total of 56 different products, by 14 different suppliers, that could be used to simulate ashes or embers in non-working fireplaces. Because there are likely many products that were not identified during this search, this is probably a low estimate.

Firms	Total models	Hours/model	Total hours
14	56	1.5	84

25. Ban of Patching Compounds Containing Respirable Free-Form Asbestos (16 CFR part 1304)

Part 1304 bans any patching compounds to which asbestos has been added deliberately as an ingredient or contained in the final product as the result of knowingly using a raw material containing asbestos. ''Patching compounds'' are described as being mixtures of talc, pigments, clays, casein, ground marble, mica, or other similar materials, and a binding material. Patching compounds are used to cover, seal, or mask cracks, joints, holes, and similar openings in the trim, walls, and ceilings of building interiors. They are applied in a wet form, and after drying, are sanded to a smooth finish. They are commonly referred to as ''spackling,'' ''joint compounds,'' and ''mud.'' In the past, asbestos was sometimes used as the binding material.

Part 1304 does not contain a test method. However, all certifiers of patching compounds intended for consumer use must certify that asbestos has not been added intentionally as an ingredient, and that the final product does not contain asbestos as the result of knowingly using a raw material containing asbestos. We estimate that the recordkeeping burden to create GCCs will be at least 15 minutes per product annually.

A total of 148 patching compounds by about 35 different manufacturers were found during an Internet search on February 21, 2013. If we failed to identify all patching compounds available, 148 products would be a low estimate of the total number of patching compounds available. Assuming that the time required preparing a GCC for each product averaged 15 minutes per year, the total recordkeeping burden would be about 37 hours.

Firms	Total models	Hours/model	Total hours
35	148	0.25	37

B. Furnishing Certificates to Third Parties

Section 14(g)(3) of the CPSA, as amended by the CPSIA, requires that every certificate required in section 14(a) of the CPSA ''accompany the applicable product or shipment of products covered by the same certificate'' and that ''a copy of the certificate . . . be furnished to each distributor or retailer of the product.'' Moreover, manufacturers and private labelers must furnish a copy of the certificate to the Commission upon request.

The draft proposed rule continues to allow manufacturers, importers, and private labelers flexibility in how to provide certificates to retailers or distributors, and to the CPSC. Section 1110.9 provides that, except for the certificate that is required to be filed with CBP for imported products in § 1110.13(a)(1), certificates may be provided in hard copy or electronically. Electronic certificates are acceptable if they are identified ''prominently on the finished product, shipping carton, or invoice by a unique identifier, and they can be accessed via'' the Internet or other electronic means. The draft proposed rule further states that an electronic certificate must be available, without password protection, on or before the date the finished product is distributed in commerce. In practice, ''hard copy'' certificates are usually in the form of a paper certificate that physically accompanies each shipment by being placed in a shipping container. Certifiers using electronic certificates often place a Web address to access the certificate on the product, shipping carton, or invoice.

We do not have a strong basis for estimating the average third party reporting burden per product because the requirement to disclose certificates applies to a very diverse group of consumer products and manufacturers. Moreover, the reporting burden is most likely related to the number of shipments of the product from the manufacturers, importers, or private labelers to the distributors or retailers, which is information that is not available. For purposes of preparing this initial estimate of the third party reporting burden, we are estimating that the burden is 15 minutes per product, per year to place a paper copy of the certificate in the shipping carton, or provide a Web address for certificates on the product, carton, or invoice, and to maintain the Web site. We welcome comments on the accuracy of this estimate.

1. Non-children's Products

As summarized in Table B–1, we estimate that there are about 6 million [17] non-children's products for which GCCs are required. Thus, we estimate the total burden hours for third party disclosure of GCCs to be 1.5 million hours (6,000,000 models × .25 hours = 1.5 million burden hours). We are estimating that the cost per hour of the recordkeeping and reporting burden is $37.34 [18] an hour, which represents a mixture of professional and administrative staff labor. Accordingly, the estimated cost of third party disclosures for GCCs is $56,010,000 (1,500,000 burden hours × $37.34 per hour = $56,010,000).

2. Children's Products

The collection of information on Third Party Testing of Children's Products currently does not include an estimate for third party disclosure of CPCs to retailers, distributors, or the CPSC. In that collection, we estimated that there were a total of 1.6 million children's products for which CPCs would be required. The number of children's products includes 1.3 million apparel and footwear products and 0.3 million non-apparel products. If the burden of providing a CPC to retailers, distributors, and the CPSC is an estimated 15 minutes per product, per year, then the total burden would be approximately 400,000 hours (1.6 million models × 0.25 hours = 400,000). We propose to amend the collection of information on Third Party Testing of Children's Products to increase the burden hours by 400,000 to account for third party disclosures of CPCs. The estimated cost of third party disclosure of CPCs is $14,936,000 (400,000 burden hours × $37.34 per hour = $14,936,000).

C. Filing Certificates for Imported Products With CBP

Section 14(g)(4) of the CPSA provides that the Commission, by rule, in consultation with CBP, may provide for electronic filing of certificates for imported products up to 24 hours before arrival of the imported product. The draft proposed rule would require that importers of regulated finished products file the required GCC or CPC electronically with CBP at the time of filing the CBP entry or the time of filing the entry and the entry summary, if both are filed together. The rule does not specify the electronic format for certificates filed with CBP, but we anticipate that importers will be able to file the certificate information in the form of data elements or by filing the certificate in a PDF format through CBP's system of records. The increased time required to file certificates electronically with CBP would be attributable to associating the proper certificates to individual shipments for import, converting certificates to an electronic format, and transmitting the certificates to CBP (or to a customs broker, if the importer does not self-file).

1. Non-children's Products

The initial regulatory flexibility analysis for this draft proposed rule cites research of CBP data by CPSC staff, which found that during 2009, there were 231,094 distinct importers of products categorized in import codes likely to include products under the CPSC's jurisdiction.[19] Data on the number of importers of children's versus non-children's products is not publicly available. However, based on inspection of product trade codes, we know that the number of distinct products or models requiring GCCs exceeds the number of children's product models requiring CPCs.[20] Thus, there might be on the order of 100,000 importers of children's products and 150,000 importers of non-children's products.

If 150,000 firms import products subject to electronic filing of GCCs, and these firms average 20 shipments with products requiring certificates, the annual number of electronic filings of GCCs with CBP could total 3 million.[21] According to a customs broker contacted by the Directorate for Economic Analysis, all importers might average about three product lines per Customs entry. If electronic filing requires an average of 30 minutes per shipment, the estimated annual incremental burden would be about $56 million, using an estimated average employee compensation cost of $37.34 per hour (3 million electronic filings × 0.5 hours per filing × $37.34 per hour).[22]

2. Children's Products

Research of CBP data by CPSC staff found that during 2009, there were 231,094 distinct importers of products categorized in import codes likely to include products under the CPSC's jurisdiction. Data on the number of importers of children's versus non-children's products is not publicly available. However, as stated above for non-children's products, we know that the number of children's products requiring certificates of conformance is substantially lower than the number of non-children's products requiring general certificates of conformance. Thus, we assume 100,000 importers of children's products in this analysis.

CBP estimated that ''in 2005 more than 70 to 85 percent of all importers imported fewer than 12 shipments.'' [23] Based on this information, if 100,000 firms import children's products annually that are subject to electronic filing of certificates, and these firms average 10 shipments a year, the annual number of electronic filings of CPCs with CBP could total 1 million. According to a customs broker contacted by the Directorate for Economic Analysis, all importers might average about three product lines per Customs entry. If electronic filing requires an average of 30 minutes per shipment, total incremental costs of recordkeeping for the Testing Rule would be about $18.7 million (1 million

[17] This estimate is rounded.

[18] The hourly compensation rate used is based on the hourly compensation rate used for estimating the recordkeeping burden in the 1107 and 1109 rules, which relate to the testing and certification of children's products and component part testing. In order to recognize that both clerical and professional staff could be involved in recordkeeping, we assumed that personnel in ''management, professional, and related occupations'' would be responsible for half of the activities involving the recordkeeping and that personnel in ''office and administrative support'' occupations would be responsible for the other half. We assume that the same occupational mix of employees will also be involved in performing the tasks necessary to file certificates electronically with CBP (as required by the proposed amendments to part 1110). As of June 2012 total compensation (*i.e.* wages and benefits) for these occupational categories averaged $37.34 per hour.

[19] Blachere, John, International Trade Specialist, Office of Import Surveillance, CPSC. December 8, 2010, email to Charles Smith, Directorate for Economic Analysis, CPSC.

[20] A large percentage of these firms (such as importers of adult clothing) also would be included in the estimate of importers of products requiring CPCs.

[21] In the paperwork burden analysis for 16 CFR Part 1110, we found that there are about 3.75 products requiring GCCs for every product requiring a CPC. The estimate of 20 shipments per importer was used to generally maintain this relationship between GCCs and CPCs. *See* Robert Franklin, Directorate for Economic Analysis, CPSC. Recordkeeping Burden Associated with Direct Final Rule for 16 CFR Part 1110 Issued in November 2008 (March 14, 2013).

[22] In the paperwork burden analysis for 16 CFR Part 1110, third party disclosure was estimated to require about 15 minutes per product. In this case, it is reasonable for this estimate to reflect efficiency in filing multiple electronic certificates simultaneously and with other paperwork required for entry. For this reason, we use an estimate of 10 minutes per product rather than 15 minutes per product. *Id.*

[23] Department of Homeland Security, Bureau of Customs and Border Protection, Importer Security Filing and Additional Carrier Requirements, Interim final rule. **Federal Register**, Vol. 73, No. 228, November 25, 2008, p. 11765. Retrieved from *http://www.gpo.gov/fdsys/pkg/FR–2008–11–25/pdf/E8–27048.pdf.*

electronic filings × 0.5 hours per filing × $37.34 per hour).[24]

These costs would be in addition to the estimated recordkeeping costs already described in the collection of information on Third Party Testing of Children's Products as well as the increased burden described for third party disclosures to retailers, distributors, and the CPSC. Total estimated incremental costs for disclosing CPCs to third parties is summarized in Table C–1.

D. Maintaining GCCs and Test Records

Proposed § 1110.17 would require that GCCs for non-children's products and supporting test records be maintained for at least 5 years. Certifiers may maintain the required records on paper or electronically, because the proposed rule would not require any particular medium for records. Storing records electronically is the less expensive option and consequently, we assume for purposes of this analysis that certifiers will choose this option most frequently. However, some certifiers may choose to store paper records, so we also include an estimate of the burden for storing paper records. For purposes of this analysis, we will assume that 90 percent of the required records will be maintained electronically, and 10 percent will be stored as paper records.

1. Estimated Cost of Storing Required Records on Paper

Once a paper record is created and is no longer required for ongoing reporting or disclosure purposes, the record will be likely archived in a warehouse. We reviewed rental prices for a 5′ × 5′ warehouse space in two parts of the country. We chose the 5′ × 5′ warehouse space because it was generally the smallest unit available and could be appropriate for a small to medium size company. A large company might require more space but probably could obtain a larger warehouse space at a lower cost per square foot. The low price was $41/month and the high price was $80/month, for an estimated average cost to rent a warehouse of about $60.50 per month. Therefore, the estimated average price of warehouse space for 1 year would be $726 ($60.50 × 12 months).

Records are often stored in standard 10″ × 12″ × 15″ archive boxes, which can be obtained for about $3.00 each. Our calculations show that it would be possible to get about 80 of these boxes into a 5′ × 5′ warehouse space and leave sufficient aisles so that each box could be easily accessed if needed. Therefore, the estimated cost of storing one box in a warehouse for 1 year would be $12.08 ($726 divided by 80 boxes = 9.08, plus $3 for the cost of the box).

We assume for this analysis that a GCC for a product and supporting test records require an average of 10 pages. Accordingly, each archive box should be able to hold required records for about 375 products. We estimate that there are 6 million distinct non-children's product varieties that require certification annually (*see* Table B–1). If all GCCs were stored on paper, assuming 6 million GCCs and supporting test records would need be to be stored annually, a total of about 16,000 archive boxes would be needed each year (6 million products divided by 375 records per box). For purposes of this analysis, however, we assume that only 10 percent of the 6 million distinct non-children's product varieties will maintain records on paper, or an estimated 600,000 products, requiring 1,600 archive boxes (600,000 products divided by 375 product records per box). The estimated cost of storing one archive box for a year is $12.08, which includes the cost of the warehouse space ($9.08) and the cost of the box ($3.00). Accordingly, the estimated cost of storing 1,600 boxes of records for a year is $19,320 (1,600 boxes × $12.08 per box). On the assumption that at any one time, the records associated with 5 years of production or shipments must be maintained, the estimated annual cost of storage for 5 years' worth of records per product is $96,640 (1,600 boxes × 5 years × $12.08 per box).

In addition to the cost of storing records, labor or other personnel costs would be incurred to manage the required records stored on paper. Managing records would include the labor time required to box up the records for the current year's production or shipments, label the boxes, move the boxes to the warehouse, and dispose of records that are more than 5 years old. We estimate that about 20 minutes will be required to box, label, and place into storage the estimated 1,600 boxes containing records for the current year's production or shipments, and about 10 minutes per box to dispose of the estimated 1,600 boxes containing records more than 5 years old, or 800 hours per year in total. We assume that this work will be done mostly by office or administrative workers. In December 2012, the total compensation for sales and office workers in private industry was $27.12 per hour.[25] Therefore, the estimated total labor cost per year involved in managing required records that are stored on paper would be about $21,696 (800 hours × $27.12).

Based on the above analysis, assuming that 10 percent of the estimated 6 million distinct non-children's product varieties that require certification annually are stored in paper format, the estimated total cost would be $118,336. This estimate includes the cost of warehouse space and the archive boxes ($96,640), and the labor required to manage and transport the records ($21,696).

2. Estimated Cost of Storing Required Records Electronically

Storing records electronically is much less expensive than storing records in paper format. A 1 terabyte (*i.e.* 1 million megabytes) hard drive can be purchased for about $100, so the cost per megabyte for electronic storage is about $0.0001 or about one-hundredth of one cent. If the required records (GCC and supporting test records) for each product was about 1 megabyte, then the estimated total cost of electronically storing the records for 90 percent of the estimated 6 million distinct non-children's product varieties that require certification annually, or 5,400,000 products, would be $540 annually ($0.0001 × 5,400,000 products). Little, if any, additional labor would be required to manage required records stored in an electronic format. Therefore, the total cost of storing the required records electronically is $540, which is essentially limited to the cost of the space on a hard drive.

The estimated total cost of retaining GCCs and supporting test reports for the estimated 6 million distinct non-children's product varieties that require certification for 5 years, assuming that 90 percent of the records are stored electronically and 10 percent of the records are stored on paper, is $18,876 annually. Of this, $118,336 is associated with storing 10 percent of the records on paper and $540 is associated with storing 90 percent of the records electronically.

[24] As with non-children's products, it is reasonable for this estimate to reflect efficiency in filing multiple electronic certificates simultaneously and with other paperwork required for entry. For this reason, we use an estimate of 10 minutes per product rather than 15 minutes per product.

[25] Bureau of Labor Statistics, ''Employer Costs for Employee Compensation, Table 9'' (March 2013). Available at *http://www.bls.gov/ncs.*

TABLE B–1—SUMMARY OF PRA BURDEN ESTIMATES BY RULE FOR NON-CHILDREN'S PRODUCTS THAT REQUIRE A GENERAL CONFORMITY CERTIFICATE (GCC) ATTRIBUTABLE TO EXISTING 16 CFR 1110 (NOVEMBER 2008) REQUIREMENTS

Product categories	Number of Mfrs.	Number of models*	Hours per model	Total estimated burden hours
Architectural Glazing Materials	400	2,400	1.5	3,600
Matchbooks	4	12	1.5	18
Bicycle Helmets	30	165	0.5	83
CB Band Base Station Antennas	5	15	0.5	8
Walk Behind Power Mowers	20	—	130	2,600
Swimming Pool Slides	—	120	1.5	180
Cellulose Insulation	44	—	60	2,640
Cigarette and Multipurpose Lighters	145	6,667	0.25	1,667
Garage Door Openers	21	84	0.5	42
Furniture (paint)	—	125,000	0.5	62,500
Furniture (bunk beds)	—	600	1.5	900
Paints and Coatings	501	41,082	0.5	20,541
ATVs	32	132	1.5	198
Pools and Spas (VGB Act)	12	136	1.5	204
Fireworks Devices	44	115,000	1.0	115,000
Bicycles	150	1,900	1.5	2,850
Clothing and Apparel	1,000s	5,500,000	0.25	1,375,000
Carpets and Rugs	240	24,000	1.5	36,000
Mattresses	671	13,420	0.25	3,355
PPPA	1,000	150,000	0.12	17,500
Refrigerators	19	2,800	1.5	3,420
Candles w/Metal Core Wicks	400	60,000	40	16,000
Refuse Bins	19	358	0.50	179
Lawn Darts	6	6	1.5	9
Artificial Emberizing Materials	14	56	1.5	84
Patching Compounds	35	148	0.25	37
Burden Hours to Document Test Results and Create GCCs				1,664,615
Burden Hours for Third Party Disclosure of GCCs		6,000,000	0.25	1,500,000
Subtotal Burden Hours for GCCs				3,164,615
Estimated Cost: 3,164,615 Burden Hours × $37.34 per Burden Hour				$118,166,724

* Estimated number of distinct product varieties that require certification.

TABLE B–2—SUMMARY OF PRA BURDEN ESTIMATES FOR NON-CHILDREN'S PRODUCTS THAT REQUIRE A GENERAL CONFORMITY CERTIFICATE (GCC) ATTRIBUTABLE TO THE PROPOSED AMENDMENT TO EXISTING 16 CFR 1110 (MARCH 2013) REQUIREMENTS

Estimated Cost of Retaining GCCs and Supporting Test Records	$118,876
Estimated Average Cost of Filing GCCs for Imports with CBP	56,000,000
GCC Costs Attributable to the Proposed Amendments	56,118,876

TABLE C–1—SUMMARY OF PRA BURDEN ESTIMATES FOR THIRD PARTY DISCLOSURE OF CHILDREN'S PRODUCT CERTIFICATES (CPCS) ATTRIBUTABLE TO EXISTING 16 CFR 1107 (NOVEMBER 2011) REQUIREMENTS

Estimated Average Cost of Third Party Disclosure of CPCs	$14,936,000

TABLE C–2—PRA BURDEN ESTIMATES FOR CHILDREN'S PRODUCTS THAT REQUIRE A CPC TO BE FILED WITH CBP FOR IMPORT ATTRIBUTABLE TO THE PROPOSED AMENDMENT TO EXISTING 16 CFR 1110 (MARCH 2013) REQUIREMENTS

Estimated Average Cost of Filing CPCs for Imports with CBP	$18,700,000

VIII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of a final rule. 5 U.S.C. 553(d). The Commission proposes that any final rule based on this proposal would become effective 90 days after the final rule is published in the **Federal Register**. Certifiers should not require a lengthy period of time to come into compliance with a final rule because certificates are already required to be issued, and changes to the existing regulation are not extensive but merely clarifying expectations in light of new testing regulations. The most substantive amendment to the existing

part 1110 would require that in the case of finished products that are manufactured outside the United States and that are imported for consumption or warehousing, the importer must file the required GCC or CPC electronically with the CBP. Stakeholders should provide information and evidence if they believe that implementing such a requirement would require longer than 90 days from the issuance of a final rule.

List of Subjects in 16 CFR Part 1110

Business and industry, Certificate, Certification, Children, Component part certificate, Consumer protection, Imports, Labeling, Product testing and certification, Records, Record retention, Regulated products.

For the reasons stated in the preamble, the Commission proposes to revise16 CFR part 1110 to read as follows:

PART 1110—CERTIFICATES OF COMPLIANCE

Sec.

1110.1 What is the purpose and scope of this part?
1110.3 What definitions apply to this part?
1110.5 When are certificates required?
1110.7 Who must certify finished products?
1110.9 What form(s) may the certificate take?
1110.11 What must the certificate contain?
1110.13 When must certificates be made available?
1110.15 Who is responsible for the information in a certificate?
1110.17 What recordkeeping requirements apply to certificates?
1110.19 What requirements apply to component part certificates?

Authority: 15 U.S.C. 2063, Sec. 3, 102 Pub. L. 110–314, 122 Stat. 3016, 3017 (2008), Pub. L. 112–28 (2011).

§ 1110.1 What is the purpose and scope of this part?

(a) This part:

(1) Specifies the entities that must issue certificates for finished products in accordance with section 14(a) of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2063(a);

(2) Clarifies which provisions of this part apply to component part certificates;

(3) Specifies certificate content, form, and availability requirements that must be met to satisfy the requirements of section 14 of the CPSA; and

(4) Requires importers to file certificates electronically with CBP for imported finished products that are required to be certified.

(b) This part does not address issues related to type or frequency of testing necessary to support a certificate.

§ 1110.3 What definitions apply to this part?

(a) The definitions of section 3 of the CPSA and additional definitions in the Consumer Product Safety Improvement Act of 2008 (CPSIA), Pub. L. 110–314, apply to this part.

(b) Additionally, the following definitions apply for purposes of this part:

(1) *CBP* or *Customs* means United States Customs and Border Protection;

(2) *Certificate* or *certificate of compliance* means a certification that the finished products or component parts within the scope of the certificate comply with the consumer product safety rules under the CPSA, or similar rules, bans, standards, or regulations under any other law enforced by the Commission, as set forth on the certificate. ''Certificate'' and ''certificate of compliance'' generally refer to all three types of certificates: General Conformity Certificates, Children's Product Certificates, and component part certificates;

(3) *Certifier* means the party who issues a certificate of compliance;

(4) *Children's Product Certificate* (CPC) means a certificate of compliance for a finished product issued pursuant to section 14(a)(2) of the CPSA and part 1107 of this chapter;

(5) *Commission* or *CPSC* means the United States Consumer Product Safety Commission;

(6) *Component part* means a component part of a consumer product or other product or substance regulated by the Commission, as defined in § 1109.4(b) of this chapter, that is intended to be used in the manufacture or assembly of a finished product, and is not intended for sale to, or use by, consumers as a finished product;

(7) *Component part certificate* means a certificate of compliance for a component part of a consumer product, as defined in paragraph (b)(6) of this section;

(8) *Electronic certificate* means a set of information available in, and accessible by, electronic means that sets forth the information required by sections 14(a) and 14(g) of the CPSA, § 1110.11, and that meets all other certificate requirements set forth in this part;

(9) *Finished product* means a consumer product or other product or substance regulated by the Commission that is imported for consumption or warehousing or is distributed in commerce. Parts of consumer products, including replacement parts, that are imported for consumption or warehousing or are distributed in commerce that are packaged, sold, or held for sale to, or use by, consumers are considered finished products;

(10) *Finished product certificate* means a certificate of compliance for a finished product, as defined in paragraph (b)(9) of this section. There are two types of finished product certificates: Children's Product Certificates and General Conformity Certificates;

(11) *Finished product certifier* means a party who is required to issue a finished product certificate pursuant to § 1110.7;

(12) *General Conformity Certificate* (GCC) means a certificate of compliance for a finished product issued pursuant to section 14(a)(1) of the CPSA; and

(13) *Importer* means importer of record as defined under the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B));

(14) *Third party conformity assessment body* means a testing laboratory whose accreditation has been accepted by the CPSC to conduct certification testing on children's products.

§ 1110.5 When are certificates required?

Finished products subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, which are imported for consumption or warehousing or are distributed in commerce, must be accompanied by a GCC or a CPC, as applicable.

§ 1110.7 Who must certify finished products?

(a) *Imports.* Except as otherwise provided in a specific rule, ban, standard, or regulation, for a finished product manufactured outside of the United States that must be accompanied by a certificate, as set forth in § 1110.5, the importer must issue a certificate that meets the requirements of this part. However, if a finished product manufactured outside the United States is delivered directly to a consumer in the United States, such as products purchased through an Internet Web site, the foreign manufacturer must issue a certificate that meets the requirements of this part, unless the product bears a private label. The private labeler must issue a certificate that meets the requirements of this part for such products that bear a private label and are delivered directly to a consumer in the United States, unless the foreign manufacturer issues the certificate.

(b) *Domestic products.* Except as otherwise provided in a specific rule, ban, standard, or regulation, for a finished product manufactured in the United States that must be accompanied

by a certificate, as set forth in § 1110.5, the manufacturer must issue a certificate that meets the requirements of this part. However, if a finished product manufactured in the United States is privately labeled, the private labeler must issue a certificate that meets the requirements of this part, unless the manufacturer issues the certificate.

§ 1110.9 What form(s) may the certificate take?

(a) *Language.* Certificates must be in the English language and may also contain the same content in any other language.

(b) *Format.* Except as required in § 1110.13(a)(1), certificates may be provided in hard copy or electronically.

(c) *Electronic certificates.* An electronic certificate meets the requirements of §§ 1110.13(a)(2), 1110.13(a)(3), 1110.13(b), and 1110.13(c) if it is identified prominently on the finished product, shipping carton, or invoice by a unique identifier and can be accessed via a World Wide Web uniform resource locator (URL) or other electronic means, provided that the certificate, the URL or other electronic means, and the unique identifier are accessible, along with access to the electronic certificate itself, without password protection, to the Commission, CBP, distributors, and retailers, on or before the date the finished product is distributed in commerce.

§ 1110.11 What must the certificate contain?

(a) *Content requirements.* Each certificate must:

(1) Identify the component part(s) or finished product(s) covered by the certificate and state whether the certificate is for a finished product or a component part. A model, style, or other unique identifier of the product should be provided, if any, along with a description of the finished product or component part. Certifiers may also include an identifier, such as a universal product code (UPC), a global trade item number (GTIN), or other identifying code that may assist with product identification;

(2) State the date of initial certification of the finished product(s) or component part(s) to which the certificate refers;

(3) Identify the scope of finished product(s) or component part(s) for which the certificate applies, such as by a start date, start and end date, lot number, starting serial number or serial number range, or other means to identify the set of finished product(s) or component part(s) that are covered by the certificate;

(4) State each consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any law enforced by the Commission, to which the finished product(s) or component part(s) are being certified. Finished product certificates must identify separately all applicable rules, bans, standards, or regulations. Component part certificates must identify all rules, or parts of rules, bans, standards, or regulations for which the component part(s) are being certified;

(5) Identify the party certifying compliance of the finished product(s) or component part(s), including the party's name, electronic mail (email) address, full mailing address, including the street address, and telephone number;

(6) Identify and provide contact information (consisting, at a minimum, of the individual's name, email address, full mailing address, and telephone number) for the individual:

(i) Maintaining records of test results on which a GCC is based, and records described in §§ 1109.5(g) and (j) of this chapter (where applicable); or

(ii) Maintaining records of test results and other records on which a CPC is based, as required by § 1107.26, and § 1109.5(g) and (j) of this chapter (where applicable); or

(iii) Maintaining records of test results and other records on which a component part certificate is based, as required by § 1109.5(g) and (j) of this chapter;

(7) Provide the date (month and year, at a minimum) and place (including a street address, city, state or province, and country or administrative region) where the finished product(s) or component part(s) were manufactured, produced, or assembled;

(8) Provide the dates and places (including a street address, city, state or province, and country or administrative region) where the finished product(s) or component part(s) were tested for compliance with the rule(s), ban(s), standard(s), or regulation(s) cited in § 1110.11(a)(4);

(9) Identify all parties, including third party conformity assessment bodies, on whose testing the certificate depends, including name, email address, full mailing address, including the street address, and telephone number; and

(10) Include the following attestation:

I hereby certify that the finished product(s) or component part(s) covered by this certificate comply with the rules, bans, standards, and regulations stated herein, and that the information in this certificate is true and accurate to the best of my knowledge, information, and belief. I understand and acknowledge that it is a United States federal crime to knowingly and willfully make any materially false, fictitious, or fraudulent statements, representations, or omissions, on this certificate.

(b) *Electronic access to records.* In addition to identification of the custodian of records, as described in § 1110.11(a)(6), a certificate may include a World Wide Web URL, or other electronic means, which provides electronic access to the required records.

(c) *Statutory or regulatory testing exclusions:* If a certifier is claiming a statutory or regulatory testing exclusion to an applicable consumer product safety rule or similar rule, ban, standard, or regulation, in addition to listing all applicable rules, bans, standards, and regulations as required under § 1110.11(a)(4), a certifier shall list all applicable testing exclusions and include on the certificate the basis for the statutory or regulatory testing exclusion to such regulation, instead of providing the date and place where testing was conducted for that regulation in § 1110.11(a)(8).

(d) *Duplicative testing not required.* Although certificates must list each applicable rule, ban, standard, or regulation separately, finished product certifiers are not required to conduct duplicative third party testing for any rule that refers to, or incorporates fully, another applicable consumer product safety rule or similar rule, ban, standard, or regulation under any other law enforced by the Commission.

§ 1110.13 When must certificates be made available?

(a) *Accompanying certificates.* A certificate issued by a finished product certifier must accompany each finished product or finished product shipment required to be certified pursuant to § 1110.5 .

(1) In the case of finished products that are manufactured outside the United States and are imported for consumption or warehousing, the importer must file the required GCC or CPC electronically with the CBP at the time of filing the CBP entry or the time of filing the entry and entry summary, if both are filed together.

(2) In the case of finished products manufactured in the United States, certificates shall not be filed with CPSC. A finished product certifier, pursuant to § 1110.7(b), must make the required GCC or CPC available for inspection by the CPSC on or before the date the finished product is distributed in commerce.

(3) In the case of finished products that are manufactured outside the

United States and are imported for consumption or warehousing, that are delivered directly to a consumer in the United States, the foreign manufacturer or the private labeler, as set forth in § 1110.7(a), must either file the required GCC or CPC electronically with CBP as described in paragraph (a)(1) of this section, or make the certificate available for inspection by CPSC on or before the date the finished product is distributed in commerce, as described in paragraph (a)(2) of this section.

(b) *Furnishing certificates.* A finished product certifier must furnish a required GCC or CPC to each distributor or retailer of the finished product.

(c) *Availability.* Certifiers must make certificates available for inspection immediately upon request by CPSC or CBP.

§ 1110.15 Who is responsible for the information in a certificate?

Certifiers may have any entity maintain an electronic certificate platform and enter the requisite data. However, the certifier is responsible for the information in a certificate, including its validity, accuracy, completeness, and availability, as applicable.

§ 1110.17 What recordkeeping requirements apply to certificates?

For CPCs and component part certificates, certifiers must follow the recordkeeping provisions contained in §§ 1107.26, 1109.5(g), and 1109.5(j) of this chapter, as applicable. For GCCs, certifiers must maintain the certificate and supporting test records where required for at least 5 years.

§ 1110.19 What requirements apply to component part certificates?

Pursuant to part 1109 of this chapter, component part certificates are voluntary. Accordingly, component parts of consumer products, as defined in § 1110.3(b)(6), are not required to be accompanied by a certificate, and component part certificates are not required to be furnished to retailers and distributors, as described in § 1110.13(b). Component part certificates shall not be filed with CBP upon importation of component parts. Instead, certifiers of component parts must meet the requirements in part 1109 of this chapter, and component part certificates must also meet the form, content, and availability requirements described in §§ 1110.9, 1110.11, 1110.13(c), 1110.15, and 1110.17

Dated May 7, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–11164 Filed 5–10–13; 8:45 am]

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