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WHEN: Tuesday, June 11, 2013
9 a.m.–12:30 p.m.

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RESERVATIONS: (202) 741–6008

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2013–0413; Special Conditions No. 23–259–SC]

Special Conditions: Cessna Aircraft Company, Model J182T; Diesel Cycle Engine Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Cessna Aircraft Company (Cessna) Model J182T airplane. This airplane will have a novel or unusual design feature(s) associated with the installation of an aircraft diesel engine (ADE). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 8, 2013. We must receive your comments by June 17, 2013.

ADDRESSES: Send comments identified by docket number [FAA–2013–0413] using any of the following methods:

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

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Peter Rouse, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4135; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

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

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On April 2, 2012, Cessna applied for an amendment to Type Certificate No. 3A13 to include the new Model J182T with the Societe de Motorisation Aeronautiques (SMA) Engines, Inc. SR305–230E–C1 which is a four-stroke, air cooled, diesel cycle engine that uses turbine (jet) fuel. The Model No. J182T, which is a derivative of the T182 currently approved under Type Certificate No. 3A13, is an aluminum, four place, single engine airplane with a cantilever high wing, with the SMA SR305–230E–C1 diesel cycle engine and associated systems installed.

In anticipation of the reintroduction of diesel engine technology into the small airplane fleet, the FAA issued Policy Statement PS–ACE100–2002–004 on May 15, 2004, which identified areas of technological concern. Refer to this policy for a detailed summary of the FAA's development of diesel engine requirements.

The general areas of concern involving the application of a diesel cycle engine are:

- The power characteristics of the engine,
- the use of turbine fuel in an airplane class that is typically powered by gasoline fueled engines,
- the vibration characteristics, both normal and with an inoperative cylinder,
- anticipated use of an electronic engine control system,

• the appropriate limitations and indications for a diesel cycle engine, and

• the failure modes of a diesel cycle engine.

A historical record review of diesel engine use in aircraft and part 23 identified these concerns. The review identified specific regulatory areas requiring evaluation for applicability to diesel engine installations. These concerns are not considered universally applicable to all types of possible diesel engines and diesel engine installations. However, after reviewing the Cessna installation, the SMA engine type, the SMA engine requirements, and Policy Statement PS–ACE100–2002–004, the FAA proposes engine installation and fuel system special conditions. The SMA engine has a Full Authority Digital Engine Control (FADEC), which also requires special conditions. The FADEC special conditions will be issued in a separate notice.

Type Certification Basis

Under the provisions of § 21.101, Cessna must show that the J182T meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. 3A13 or the applicable regulations in effect on the date of application for the change to the model T182T. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' In addition, the J182T certification basis includes special conditions and equivalent levels of safety.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the J182T because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the J182T must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The J182T will incorporate the following novel or unusual design features:

The Installation of an ADE

Discussion

Several major concerns were identified in developing FAA policy. These include installing the diesel engine and noting its vibration levels under both normal operating conditions and when one cylinder is inoperative. The concerns also include accommodating turbine fuels in airplane systems that have generally evolved based on gasoline requirements, anticipated use of a FADEC to control the engine, and appropriate limitations and indications for a diesel engine powered airplane. The general concerns associated with the aircraft diesel engine installation are as follows:

Installation and Vibration Requirements

Fuel and Fuel System Related Requirements

Limitations and Indications

Installation and Vibration Requirements: These special conditions include requirements similar to the requirements of § 23.901(d)(1) for turbine engines. In addition to the requirements of § 23.901 applied to reciprocating engines, the applicant will be required to construct and arrange each diesel engine installation to result in vibration characteristics that do not exceed those established during the type certification of the engine. These vibration levels must not exceed vibration characteristics that a previously certificated airframe structure has been approved for, unless such vibration characteristics are shown to have no effect on safety or continued airworthiness. The engine installation must be shown to be free of whirl mode flutter and also any one cylinder inoperative flutter effects. The engine limit torque design requirements as specified in § 23.361 are also modified.

An additional requirement to consider vibration levels and/or effects of an inoperative cylinder was imposed. Also, a requirement to evaluate the engine design for the possibility of, or effect of, liberating high-energy engine fragments, in the event of a catastrophic engine failure, requirements was added.

Fuel and Fuel System Related Requirements: Due to the use of turbine fuel, this airplane must comply with the requirements in § 23.951(c). In addition, the fuel flow requirements of § 23.955(c) are modified to be reflective of the diesel engine operating characteristics.

Section 23.961 will be complied with using the turbine fuel requirements. These requirements will be substantiated by flight-testing as described in Advisory Circular (AC) 23–8B, Flight Test Guide for Certification of Part 23 Airplanes.

This special condition specifically requires testing to show compliance to § 23.961 and adds the possibility of testing non-aviation diesel fuels.

To ensure fuel system compatibility and reduce the possibility of misfueling, and discounting the first clause of § 23.973(f) referring to turbine engines, the applicant will comply with § 23.973(f).

Due to the use of turbine fuel, the applicant will comply with § 23.977(a)(2), and § 23.977(a)(1) will not apply. ''Turbine engines'' will be interpreted to mean ''aircraft diesel engine'' for this requirement. An additional requirement to consider the possibility of fuel freezing was imposed.

Due to the use of turbine fuel, the applicant will comply with § 23.1305(c)(8).

Due to the use of turbine fuel, the applicant must comply with § 23.1557(c)(1)(ii). Section 23.1557(c)(1)(ii) will not apply. ''Turbine engine'' is interpreted to mean ''aircraft diesel engine'' for this requirement.

Limitations and Indications

Section 23.1305 will apply, except that the critical engine parameters for this installation that will be displayed include:

(1) Power setting, in percentage, and

(2) Fuel temperature.

Due to the use of turbine fuel, the requirements for § 23.1521(d), as applicable to fuel designation for turbine engines, as well as compliance to § 23.1557(c)(1)(ii) will be in lieu of § 23.1557(c)(1)(i).

Applicability

As discussed above, these special conditions are applicable to the Model J182T. Should Cessna apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

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

approval of these features on the airplane.

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

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cessna Model J182T airplanes.

1. Engine torque (Provisions similar to § 23.361(b)(1) and (c)(3)):

a. For diesel engine installations, the engine mounts and supporting structure must be designed to withstand the following:

(1) A limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure.

(2) The effects of sudden engine stoppage may alternatively be mitigated to an acceptable level by utilization of isolators, dampers clutches, and similar provisions, so unacceptable load levels are not imposed on the previously certificated structure.

b. The limit engine torque to be considered under § 23.361(a) must be obtained by multiplying the mean torque by a factor of four for diesel cycle engines.

(1) If a factor of less than four is used, it must be shown that the limit torque imposed on the engine mount is consistent with the provisions of § 23.361(c). In other words, it must be shown that the use of the factors listed in § 23.361(c)(3) will result in limit torques on the mount that are equivalent to or less than those imposed by a conventional gasoline reciprocating engine.

2. Flutter—(Compliance with § 23.629 (e)(1) and (e)(2) requirements):

The flutter evaluation of the airplane done in accordance with § 23.629 must include —

(a) Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces, and

(b) Propeller, engine, engine mount and airplane structure stiffness and damping variations appropriate to the particular configuration, and

(c) The flutter investigation will include showing the airplane is free from flutter with one cylinder inoperative.

3. Powerplant—Installation (Provisions similar to § 23.901(d)(1) for turbine engines):

Considering the vibration characteristics of diesel engines, the applicant must comply with the following:

a. Each diesel engine installation must be constructed and arranged to result in vibration characteristics that—

(1) Do not exceed those established during the type certification of the engine; and

(2) Do not exceed vibration characteristics that a previously certificated airframe structure has been approved for—

(i) Unless such vibration characteristics are shown to have no effect on safety or continued airworthiness, or

(ii) Unless mitigated to an acceptable level by utilization of isolators, dampers clutches, and similar provisions, so that unacceptable vibration levels are not imposed on the previously certificated structure.

4. Powerplant—Fuel System—Fuel system with water saturated fuel (Compliance with § 23.951(c) requirements):

Considering the fuel types used by diesel engines, the applicant must comply with the following:

a. Each fuel system for a diesel engine must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80° F and having 0.75cc of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

b. Methods of compliance that are acceptable for turbine engine fuel systems requirements of § 23.951(c) are also considered acceptable for this requirement.

5. Powerplant—Fuel System—Fuel Flow (Compliance with § 23.955 requirements):

In place of § 23.955(c), the engine fuel system must provide at least 100 percent of the fuel flow required by the engine, or the fuel flow required to prevent engine damage, if that flow is greater than 100 percent. The fuel flow rate must be available to the engine under each intended operating condition and maneuver. The conditions may be simulated in a suitable mockup. This flow must be shown in the most adverse fuel feed condition with respect to altitudes, attitudes, and any other condition that is expected in operation.

6. Powerplant—Fuel System—Fuel system hot weather operation (Compliance with § 23.961 requirements):

In place of compliance with § 23.961, the applicant must comply with the following:

a. Each fuel system must be free from vapor lock when using fuel at its critical temperature, with respect to vapor formation, when operating the airplane in all critical operating and environmental conditions for which approval is requested. For turbine fuel, or for aircraft equipped with diesel cycle engines that use turbine or diesel type fuels, the initial temperature must be 110° F, −0°, +5° or the maximum outside air temperature for which approval is requested, whichever is more critical.

b. The fuel system must be in an operational configuration that will yield the most adverse, that is, conservative results.

c. To comply with this requirement, the applicant must use the turbine fuel requirements and must substantiate these by flight-testing, as described in Advisory Circular AC 23–8C, Flight Test Guide for Certification of Part 23 Airplanes.

7. Powerplant—Fuel system—Fuel tank filler connection (Compliance with § 23.973(f) requirements):

In place of compliance with § 23.973(e), the applicant must comply with the following:

For airplanes that operate on turbine or diesel type fuels, the inside diameter of the fuel filler opening must be no smaller than 2.95 inches.

8. Powerplant—Fuel system—Fuel tank outlet (Compliance with § 23.977(a)(2) requirements):

In place of compliance with § 23.977(a)(1), the applicant will comply with the following:

There must be a fuel strainer for the fuel tank outlet or for the booster pump. This strainer must, for diesel engine

powered airplanes, prevent the passage of any object that could restrict fuel flow or damage any fuel system component.

9. Equipment—General—Powerplant Instruments (Compliance with § 23.1305 and § 91.205 requirements):

In place of compliance with § 23.1305, the applicant will comply with the following:

Below are required powerplant instruments:

(a) A fuel quantity indicator for each fuel tank, installed in accordance with § 23.1337(b).

(b) An oil pressure indicator.

(c) An oil temperature indicator.

(d) An oil quantity measuring device for each oil tank which meets the requirements of § 23.1337(d).

(e) A tachometer indicating propeller speed.

(f) An indicating means for the fuel strainer or filter required by § 23.997 to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 23.997(d).

Alternately, no indicator is required if the engine can operate normally for a specified period with the fuel strainer exposed to the maximum fuel contamination as specified in MIL–5007D. Additionally, provisions for replacing the fuel filter at this specified period (or a shorter period) are included in the maintenance schedule for the engine installation.

(g) Power setting either in percentage power, or through the use of manifold pressure.

(h) Fuel temperature indicator.

(i) Fuel flow indicator (engine fuel consumption).

If percentage power is used in place of manifold pressure, compliance to § 91.205 will be accomplished with the following:

The diesel engine has no manifold pressure gauge as required by § 91.205, in its place, the engine instrumentation as installed is to be approved as equivalent. The Type Certification Data Sheet (TCDS) is to be modified to show power indication will be accepted to be equivalent to the manifold pressure indication.

10. Operating Limitations and Information—Powerplant limitations—Fuel grade or designation (Compliance with § 23.1521 requirements):

All engine parameters that have limits specified by the engine manufacturer for takeoff or continuous operation must be investigated to ensure they remain within those limits throughout the expected flight and ground envelopes (e.g. maximum and minimum fuel temperatures, ambient temperatures, as applicable, etc.). This is in addition to the existing requirements specified by § 23.1521(b) and (c). If any of those limits can be exceeded, there must be continuous indication to the flight crew of the status of that parameter with appropriate limitation markings.

Instead of compliance with § 23.1521(d), the applicant must comply with the following:

The minimum fuel designation (for diesel engines) must be established so it is not less than required for the operation of the engine within the limitations in paragraphs (b) and (c) of § 23.1521.

11. Markings and Placards—Miscellaneous markings and placards—Fuel, and oil, filler openings (Compliance with § 23.1557(c)(1)(ii) requirements):

Instead of compliance with § 23.1557(c)(1)(i), the applicant must comply with the following:

Fuel filler openings must be marked at or near the filler cover with—

For diesel engine-powered airplanes—

(a) The words ''Jet Fuel''; and

(b) The permissible fuel designations, or references to the Airplane Flight Manual (AFM) for permissible fuel designations.

(c) A warning placard or note that states the following or similar:

''Warning—this airplane is equipped with an aircraft diesel engine; service with approved fuels only.''

The colors of this warning placard should be black and white.

12. Powerplant—Fuel system—Fuel-Freezing:

If the fuel in the tanks cannot be shown to flow suitably under all possible temperature conditions, then fuel temperature limitations are required. These limitations will be considered as part of the essential operating parameters for the aircraft. Limitations will be determined as follows:

(a) The takeoff temperature limitation must be determined by testing or analysis to define the minimum fuel cold-soaked temperature that the airplane can operate on.

(b) The minimum operating temperature limitation must be determined by testing to define the minimum acceptable operating temperature after takeoff (with minimum takeoff temperature established in (1) above).

13. Powerplant Installation—Vibration levels:

Vibration levels throughout the engine operating range must be evaluated and:

(a) Vibration levels *imposed on the airframe* must be less than or equivalent to those of the gasoline engine; or

(b) Any vibration level higher than that imposed on the airframe by the replaced gasoline engine must be considered in the modification and the effects on the technical areas covered by the following paragraphs must be investigated:

14 CFR part 23, §§ 23.251; 23.613; 23.627; 23.629 (or CAR 3.159, as applicable to various models); 23.572; 23.573; 23.574 and 23.901.

Vibration levels imposed on the airframe can be mitigated to an acceptable level by utilization of isolators, damper clutches, and similar provisions so that unacceptable vibration levels are not imposed on the previously certificated structure.

14. Powerplant Installation—One cylinder inoperative:

Tests or analysis, or a combination of methods, must show that the airframe can withstand the shaking or vibratory forces imposed by the engine if a cylinder becomes inoperative. Diesel engines of conventional design typically have extremely high levels of vibration when a cylinder becomes inoperative. Data must be provided to the airframe installer/modifier so either appropriate design considerations or operating procedures, or both, can be developed to prevent airframe and propeller damage.

15. Powerplant Installation—High Energy Engine Fragments:

It may be possible for diesel engine cylinders (or portions thereof) to fail and physically separate from the engine at high velocity (due to the high internal pressures). This failure mode will be considered possible in engine designs with removable cylinders or other non-integral block designs. The following is required:

(a) It must be shown that the engine construction type (massive or integral block with non-removable cylinders) is inherently resistant to liberating high energy fragments in the event of a catastrophic engine failure; or

(b) It must be shown by the design of the engine, that engine cylinders, other engine components or portions thereof (fragments) cannot be shed or blown off of the engine in the event of a catastrophic engine failure; or

(c) It must be shown that all possible liberated engine parts or components do not have adequate energy to penetrate engine cowlings; or

(d) Assuming infinite fragment energy, and analyzing the trajectory of the probable fragments and components, any hazard due to liberated engine parts or components will be minimized and the possibility of crew injury is

eliminated. Minimization must be considered during initial design and not presented as an analysis after design completion.

Issued in Kansas City, Missouri, on May 8, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–11731 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0220; Directorate Identifier 2013–CE–002–AD; Amendment 39–17451; AD 2013–09–09]

RIN 2120–AA64

Airworthiness Directives; Slingsby Sailplanes Ltd. Sailplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all Slingsby Sailplanes Ltd. Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes equipped with aluminum alloy spar booms. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an incident of glue joint failure on a starboard wing caused by water entering the area of the airbrake box that resulted in delamination and corrosion in the area of the aluminum alloy spar booms and the wing attach fittings. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 20, 2013.

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

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 14, 1998 (63 FR 58624, November 2, 1998).

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

For service information identified in this AD, contact Slingsby Advanced Composites Ltd., Ings Lane, Kirkbymoorside, North Yorkshire, England YO62 6EZ; telephone: +44(0)1751 432474; Internet: None. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 6, 2013 (78 FR 14467), and proposed to supersede AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998).

Since we issued AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998), Slingsby Aviation Ltd. has revised the related service information to remove the 5-year repetitive ''cutout'' inspection and to add a repetitive annual inspection using an endoscope. The endoscope inspection method would be done using existing drain holes in the lower wing skin.

Using revised service information is mandatory within the United Kingdom airworthiness system. It is not necessary for the Civil Aviation Authority (CAA), which is the aviation authority for the United Kingdom, to issue an AD to mandate the use of new service information.

AD action is the only way the FAA can mandate the use of new service information; however, owners/operators may request approval from the FAA to use an alternative method of compliance (AMOC).

Several U.S. operators have complained that the repetitive 5-year ''cutout'' inspection in the wooden wing skin, currently required by AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998), was by default growing larger and larger with each inspection.

We have determined that the current 5-year repetitive ''cutout'' inspections will eventually weaken the wing structure and could result in an unsafe condition. We concur with the change to the annual endoscope inspection.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. John Wells, Michael Hoke, Chad Croix Wille, and one anonymous commenter support the NPRM (78 FR 14467, March 6, 2013).

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 14467, March 6, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 14467, March 6, 2013).

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about 40 work-hours per product to comply with the initial inspection requirement retained from AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998) in this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the initial inspection required in this AD on U.S. operators to be $34,000, or $3,400 per product.

We also estimate that it will take about 2 work-hours per product to comply with the new repetitive inspection requirement in this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the new repetitive inspection required in this AD on U.S. operators to be $1,700, or $170 per product.

We have no way of determining the number of repetitive inspections an owner/operator will incur over the life of the sailplane or the number of sailplanes that will need repairs.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (78 FR 14467, March 6, 2013), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–10863 (63 FR 58624, November 2, 1998), and adding the following new AD:

2013–09–09 Slingsby Sailplanes Ltd.: Amendment 39–17451; Docket No. FAA–2013–0220; Directorate Identifier 2013–CE–002–AD.

(a) Effective Date

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

(b) Affected ADs

This AD supersedes AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998).

(c) Applicability

This AD applies to Slingsby Sailplanes Ltd. Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes, all serial numbers, that are:

(1) Equipped with aluminum alloy spar booms; and

(2) certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 57: Wing.

(e) Reason

This AD was prompted by an incident of glue joint failure on a starboard wing caused by water entering the area of the airbrake box that resulted in delamination and corrosion in the area of the aluminum alloy spar booms and the wing attach fittings. The manufacturer has also issued revised service information that changes the repetitive inspection interval and method. We are issuing this AD to prevent failure of the spar assembly and adjoining structure, which could result in reduced controllability or complete loss of control.

(f) Actions and Compliance Retained From AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998)

Unless already done, do the following actions specified in paragraphs (f)(1) and (f)(2) of this AD:

(1) Within the next 6 calendar months after December 14, 1998 (the effective date retained from AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998)), inspect the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage following the **ACTION** section of Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue No. 2, dated October 7, 1997, or the **ACTION** section of Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue 3, dated August 21, 2000.

Note 1 to paragraph (f)(1) of this AD: Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue No. 2, dated October 7, 1997, and T.I. No. 109/T51, Issue 3, dated August 21, 2000, include guidance to determine whether an affected sailplane is equipped with aluminum alloy spar booms.

(2) If any corrosion or delamination damage is found during the inspection required by paragraph (f)(1) of this AD, before further flight, contact the manufacturer at the address specified in paragraph (j)(5) of this AD to obtain an FAA-approved repair scheme and incorporate the repair.

(g) New Actions and Compliance

Unless already done, do the following actions specified in paragraphs (g)(1) and (g)(2) of this AD:

(1) Within 5 years after the last inspection required by AD 98–22–15, Amendment 39–10863 (63 FR 58624, November 2, 1998) and repetitively thereafter at intervals not to exceed 12 months, using an endoscope, inspect the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage following paragraph 11 of the **ACTION** section of Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue 3, dated August 21, 2000.

(2) If any corrosion or delamination damage is found during any inspection required by paragraph (g)(1) of this AD, before further flight, contact the manufacturer at the address specified in paragraph (j)(5) of this AD to obtain an FAA-approved repair scheme and incorporate the repair.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any sailplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for

failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to Civil Aviation Authority (CAA) AD British AD 005–09–97, dated October 3, 1997, for related information.

(j) Material Incorporated by Reference

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

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

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

(i) Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue 3, dated August 21, 2000.

(ii) Reserved.

(4) The following service information was approved for IBR on December 14, 1998 (63 FR 58624, November 2, 1998).

(i) Slingsby Aviation Ltd. Technical Instruction T.I. No. 109/T51, Issue No. 2, dated October 7, 1997.

(ii) Reserved.

(5) For Slingsby Sailplanes Ltd. service information identified in this AD, contact Slingsby Advanced Composites Ltd., Ings Lane, Kirkbymoorside, North Yorkshire, England YO62 6EZ; telephone: +44(0)1751 432474; Internet: none.

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

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

Issued in Kansas City, Missouri, on April 30, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–10794 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0221; Directorate Identifier 2010–SW–082–AD; Amendment 39–17454; AD 2013–10–01]

RIN 2120–AA64

Airworthiness Directives; Spectrolab Nightsun XP Searchlight

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for a certain Spectrolab Nightsun XP Searchlight Assembly (searchlight) installed on, but not limited to Agusta S.p.A. (Agusta) Model AB139 and Model AW139 helicopters, Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters, and Eurocopter Deutschland GmbH (Eurocopter) Model EC135 and Model MBB–BK 117 C–2 helicopters. This AD requires, before further flight, inserting information into the Normal Procedures section of the Rotorcraft Flight Manual (RFM), a daily check of the searchlight, and at a specified time interval or if certain conditions are found, modifying any affected searchlight gimbal assembly. This AD was prompted by a report of a searchlight vibrating and an investigation that revealed that the gimbal azimuth top nut was loose. A loose nut, if not detected and corrected, could result in a gap between the rubber edging of the top shroud and the gimbal frame, leading to degradation of pointing accuracy and stability performance of the searchlight and excessive vibration. If the nut were to entirely disengage, the searchlight could disconnect partially or totally from the helicopter, resulting in damage to the helicopter and injury to persons on the ground. The actions of this AD are intended to ensure that the searchlight remains firmly attached to the helicopter.

DATES: This AD is effective June 20, 2013.

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

ADDRESSES: For service information identified in this AD, contact Spectrolab, Inc. ATTN: Saul Vargas, 12500 Gladstone Ave., Sylmar, CA 91342, telephone (818) 365–4611, fax (818) 361–5102, or on the internet at *http://www.spectrolab.com.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On March 8, 2012, at 77 FR 13993, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to certain Spectrolab Nightsun XP Searchlights. The NPRM proposed to require before further flight, inserting information into the Normal Procedures section of the RFM, a daily check of the searchlight, and at a specified time interval or if certain conditions are found, modifying any affected searchlight gimbal assembly. An owner/operator (pilot) holding at least a private pilot certificate may perform the visual check and must show compliance by updating the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1)–(4) and 91.417(a)(2)(v). This visual check is authorized because it requires no special tools and can be performed equally well by a pilot or mechanic; this authorization is an exception to our standard maintenance regulations. The proposed requirements were intended to ensure the searchlight remains firmly attached to the helicopter after a report that the searchlight was vibrating.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2010–

0237R2, dated December 14, 2010, to correct an unsafe condition for the Spectrolab Nightsun XP Searchlights installed on the following model helicopters: Agusta AB139 and AW139, Sikorsky S–92A, and Eurocopter MBB–BK 117 C2 and EC 135 series. EASA advises of a reported incident where vibration was associated with the Spectrolab Nightsun XP Searchlight, and states that an investigation revealed the Gimbal Azimuth Top Hex Nut was loose. EASA advises that this condition, if not detected and corrected, could lead to a gap between the rubber edging of the top shroud and the Gimbal frame, resulting in excessive vibration and degradation of pointing accuracy and stability performance. If the nut were to entirely disengage, the Searchlight/Gimbal could disconnect from the helicopter and remain attached solely by the internal cable harness or separate totally, resulting in damage to the helicopter or injury to persons on the ground.

Comments

After our NPRM (77 FR 13993, March 8, 2012) was published, we received comments from one commenter.

Request

One commenter requested that the NPRM (77 FR 13993, March 8, 2012) refer to the most recent amendment to Spectrolab's Nightsun XP Safety and Service Bulletin No. SL 0810–01, Amendment No. 3, dated September 27, 2010 (Spectrolab service bulletin). We disagree that this change is necessary, because that amendment does not affect the proposed AD's requirements.

The commenter also stated that the NPRM (77 FR 13993, March 8, 2012) refers to EASA AD No. 2010–0183, which had been superseded, and requested that our AD instead refer to the EASA AD revision, EASA AD No. 2010–0237R2, dated December 14, 2010. We agree. Our NPRM referred to EASA AD No. 2010–0237R2 in our Discussion and Additional Information sections.

Finally, the commenter requested that the NPRM (77 FR 13993, March 8, 2012) include a statement that, for Agusta aircraft, compliance with the Agusta Westland Bollettino Tecnico 139–231 would be terminating action for this AD. We disagree. The Agusta service bulletin recommends contacting or sending parts to Spectrolab to meet requirements. Our AD refers to a Spectrolab document to meet the requirements for terminating action. Adding compliance with the Agusta service bulletin as terminating action would be repetitive.

FAA's Determination

We have reviewed the relevant information, considered the comments received, and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The differences between this AD and the EASA AD are:

We require modifying and re-identifying the searchlight within 100 hours TIS, while the EASA AD imposes a calendar date for compliance.

The EASA AD requires contacting the design (change) approval holder if discrepancies are found during the inspection of the searchlight installation, and we do not require this action.

Related Service Information

Spectrolab has issued Nightsun XP Searchlight Safety and Service Bulletin No. SL 0810–01, Amendment No. 2, dated September 24, 2010 (SB), which describes a design change that incorporates two positive locking mechanisms: A torque value and safety wire applied to the nut. These locking mechanisms prevent the gimbal azimuth top nut from loosening and allowing the center shaft to rotate out. Spectrolab has also issued Nightsun XP Searchlight System Kit and Procedure to Incorporate EASA AD 2010–0183 Conformance, 034374 Revision NC, approved September 28, 2010 (Kit and Procedure). Once modified in accordance with the Kit and Procedure, the Nightsun XP gimbals are re-identified with a new nameplate and overlay from a P/N 033295–1 to 033295–3, or P/N 033295–2 to 033295–4.

EASA classified this modification as mandatory and issued EASA AD No. 2010–0237R2, dated December 14, 2010, to ensure the continued airworthiness of helicopters with the affected system installed.

Costs of Compliance

We estimate that this AD affects 6 helicopters of U.S. registry. We also estimate that it will take minimal time to insert the service bulletin into the RFM, and about 3 work hours per helicopter to modify the searchlight. At an average labor rate of $85 per work hour, this amounts to $255 per helicopter. Required parts will cost about $1,000 per helicopter. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,255 per helicopter, or $7,530 for the fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–10–01 Spectrolab Nightsun XP Searchlight: Amendment 39–17454; Docket No. FAA–2012–0221; Directorate Identifier 2010–SW–082–AD.

(a) Applicability

This AD applies to Spectrolab Nightsun XP Searchlight Assembly Systems with gimbal assembly part number (P/N) 033295–1 or 033295–2, installed on, but not limited to, Agusta S.p.A. Model AB139 and Model AW139 helicopters, Sikorsky Aircraft Corporation Model S–92A helicopters, and Eurocopter Deutschland GmbH Model EC135 and Model MBB–BK 117 C–2 helicopters, certificated in any category. The searchlight assembly system P/Ns and revision level using one of the two affected gimbal assembly P/Ns are listed in Table 1 to Paragraph (a) of this AD.

TABLE 1 TO PARAGRAPH (A)—AFFECTED SYSTEMS AND P/N

System P/N	Nomenclature	Affected revisions
033338	Nightsun XP Searchlight System	A through D.
033338–3	Nightsun XP Searchlight System	A through D.
033338–4	Nightsun XP Searchlight System	A through D.
033704	IFCO Nightsun XP Searchlight System	A through C.
033704–1	IFCO Nightsun XP Searchlight System	A through C.

(b) Unsafe Condition

This AD defines the unsafe condition as the Searchlight/Gimbal disconnecting from the helicopter and remaining attached solely by the internal cable harness, or separating totally. This condition could result in damage to the helicopter and injury to persons on the ground.

(c) Effective Date

This AD becomes effective June 20, 2013.

(d) Compliance

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

(e) Required Actions

(1) Before further flight, insert a copy of Nightsun XP Searchlight Safety and Service Bulletin No. SL 0810–01, Amendment No. 2, dated September 24, 2010, into the Normal Procedures section of the Rotorcraft Flight Manual.

(2) Before the first flight of each day, visually check the searchlight installation for a gap between the top shroud rubber edging, P/N 033381, and the side covers, P/N 033286, with slight pressure applied to either side of the searchlight. The edging must remain in physical contact with the side covers when slight pressure is applied to the searchlight.

(3) The actions required by paragraph (e)(2) of this AD may be performed by the owner/operator (pilot) holding at least a Private Pilot Certificate, and must be entered into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1)–(4) and 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(4) If the edging does not remain in physical contact with the side cover when slight pressure is applied to the searchlight in accordance with the requirements of paragraph (e)(2) of this AD, before further flight, with an affected Spectrolab Nightsun XP Searchlight assembly system installed, modify and re-identify the gimbal assembly in accordance with paragraph (e)(5) of this AD.

(5) Within 100 hours time-in-service, modify and re-identify the gimbal assembly in accordance with Nightsun XP Searchlight System Kit and Procedure to Incorporate EASA AD 2010–0183 Conformance, 034374 Revision NC, approved September 28, 2010, steps 1 through 13.

(6) Accomplishing paragraph (e)(5) of this AD is terminating action for the requirements of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

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

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2010–0237R2, dated December 14, 2010.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3340, Exterior lighting.

(i) Material Incorporated by Reference

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

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

(i) Nightsun XP Searchlight Safety and Service Bulletin No. SL 0810–01, Amendment No. 2, dated September 24, 2010.

(ii) Nightsun XP Searchlight System Kit and Procedure to Incorporate EASA AD 2010–0183 Conformance, 034374 Revision NC, dated September 28, 2010. The date of this document is identified only in the Change Record on page 2 of this service information.

(3) For Spectrolab Nightsun XP Searchlight service information identified in this AD, contact Spectrolab, Inc. ATTN: Saul Vargas, 12500 Gladstone Ave., Sylmar, CA 91342, telephone (818) 365–4611, fax (818) 361–5102, or on the internet at *http://www.spectrolab.com.*

(4) You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

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

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–11383 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0695; Directorate Identifier 2011–SW–031–AD; Amendment 39–17448; AD 2013–09–06]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for

Agusta S.p.A. (Agusta) Model A119 and AW119 MKII helicopters. The existing AD currently requires inspecting the pilot and copilot engine rotary variable differential transformer (RVDT) control box assemblies to determine if the control gear locking pin is in its proper position. Since we issued that AD, Agusta has developed a terminating action for this inspection. This AD requires the same actions as the existing AD as well as modifying the RVDT control box assemblies. The actions of this AD are intended to prevent failure of an RVDT control box assembly, loss of manual control of the engine throttle, and subsequent loss of control of the helicopter.

DATES: This AD is effective June 20, 2013.

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

ADDRESSES: For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, Attn: Giovanni Cecchelli; telephone 39 0331711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On July 3, 2012, at 77 FR 39444, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to supersede AD 2010–15–51 (75 FR 50863, August 18, 2010). The NPRM would apply to Agusta model A119 and AW119 MKII helicopters and proposed to require repetitively inspecting the pilot and co-pilot control box assemblies for the proper positioning of the locking pins, and if the locking pin is recessed or extended in excess of 2.0 millimeters from the face of the pin bore, or missing, replacing the control box assembly. Additionally, the NPRM proposed to require modifying the pilot and co-pilot control box assemblies to terminate the repetitive inspection requirements. The proposed requirements were intended to prevent failure of an RVDT control box assembly, loss of manual control of the engine throttle, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2011–0095–E, dated May 24, 2011, to permanently correct the unsafe condition addressed in AD 2010–15–51 (75 FR 50863, August 18, 2010) for the Agusta A119 and AW MKII helicopters. EASA advises that Agusta has developed a modification to the pilot and co-pilot control box assemblies that will ''remedy the problem and prevent recurrence.'' This EASA AD requires repetitive inspections of the affected pilot and co-pilot control box assemblies until a terminating action modification is made within 8 calendar months of the effective date of the EASA AD.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (77 FR 39444, July 3, 2012).

FAA's Determination

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

Related Service Information

We reviewed Agusta Alert Bollettino Tecnico (ABT) No. 119–39 Revision A, dated May 23, 2011 (ABT 119–39). The ABT 119–39 describes procedures for repetitively inspecting the pilot and co-pilot control box assemblies for correct positioning of the engine RVDT control gear locking pin and provides instructions on how to modify the pilot and co-pilot control box assemblies to terminate the repetitive inspections. EASA classified this ABT as mandatory and issued EAD No. 2011–0095–E, dated May 24, 2011, to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD will affect 49 helicopters of U.S. Registry. We estimate that operators will incur the following costs in order to comply with this AD. At an average labor rate of $85 per work hour, inspecting the two RVDT control box assemblies will require about 1.5 hours, for a cost per helicopter of about $128 and a cost to the U.S. fleet of about $6,272 per inspection cycle. Modification of the pilot and co-pilot RVDT control box assemblies will require about 8 hours, and required parts will cost about $8, for a total cost per helicopter of $688 and a cost to the U.S. fleet of $33,712.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–15–51, Amendment 39–16397 (75 FR 50863, August 18, 2010), and adding the following new AD:

2013–09–06 Agusta S.p.A.: Amendment 39–17448; Docket No. FAA–2012–0695; Directorate Identifier 2011–SW–031–AD.

(a) Applicability

This AD applies to Agusta Model A119 and AW119 MKII helicopters, with pilot control box assembly (control box), part number (P/N) 109–0010–81–103, and co-pilot control box, P/N 109–0010–81–107, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a rotary variable differential transformer (RVDT) locking pin, which could move out of position and result in loss of manual throttle control of the engine and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2010–15–51, Amendment 39–16397 (75 FR 50863, August 18, 2010).

(d) Effective Date

This AD becomes effective June 20, 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) Within 5 hours time-in-service (TIS), and thereafter at intervals not to exceed 50 hours TIS, remove the cover of the pilot and co-pilot RVDT control box assemblies and inspect the locking pins for proper position by following the Compliance Instructions, Parts I and II, paragraphs 2. through 4.1 for the pilot control box assembly and paragraphs 5. through 7.1 for the co-pilot control box assembly, of Agusta Bollettino Tecnico No. 119–39, Revision A, dated May 23, 2011.

(2) If during the inspection the locking pin is recessed or extended in excess of 2.0 millimeters from the face of the pin bore, or missing, before further flight, replace the RVDT control box with an airworthy RVDT control box that has been modified in accordance with paragraph (f)(3) of this AD.

(3) Within 8 months,

(i) Modify the pilot RVDT control box assembly, P/N 109–0010–81–103, by reference to Figures 1 through 7 and in accordance with the Compliance Instructions, Part III, paragraphs 5.1 through 5.16 of Agusta Bollettino Tecnico No. 119–39 Revision A, dated May 23, 2011; and

(ii) Modify the co-pilot RVDT control box assembly, P/N 109–0010–81–107, by reference to Figures 1 through 7 and in accordance with the Compliance Instructions, Part III, paragraphs 3.1 through 3.16 of Agusta Bollettino Tecnico No. 119–39, Revision A, dated May 23, 2011.

(4) Modifying the pilot and copilot RVDT control box assemblies in accordance with paragraph (f)(3) of this AD constitutes terminating action for the requirements of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@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.

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD 2011–0095–E, dated May 24, 2011.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6700: Rotors Flight Control.

(j) Material Incorporated by Reference

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

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

(i) Agusta Bollettino Tecnico No. 119–39 Revision A, dated May 23, 2011.

(ii) Reserved.

(3) For Agusta service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins*.

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

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

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

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–10903 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1109; Directorate Identifier 2011–NM–172–AD; Amendment 39–17455; AD 2013–10–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain The Boeing Company Model 757–200 and –200PF series airplanes. That AD currently requires modifying the nacelle strut and wing structure, and repairing any damage found during the modification. This new AD specifies a maximum compliance time limit that overrides the optional threshold formula results. This AD was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that

were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicated that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective. We are issuing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: This AD is effective June 20, 2013.

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

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of October 16, 2003 (68 FR 53496, September 11, 2003).

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of November 13, 2000 (65 FR 59703, October 6, 2000).

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003). That AD applies to the specified products. The NPRM published in the **Federal Register** on October 29, 2012 (77 FR 65506). That NPRM proposed to continue to require modifying the nacelle strut and wing structure, and repairing any damage found during the modification. That NPRM also proposed to specify a maximum compliance time limit that overrides the optional threshold formula results.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 65506, October 29, 2012) and the FAA's response to each comment.

Clarification Regarding the Installation of Winglets

Aviation Partners Boeing (APB) stated that it has reviewed the NPRM (77 FR 65506, October 29, 2012) and the ''Boeing Service Bulletin'' and has determined that the installation of winglets per Supplemental Type Certificate (STC) ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect them. APB also stated that it will provide supporting data to the FAA upon request.

We agree with the commenter's statement that the installation of winglets as specified in STC ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect accomplishment of the requirements of this AD, and an alternative method of compliance (AMOC) is not necessary for a ''change in product'' AMOC approval request. We have therefore added this provision in new paragraph (c)(2) of this AD.

Statement of Compliance With NPRM (77 FR 65506, October 29, 2012)

Nord Wind Airlines reported the status of compliance of its airplanes with the NPRM (77 FR 65506, October 29, 2012).

No request was submitted by Nord Wind Airlines. We have not changed this AD in regard to Nord Wind Airlines' comment.

Statement of Previous Compliance With NPRM (77 FR 65506, October 29, 2012)

FedEx stated that it has previously performed the prescribed inspections and terminating actions on its airplanes and that no further actions are necessary for it to be in compliance with the NPRM (77 FR 65506, October 29, 2012).

No request was submitted by FedEx. We have not changed this AD in regard to FedEx's comment.

Change Made to Restated Paragraph (h) of This AD

We have revised the wording in paragraph (h) of this AD to clarify the applicable service information to be used after the effective date of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 65506, October 29, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 65506, October 29, 2012).

Costs of Compliance

We estimate that this AD affects 278 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification [retained actions from AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003)].	800 work-hours × $85 per hour = $68,000.	$0	$68,000	$18,904,000

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), and adding the following new AD:

2013–10–02 The Boeing Company: Amendment 39–17455; Docket No. FAA–2012–1109; Directorate Identifier 2011–NM–172–AD.

(a) Effective Date

This AD is effective June 20, 2013.

(b) Affected ADs

This AD supersedes AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003).

(c) Applicability

(1) This AD applies to The Boeing Company Model 757–200 and –200PF series airplanes, certificated in any category, line numbers 1 through 735 inclusive, powered by Pratt & Whitney engines.

(2) Supplemental Type Certificate (STC) ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17. For all other AMOC requests, the operator must request approval for an AMOC in accordance with the provisions of paragraph (k) of this AD.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicated that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective. We are issuing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

(f) Compliance

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

(g) Retained Modification With New Service Information and Reduced Compliance Time

This paragraph restates the requirements of paragraph (a) of AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), with new service information and a reduced compliance time. Modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with Boeing Service Bulletin 757–54–0034, dated May 14, 1998; Boeing Service Bulletin 757–54–0034, Revision 1, dated October 11, 2001; or Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009; at the later of the times specified in paragraph (g)(1) or (g)(2) of this AD. As of the effective date of this AD, only Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009, may be used to accomplish the actions required by this paragraph.

(1) At the earlier of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Prior to the accumulation of 37,500 total flight cycles.

(ii) At the later of the times specified in paragraph (g)(1)(ii)(A) or (g)(1)(ii)(B) of this AD.

(A) Within 20 years since the date of manufacture.

(B) Within the compliance time calculated using the optional threshold formula described in Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009, or within 8 years after the effective date of this AD, whichever occurs first.

(2) Within 3,000 flight cycles after November 13, 2000 (the effective date of AD 2000–20–09, Amendment 39–11920 (65 FR 59703, October 6, 2000)).

(h) Retained Concurrent Requirements With New Service Information

This paragraph restates the requirements of paragraph (b) of AD 2003–18–05,

Amendment 39–13296 (68 FR 53496, September 11, 2003), with new service information. Except as provided by paragraph (j) of this AD: Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (g) of this AD, accomplish the actions specified in Boeing Service Bulletin 757–54–0027, Revision 1, dated October 27, 1994; and Boeing Service Bulletin 757–54–0036, dated May 14, 1998, or Boeing Service Bulletin 757–54–0036, Revision 1, dated July 31, 2006; as applicable; in accordance with those service bulletins. As of the effective date of this AD, use only Boeing Service Bulletin 757–54–0027, Revision 1, dated October 27, 1994; and Boeing Service Bulletin 757–54–0036, Revision 1, dated July 31, 2006; to accomplish the applicable requirements of this paragraph.

(i) Retained Repair With New Service Information

This paragraph restates the requirements of paragraph (c) of AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), with new service information. If any damage to airplane structure is found during the accomplishment of the modification required by paragraph (g) of this AD, and Boeing Service Bulletin 757–54–0034, dated May 14, 1998; Boeing Service Bulletin 757–54–0034, Revision 1, dated October 11, 2001; or Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009; specifies to contact Boeing for appropriate action: Before further flight, repair the damage using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Retained Modification With New Service Information

This paragraph restates the requirements of paragraph (d) of AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), with new service information. Modify the nacelle strut (including replacing the upper link with a new, improved part, and modifying the wire support bracket attached to the upper link), in accordance with Boeing Service Bulletin 757–54–0036, dated May 14, 1998; or Boeing Service Bulletin 757–54–0036, Revision 1, dated July 31, 2006; at the earlier of the times specified in paragraphs (j)(1) and (j)(2) of this AD. As of the effective date of this AD, use only Boeing Service Bulletin 757–54–0036, Revision 1, dated July 31, 2006, to accomplish the requirements of this paragraph.

(1) Prior to or concurrently with accomplishment of the modification of the nacelle strut and wing structure required by paragraph (g) of this AD.

(2) Prior to the accumulation of 27,000 total flight cycles (for Model 757–200 series airplanes) or 29,000 total flight cycles (for Model 757–200PF series airplanes), or within 2 years after October 16, 2003 (the effective date of AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003)), whichever is later.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously in accordance with AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), are approved as AMOCs for the corresponding provisions of this AD, except for AMOCs that approved a revised compliance time.

(l) Related Information

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

(m) Material Incorporated by Reference

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

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

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

(i) Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009.

(ii) Boeing Service Bulletin 757–54–0036, Revision 1, dated July 31, 2006.

(4) The following service information was approved for IBR on October 16, 2003 (68 FR 53496, September 11, 2003).

(i) Boeing Service Bulletin 757–54–0034, Revision 1, dated October 11, 2001.

(ii) Reserved.

(5) The following service information was approved for IBR on November 13, 2000 (65 FR 59703, October 6, 2000).

(i) Boeing Service Bulletin 757–54–0027, Revision 1, dated October 27, 1994.

(ii) Boeing Service Bulletin 757–54–0034, dated May 14, 1998.

(iii) Boeing Service Bulletin 757–54–0036, dated May 14, 1998.

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

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

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

Issued in Renton, Washington, on May 6, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–11387 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM12–3–000]

Revisions to Electric Quarterly Report Filing Process; Availability of Draft XML Schema

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notification of availability.

SUMMARY: The Federal Energy Regulatory Commission is making available on its Web site (*http://www.ferc.gov*), Extensible Mark-Up Language (XML) needed to make Electric Quarterly Report (EQR) filings with one of the new filing processes adopted in Order No. 770, in the Commission's Final Rule, 77 FR 71288 (November 30, 2012). Please refer to the **SUPPLEMENTARY INFORMATION** Section below for details.

DATES: The XML is now available at the links mentioned below.

FOR FURTHER INFORMATION CONTACT: Christina Switzer, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426, (202) 502–6379.

SUPPLEMENTARY INFORMATION: Take notice that the Federal Energy Regulatory Commission (Commission) is making available on its Web site the

Extensible Mark-Up Language (XML) needed to make Electric Quarterly Report (EQR) filings with one of the new filing processes adopted in Order No. 770.[1] The Commission is also posting CSV file samples. Order No. 770 revised the process for filing EQRs. Pursuant to Order No. 770, one of the new processes for filing allows EQRs to be filed using an XML file. The XML schema that is needed to file EQRs in this manner is now posted on the Commission's Web site at *http://www.ferc.gov/docs-filing/eqr.asp.* While this schema remains subject to any necessary changes prior to the availability of the finalized schema, Commission staff anticipates that changes, if any, will be minor.

Any comments or questions concerning the XML schema may be directed to *eqr@ferc.gov.* Please include ''XML Schema'' in the subject line of any such email.

We encourage all EQR filers to subscribe to our *EQR RSS Feed* to stay up-to-date on all updates.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11665 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. FDA–2013–M–0042]

Medical Devices; General Hospital and Personal Use Monitoring Devices; Classification of the Ingestible Event Marker

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the ingestible event marker into class II (special controls). The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective June 17, 2013. The classification was applicable beginning July 10, 2012.

FOR FURTHER INFORMATION CONTACT: James Cheng, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1326, Silver Spring, MD 20993–0002, 301–796–6306.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144, July 9, 2012, 126 Statute 1054), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing this classification.

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on May 7, 2012, classifying the Proteus Personal Monitor including ingestible event marker into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On May 14, 2012, Proteus Biomedical, Inc., submitted a petition requesting classification of the Proteus Personal Monitor including ingestible event marker under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition and the medical literature, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls will provide reasonable assurance of the safety and effectiveness of the device.

The device is assigned the generic name ingestible event marker, and it is identified as a prescription device used to record time-stamped, patient-logged events. The ingestible component links wirelessly through intrabody communication to an external recorder which records the date and time of ingestion as well as the unique serial number of the ingestible device.

FDA has identified the following risks to health associated with this type of

[1] *Revisions to Electric Quarterly Report Filing Process,* Order No. 770, 77 FR 71288 (Nov. 30, 2012), FERC Stats. & Regs. [Regulation Preambles] ¶ 31,338 (cross-referenced at 141 FERC ¶ 61,120) (Nov. 15, 2012).

device and the measures required to mitigate these risks:

TABLE 1—INGESTIBLE EVENT MARKER RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility Testing. Labeling (dose limits).
Systemic toxicity	Toxicology Testing. Labeling (dose limits).
Electromagnetic incompatibility	Electromagnetic Compatibility Testing. Wireless Testing. Labeling.
Electrical safety issues	Electrical Safety Testing. Labeling.
Electrical/Mechanical failure	Nonclinical Performance Testing.
Failure to mark event	Nonclinical Performance Testing. Clinical Evaluation.
Failure to excrete	Animal Testing.
Usability	Human Factors Testing. Labeling.

FDA believes that the following special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness:

1. The device must be demonstrated to be biocompatible and non-toxic;

2. Nonclinical, animal, and clinical testing must provide a reasonable assurance of safety and effectiveness, including device performance, durability, compatibility, usability (human factors testing), event recording, and proper excretion of the device;

3. Appropriate analysis and nonclinical testing must validate electromagnetic compatibility performance, wireless performance, and electrical safety; and

4. Labeling must include a detailed summary of the nonclinical and clinical testing pertinent to use of the device and the maximum number of daily device ingestions.

Ingestible event markers are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed § 880.6305(a) (21 CFR 880.6305(a)); see section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) and § 801.109 (21 CFR 801.109) (Prescription devices).) Prescription-use restrictions are a type of general controls authorized under section 520(e) and defined as a general control in section 513(a)(1)(A)(i) of the FD&C Act.

Therefore, on July 10, 2012, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying the classification of the device by adding § 880.6305.

Following the effective date of this final classification administrative order, any firm submitting a 510(k) premarket notification for an ingestible event marker will need to comply with the special controls named in the final administrative order.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification prior to marketing the device, which contains information about the ingestible event marker they intend to market.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. Petition: Request for Evaluation of Automatic Class III Designation Under Section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act From Proteus Biomedical, Inc., dated May 9, 2012.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 880.6305 to subpart G to read as follows:

§ 880.6305 Ingestible event marker.

(a) *Identification.* An ingestible event marker is a prescription device used to record time-stamped, patient-logged events. The ingestible component links wirelessly through intrabody communication to an external recorder which records the date and time of ingestion as well as the unique serial number of the ingestible device.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The device must be demonstrated to be biocompatible and non-toxic;

(2) Nonclinical, animal, and clinical testing must provide a reasonable assurance of safety and effectiveness, including device performance, durability, compatibility, usability (human factors testing), event recording, and proper excretion of the device;

(3) Appropriate analysis and nonclinical testing must validate electromagnetic compatibility performance, wireless performance, and electrical safety; and

(4) Labeling must include a detailed summary of the nonclinical and clinical testing pertinent to use of the device and the maximum number of daily device ingestions.

Dated: May 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11628 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–373]

Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cannabinoids Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: The Deputy Administrator of the Drug Enforcement Administration (DEA) is issuing this final order to temporarily schedule three synthetic cannabinoids under the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The substances are (1-pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144), [1-(5-fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (5-fluoro-UR-144, XLR11) and *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (APINACA, AKB48). This action is based on a finding by the Deputy Administrator that the placement of these synthetic cannabinoids and their salts, isomers and salts of isomers into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this order, the full effect of the CSA and the Controlled Substances Import and Export Act (CSIEA) and their implementing regulations including criminal, civil and administrative penalties, sanctions and regulatory controls of Schedule I substances will be imposed on the manufacture, distribution, possession, importation, and exportation of these synthetic cannabinoids.

DATES: *Effective Date:* This Final Order is effective on May 16, 2013.

FOR FURTHER INFORMATION CONTACT: John W. Partridge, Executive Assistant, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

Background

Section 201 of the CSA (21 U.S.C. 811) provides the Attorney General with the authority to temporarily place a substance into Schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid imminent hazard to the public safety. 21 U.S.C. 811(h). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling up to one year.

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no exemption or approval in effect under section 505 of the Federal Food, Drug and Cosmetic Act (FD&C Act) (21 U.S.C. 355) for the substance (21 U.S.C. 811 (h)(1)). The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of DEA, who in turn has delegated her authority to the Deputy Administrator of DEA. 28 CFR 0.100, Appendix to Subpart R.

Section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)) requires the Deputy Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into Schedule I of the CSA.[1] The Deputy Administrator has transmitted notice of his intent to place UR-144, XLR11 and AKB48 in Schedule I on a temporary basis to the Assistant Secretary by letter dated February 14, 2013. The Assistant Secretary responded to this notice by letter dated March 14, 2013 (received by DEA on March 21, 2013), and advised that based on review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for UR-144, XLR11 or AKB48. The Assistant Secretary also stated that HHS has no objection to the temporary placement of UR-144, XLR11 or AKB48 into Schedule I of the CSA. DEA has taken into consideration the Assistant Secretary's comments (21 U.S.C. 811(h)(4)). As UR-144, XLR11 and AKB48 are not currently listed in any schedule under the CSA, and as no exemptions or approvals are in effect for UR-144, XLR11 and AKB48 under Section 505 of the FD&C Act (21 U.S.C. 355), DEA believes that the conditions of 21 U.S.C. 811(h)(1) have been satisfied. On April 12, 2013, a Notice of Intent to temporarily schedule these three synthetic cannabinoids was published in the **Federal Register** (78 FR 21858).

To make a finding that placing a substance temporarily into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Deputy Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA (21 U.S.C. 811(h)(3)). These factors are as follows: the substance's history and current pattern of abuse; the scope, duration and significance of abuse, and what, if any, risk there is to the public health. 21 U.S.C. 811(c)(4)–(6). Consideration of these factors includes actual abuse, diversion from legitimate channels and clandestine importation, manufacture or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling (21 U.S.C. 811(h)) may only be placed in Schedule I. Substances in Schedule I are those that have a high potential for

[1] Because the Secretary of the Department of Health and Human Services (HHS) has delegated to the Assistant Secretary for Health of the Department of Health and Human Services the authority to make domestic drug scheduling recommendations, for purposes of this Final Order, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.'' As set forth in a memorandum of understanding entered into by HHS, the Food and Drug Administration (FDA), and the National Institute on Drug Abuse (NIDA), FDA acts as the lead agency within HHS in carrying out the Secretary's scheduling responsibilities under the Controlled Substance Act (CSA), with the concurrence of NIDA. 50 FR 9518.

abuse, no currently accepted medical use in treatment in the United States (U.S.), and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1). Available data and information for UR-144, XLR11 and AKB48 indicate that these three synthetic cannabinoids have a high potential for abuse, no currently accepted medical use in treatment in the U.S., and a lack of accepted safety for use under medical supervision.

Synthetic Cannabinoids

While synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate the cannabinoid system, no scientific literature referring to UR-144, XLR11 or AKB48 was available prior to these drugs' identification in the illicit market. In addition, no legitimate non-research uses have been identified for these synthetic cannabinoids nor have they been approved by FDA for human consumption. Synthetic cannabinoids, of which (1-pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144), [1-(5-fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (5-fluoro-UR-144, XLR11), and *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (APINACA, AKB48) are representative, are so-termed for their Δ9-tetrahydrocannabinol (THC)-like pharmacological properties. Numerous herbal products have been analyzed, and UR-144, XLR11 and AKB48 have been identified, in varying mixture profiles and amounts, spiked on plant material.

As of April 3, 2013, according to the System to Retrieve Information from Drug Evidence (STRIDE) data, there are 1,510 reports involving 179 total cases for UR-144, 1,194 reports involving 186 total cases for XLR11 and 112 reports involving 40 total cases for AKB48. From January 2010 to March 2013, the National Forensic Laboratory Information System (NFLIS) registered 14,831 reports containing these synthetic cannabinoids (UR-144—5,465 reports; XLR11—8,837 reports; AKB48—529 reports) from at least 32 states. No instances regarding UR-144, XLR11 or AKB48 were reported in NFLIS prior to March of 2010. For the period January 2010 through March 2013, NFLIS and STRIDE reports [2] for the three synthetic cannabinoids UR-144, XLR11 and AKB48 (16,014 total reports) exceeded the number of reports for the five synthetic cannabinoids JWH–018, JWH–073, JWH–200, CP–47,497 and CP–47,497 C8 (7,555 total reports). JWH–018, JWH–200, JWH–073, CP–47,497 and CP–47,497 C8 homologue were temporarily scheduled on March 1, 2011, and later placed in Schedule I by Section 1152 of Food and Drug Administration Safety and Innovation Act (FDASIA), Pub. L. 112–144, on July 9, 2012. Section 1152 of the FDASIA [3] amended the CSA by placing cannabimimetic agents and 26 specific substances (including 15 synthetic cannabinoids, 2 synthetic cathinones, and 9 phenethylamines of the 2C-series) in Schedule I. UR-144, XLR11 and AKB48 were not included among the 15 specific named synthetic cannabinoids, and do not fall under the definition of cannabimimetic agents, under FDASIA.

Factor 4. History and Current Pattern of Abuse

Synthetic cannabinoids (JWH–018) laced on plant material were first reported in the U.S. in December 2008, when a shipment of ''Spice'' was seized and analyzed by U.S. Customs and Border Patrol in Dayton, Ohio. Also in December 2008, JWH–018 and cannabicyclohexanol were identified by German forensic laboratories.

Since the initial identification of JWH–018 (December 2008), many additional synthetic cannabinoids with purported psychotropic effects have been found laced on plant material or related products. The popularity of these synthetic cannabinoids and their associated products appears to have increased since January 2010 in the U.S. based on seizure exhibits and media reports. This trend appears to mirror that experienced in Europe since 2008. Synthetic cannabinoids are being encountered in several regions of the U.S. with the substances primarily found as adulterants on plant material products as self-reported on internet discussion boards. Since then, numerous other synthetic cannabinoids including UR-144, XLR11 and AKB48 have been identified as product adulterants.

Data gathered from published studies, supplemented by discussions on Internet Web sites and personal communications with toxicological testing laboratories, demonstrate that products laced with UR-144, XLR11 and/or AKB48 are being abused mainly by smoking for their psychoactive properties. The adulterated products are marketed as 'legal' alternatives to marijuana. This characterization, along with their reputation as potent herbal intoxicants, has increased their popularity. Several synthetic cannabinoids, including UR-144, XLR11 and AKB48, have been shown to display higher potency in scientific studies when compared to THC. Smoking mixtures of these substances for the purpose of achieving intoxication has been identified as a reason for numerous emergency room visits and calls to poison control centers. Abuse of these synthetic cannabinoids and their products has been characterized with both acute and long term public health and safety issues. In addition, numerous states, local jurisdictions, and the international community have controlled these substances.

Factor 5. Scope, Duration and Significance of Abuse

According to forensic laboratory reports, the first appearance of synthetic cannabinoids in the U.S. occurred in December 2008, when U.S. Customs and Border Protection analyzed ''Spice'' products. NFLIS has reported 14,831 exhibits (January 2010 to March 2013) related to UR-144, XLR11 and AKB48 from various states including Alaska, Alabama, Arkansas, California, Colorado, Florida, Georgia, Iowa, Indiana, Illinois, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, North Dakota, Nebraska, Nevada, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin and Wyoming. STRIDE has reported 2,816 records involving UR-144, XLR11 and/or AKB48 from January 2010 through April 3, 2013. From January 1 through December 31, 2012, the American Association of Poison Control Centers [4] has reported receiving in excess of 5,200 calls relating to products purportedly laced with synthetic cannabinoids. Although the center does not identify specific cannabinoid substances, the data does indicate the magnitude of adverse exposure to synthetic cannabinoids.

Factor 6. What, If Any, Risk There Is to the Public Health

UR-144, XLR11 and AKB48 are pharmacologically similar to Schedule I

[2] National Forensic Laboratory Information System (NFLIS) is a program sponsored by the Drug Enforcement Administration's (DEA), Office of Diversion Control which compiles information on exhibits analyzed in State and local law enforcement forensic laboratories. System to Retrieve Information from Drug Evidence (STRIDE) is a DEA database which compiles information on exhibits analyzed in DEA laboratories.

[3] Subtitle D of Title XI of the Food and Drug Administration Safety and Innovation Act (FDASIA), which includes Sections 1151–1153 of Pub. L. 112–144, is also known as the ''Synthetic Drug Abuse Prevention Act of 2012,'' or ''SDAPA.''

[4] American Association of Poison Control Centers (AAPCC) is a non-profit, national organization that represents the poison centers of the United States.

substances THC and JWH–018, as well as other synthetic cannabinoids. By sharing pharmacological similarities with the Schedule I substances (THC and JWH–018), synthetic cannabinoids pose a risk to the abuser. In addition, the chronic abuse of products laced with synthetic cannabinoids has also been linked to addiction and withdrawal. Law enforcement, military and public health officials have reported exposure incidents that demonstrate the dangers associated with abuse of synthetic cannabinoids to both the individual abusers and other affected individuals since these substances were never intended for human use. Warnings regarding the dangers associated with abuse of synthetic cannabinoids and their products have been issued by numerous state public health departments, poison control centers and private organizations. In a 2012 report, the Substance Abuse and Mental Health Services Administration (SAMHSA) reported 11,406 emergency department visits involving a synthetic cannabinoid product during 2010. In a 2013 report, SAMHSA reported the number of emergency department visits in 2011 involving a synthetic cannabinoid product had increased 2.5 times to 28,531.

Detailed product analyses have detected variations in the amount and type of synthetic cannabinoid laced on plant material even within samplings of the same product. Since abusers obtain these drugs through unknown sources, purity of these drugs is uncertain, thus posing significant adverse health risk to these users. Submissions to DEA laboratories from January 2012 through February 11, 2013, have documented over 142 distinct packaging examples containing a mixture of UR-144, XLR11 and/or AKB48. These unknown factors present a significant risk of danger to the abuser. Some of the adverse health effects reported in response to the abuse of synthetic cannabinoids include vomiting, anxiety, agitation, irritability, seizures, hallucinations, tachycardia, elevated blood pressure, and loss of consciousness. As mentioned above, there are reported instances of emergency department admissions in association with the abuse of these THC-like substances. There are no recognized therapeutic uses of these substances in the U.S.

In February 2013, the Centers for Disease Control and Prevention published a report by Murphy et al. describing unexplained cases of acute kidney injury in 16 patients, all of whom had reported recent smoking of synthetic cannabinoids. Upon further investigation, it was determined that of the 16 patients, 7 of the subjects had smoked substances that were positive for XLR11 or its metabolite. Cases were reported from Wyoming (4 cases), Rhode Island (1 case), New York (2 cases), Oregon (6 cases), Kansas (1 case) and Oklahoma (2 cases).

Finding of Necessity of Schedule I Scheduling To Avoid Imminent Hazard to Public Safety

Based on the available data and information, the continued uncontrolled manufacture, distribution, importation, exportation and abuse of UR-144, XLR11 and AKB48 pose an imminent hazard to the public safety. DEA is not aware of any currently accepted medical uses for these synthetic cannabinoids in the U.S. A substance meeting the statutory requirements for temporary scheduling (21 U.S.C. 811(h)) may only be placed in Schedule I. Substances in Schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the U.S., and a lack of accepted safety for use under medical supervision. Available data and information for UR-144, XLR11 and AKB48 indicate that these three synthetic cannabinoids have a high potential for abuse, no currently accepted medical use in treatment in the U.S., and a lack of accepted safety for use under medical supervision.

Conclusion

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)), the Deputy Administrator has considered available data and information and has set forth herein the grounds for his determination that it is necessary to temporarily schedule three synthetic cannabinoids, (1-pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144), [1-(5-fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (5-fluoro-UR-144, XLR11) and *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (APINACA, AKB48) in Schedule I of the CSA and finds that placement of these synthetic cannabinoids into Schedule I of the CSA is warranted in order to avoid an imminent hazard to the public safety.

Because the Deputy Administrator hereby finds that it is necessary to temporarily place these synthetic cannabinoids into Schedule I to avoid an imminent hazard to the public safety, the final order temporarily scheduling these substances will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of up to three years pending completion of the permanent or regular scheduling process.

Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth specific criteria for scheduling a drug or other substance. While temporary scheduling orders are not subject to judicial review (21 U.S.C. 811(h)(6)), the regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a permanent scheduling determination. Final decisions which conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877.

Regulatory Requirements

With the issuance of this final order, UR-144, XLR11 and AKB48 become subject to the regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, possession, importation and exportation of a Schedule I controlled substance under the CSA and the CSIEA.

1. Registration. Any person who manufactures, distributes, imports, exports, or possesses UR-144, XLR11 or AKB48, or who engages in research or conducts instructional activities with respect to UR-144, XLR11 or AKB48, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with 21 U.S.C. 822 and 957. Any person who is currently engaged in any of the above activities and is not registered with DEA must submit an application for registration and may not continue their activities until DEA has approved that application. Retail sales of Schedule I controlled substances to the general public are not allowed under the CSA. Possession of any of these substances in a manner not authorized by the CSA on or after May 16, 2013 is unlawful and may subject those in possession of any of these substances to prosecution pursuant to the Controlled Substances Act.

2. Security. UR-144, XLR11 and AKB48 are subject to Schedule I security requirements. Accordingly, appropriately registered DEA registrants must manufacture, distribute and store these substances in accordance with 1301.71; 1301.72(a), (c) and (d); 1301.73; 1301.74; 1301.75(a) and (c); and 1301.76 of Title 21 of the Code of Federal Regulations as of May 16, 2013.

3. Labeling and packaging. All labeling and packaging requirements for controlled substances set forth in Part 1302 of Title 21 of the Code of Federal Regulations shall apply to commercial containers of UR-144, XLR11 and AKB48. Current DEA registrants authorized to handle UR-144, XLR11 and AKB48 shall comply with Part 1302 of Title 21 of the Code of Federal Regulations within thirty (30) calendar days of May 16, 2013.

4. Quotas. Every manufacturer authorized to manufacture UR-144, XLR11 and AKB48 must apply for and be granted a quota to manufacture such substance(s) pursuant to Part 1303 of Title 21 of the Code of Federal Regulations. No authorized manufacturer may manufacture UR-144, XLR11 or AKB48 in excess of a quota assigned to him as of May 16, 2013.

5. Inventory. Every DEA registrant authorized to possess any quantity of UR-144, XLR11 or AKB48 is required to keep inventory of all stocks of these substances on hand pursuant to 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations. Every authorized DEA registrant shall comply with all inventory requirements within thirty (30) calendar days of May 16, 2013.

6. Records. All registrants who are authorized to handle UR-144, XLR11 or AKB48 are required to keep records pursuant to 1304.03, 1304.04, 1304.21, 1304.22 and 1304.23 of Title 21 of the Code of Federal Regulations. Current DEA registrants authorized to handle UR-144, XLR11 or AKB48 shall comply with all recordkeeping requirements within thirty (30) calendar days of May 16, 2013.

7. Reports. All registrants are required to submit reports in accordance with 1304.33 of Title 21 of the Code of Federal Regulations. Registrants who manufacture or distribute UR-144, XLR11 or AKB48 are required to comply with these reporting requirements and shall do so as of May 16, 2013.

8. Order Forms. All registrants involved in the distribution of UR-144, XLR11 or AKB48 must comply with order form requirements of Part 1305 of Title 21 of the Code of Federal Regulations as of May 16, 2013.

9. Importation and Exportation. All importation and exportation of UR-144, XLR11 or AKB48 must be conducted by appropriately registered DEA registrants in compliance with Part 1312 of Title 21 of the Code of Federal Regulations on or after May 16, 2013.

10. Criminal Liability. The manufacture, distribution or possession with the intent to conduct these activities; as well as possession, importation or exportation of UR-144, XLR11 or AKB48 not authorized by, or in violation of the CSA or the Controlled Substances Import and Export Act occurring as of May 16, 2013 is unlawful.

Regulatory Matters

Section 201(h) of the CSA (21 U.S.C. 811(h)) provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in Schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of a proposed temporary scheduling order is transmitted to the Secretary of HHS. 21 U.S.C. 811(h)(1).

In as much as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) do not apply to this final order. In the alternative, even assuming that this final order might be deemed to be subject to section 553 of the APA, the Deputy Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency of the temporary scheduling action to avoid an imminent hazard to the public safety.

Further, DEA believes that this temporary scheduling action Final Order is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where (as here) the agency is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 ''Regulatory Planning and Review,'' section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 ''Federalism'' it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act) (5 U.S.C. 801–808), DEA has submitted a copy of this Final Order to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Deputy Administrator of the DEA by Department of Justice regulations (28 CFR 0.100, Appendix to Subpart R), the Deputy Administrator hereby orders that 21 CFR part 1308 be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Section 1308.11 is amended by adding new paragraphs (h)(9), (10), and (11) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(9) (1-pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers—7144 (Other names: UR–144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole)

(10) [1-(5-fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers—7011 (Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole)

(11) *N*-(1-adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers—7048 (Other names: APINACA, AKB48)

Dated: May 10, 2013.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2013–11593 Filed 5–15–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 5

[Docket No. TTB–2012–0001; T.D. TTB–113; Re: Notice No. 126]

RIN 1513–AB91

Standards of Identity for Pisco and Cognac

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule amends the Alcohol and Tobacco Tax and Trade Bureau regulations setting forth the standards of identity for distilled spirits to include Pisco as a type of brandy that must be manufactured in accordance with the laws and regulations of either Peru or Chile, as appropriate, governing the manufacture of those products. This final rule also removes ''Pisco brandy'' from the list of examples of geographical designations in the distilled spirits standards of identity, and it includes a technical correction to remove ''Cognac'' from the same list of examples. These changes provide greater clarity in distilled spirits labeling.

DATES: *Effective Date:* This final rule is effective July 15, 2013.

FOR FURTHER INFORMATION CONTACT: Karen Welch, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202–453–1039, ext. 046; email *ITD@ttb.gov.*

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), codified in the United States Code at 27 U.S.C. 205(e), authorizes the Secretary of the Treasury (Secretary) to prescribe regulations relating to the packaging, marking, branding, labeling, and size and fill of containers of alcohol beverages that will prohibit consumer deception and provide the consumer with adequate information as to the identity and quality of the product. Section 105(e) of the FAA Act also generally requires bottlers and importers of alcohol beverages to obtain certificates of label approval prior to bottling or importing alcohol beverages for sale in interstate commerce. Regulations implementing those provisions of section 105(e) as they relate to distilled spirits are set forth in part 5 of title 27 of the Code of Federal Regulations (27 CFR part 5). The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Certificates of Label Approval

TTB's regulations prohibit the release of bottled distilled spirits from customs custody for consumption unless an approved Certificate of Label Approval (COLA) covering the product has been deposited with the appropriate Customs officer at the port of entry. See 27 CFR 5.51. The TTB regulations also generally prohibit the bottling or removal from a plant of distilled spirits unless the proprietor possesses a COLA covering the labels on the bottle. See 27 CFR 5.55.

Classes and Types of Spirits

The TTB labeling regulations require that the class and type of distilled spirits appear on the product's brand label. See 27 CFR 5.32(a)(2) and 5.35. Those regulations provide that the class and type must be stated in conformity with § 5.22 of the TTB regulations (27 CFR 5.22) if defined therein. Otherwise, the product must be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (with limited exceptions), followed by a truthful and adequate statement of composition (see 27 CFR 5.35).

Section 5.22 establishes standards of identity for distilled spirits products and categorizes these products according to various classes and types. As used in § 5.22, the term ''class'' refers to a general category of spirits, such as ''whisky'' or ''brandy.'' Currently, there are 12 different classes of distilled spirits recognized in § 5.22, including whisky, rum, and brandy. The term ''type'' refers to a subcategory within a class of spirits. For example, ''Cognac'' is a type of brandy, and ''Canadian whisky'' is a type of whisky.

Brandy and Pisco

Brandy is Class 4 in the standards of identity, where it is defined in § 5.22(d) as ''an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof.'' ''Pisco'' is a term recognized by both the governments of Peru and Chile as a designation for a distilled spirits product made from grapes. Generally, Pisco is classified as brandy under the terms of TTB's current labeling regulations. However, Pisco is not currently listed as a type of brandy in Class 4. Rather, ''Pisco brandy'' has been included in Class 11, at § 5.22(k)(3), as an example of a geographical name that is not a name for a distinctive type of distilled spirits, and that has not become generic.

International Agreements

Pursuant to the United States-Peru Trade Promotion Agreement, the United States recognized Pisco Perú as a distinctive product of Peru (Article 2.12(2) of the Agreement). Accordingly, the United States agreed not to permit the sale of any product as Pisco Perú unless it has been manufactured in Peru in accordance with the laws and regulations of Peru governing Pisco.

In addition, pursuant to the United States-Chile Free Trade Agreement, the United States recognized Pisco Chileno (Chilean Pisco) as a distinctive product of Chile (Article 3.15(2) of the Agreement). Accordingly, the United States agreed not to permit the sale of any product as Pisco Chileno (Chilean Pisco) unless it has been manufactured in Chile in accordance with the laws and regulations of Chile governing the manufacture of Pisco.

In like manner, Peru and Chile agreed, respectively, to recognize Bourbon Whiskey and Tennessee Whiskey (which is defined in both Agreements as a straight Bourbon Whiskey authorized to be produced only in the State of Tennessee), as distinctive products of the United States, and not to permit the sale of any product as Bourbon Whiskey or Tennessee Whiskey unless it has been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey. (TTB notes that there are alternative spellings for the same term—''whisky'' in the TTB regulations in 27 CFR part 5 and ''whiskey'' in the Agreements with Peru and Chile.)

Pisco Production

''The Oxford Companion to Wine'' (Jancis Robinson, ed., Oxford University Press, 2d ed., 2001, p. 536) reports that Spanish colonists began producing aguardiente (grape spirits) in both Peru and Chile in the sixteenth century, and it describes such spirits as being produced near the town of Pisco, Peru. Further, ''The Oxford Companion to Wine'' says ''''Pisco'' is an aromatic brandy made in Peru, Chile, and Bolivia, mainly from Moscatel (muscat) grapes.'' According to ''Alexis Lichine's Encyclopedia of Wines and Spirits'' (Alexis Lichine, ed., 5th ed., Alfred A. Knopf, Inc., 1987), ''Pisco brandy'' is brandy distilled from Muscat wine in Peru, Chile, Argentina, and Bolivia. Peru and Chile have promulgated standards for the production of Pisco.

Notice of Proposed Rulemaking

On March 27, 2012, TTB published Notice No. 126 in the **Federal Register** (77 FR 18146) proposing to amend § 5.22 to clarify the status of Pisco under the standards of identity. Specifically, TTB proposed amending § 5.22(d), which lays out the standard of identity for brandy. In Notice No. 126, TTB stated that it believes that Pisco generally meets the U.S. standard for brandy and should be classified as a type of brandy. TTB also asserted that evidence suggests that the generally recognized geographical limits of the Pisco-producing areas do not extend beyond the boundaries of Chile and Peru. The wine and spirits authorities cited above indicate that Pisco production is not associated with any areas outside of South America.

As stated in Notice No. 126, COLAs naming ''Pisco'' as the brand name or fanciful name of a distilled spirits product are almost exclusively for products from Chile and Peru. TTB could not locate any COLAs naming ''Pisco'' as the brand name or fanciful name for any products from Argentina, or from any other country in South America other than Peru, Chile, and Bolivia. COLAs for products from Bolivia that name ''Pisco'' as the brand name or fanciful name also use the term ''Singani.'' ''The Oxford Companion to Wine'' defines ''Singani'' as an ''aromatic grape-based spirit rather like pisco in that it is high in terpenes and made under a strictly controlled regime, principally from Muscat of Alexandria grapes'' that is a specialty of Bolivia (Robinson, p. 638). Bolivia maintains standards for Singani production in Bolivia, but does not have standards for Pisco production.

In Notice No. 126, TTB specifically proposed to amend the standard of identity in § 5.22(d) to add Pisco as a type of brandy that is manufactured in Peru or Chile in compliance with the laws of the country of production regulating the manufacture of Pisco. The proposed amendment would also recognize the phrases ''Pisco Perú'' (with or without the diacritic mark, i.e., ''Pisco Perú'' or ''Pisco Peru''), ''Pisco Chileno,'' and ''Chilean Pisco,'' as equivalent class and type names of the product, to reflect the provisions of the trade agreements. TTB clarified that if Pisco is recognized as a type of brandy, persons who distribute it in the United States will be entitled to label the product according to its type designation ''Pisco'' without the term ''brandy'' on the label, in the same way that a product labeled with the type designation ''Cognac'' is not required to also bear the class designation ''brandy.''

TTB noted that the Peruvian standard allows products designated as Pisco to have an alcohol content ranging from 38 to 48 percent alcohol by volume, and the Chilean standard allows products designated as Pisco to have an alcohol content as low as 30 percent alcohol by volume. TTB further clarified that since the standard proposed in Notice No. 126 would identify Pisco as a type of brandy, and the U.S. standard requires that brandy must be bottled at not less than 40 percent alcohol by volume, or 80° proof, any ''Pisco'' imported into the United States would have to conform to this minimum bottling proof requirement. A product that is bottled at below 40 percent alcohol by volume would fall outside the class and type designation. TTB stated that under the proposed regulations, depending on the way that such a product is manufactured, it could be labeled as a ''diluted Pisco'' or as a distilled spirits specialty product bearing a statement of composition.

Finally, TTB proposed to remove both ''Pisco brandy'' and ''Cognac'' from § 5.22(k)(3), where they are listed as examples of geographical names that are not names for distinctive types of distilled spirits, and that have not become generic. TTB proposed this amendment for two reasons. First, Pisco will appear in new § 5.22(d)(9), where it will be a type of brandy defined as grape brandy manufactured in Peru or Chile in accordance with the laws and regulations of the country of manufacture governing the manufacture of Pisco. Second, Cognac currently appears in § 5.22(d)(2), where it is a type of brandy defined as ''grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French Government.'' The inclusion of ''Cognac'' in the list of examples of geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, in § 5.22(k)(3) is duplicative and confusing. Accordingly, TTB proposed to remove the reference to Cognac in § 5.22(k)(3) as a technical correction to the regulations.

Effect on Currently Approved Labels

In Notice No. 126, TTB stated that the proposed change to the regulations would revoke by operation of regulation any COLAs that specify ''Pisco'' as the class and type or, brand name, or fanciful name of distilled spirits products that are not products of Peru or Chile. TTB also noted that it had searched its COLA database, and believes that this rulemaking will affect only a small number of labels.

Comments Received and TTB Response

TTB received eleven comments in response to Notice No. 126. All comments appear on ''Regulations.gov,'' the Federal Rulemaking portal, at *http://www.regulations.gov,* in Docket No. TTB–2012–0001. The Distilled Spirits Council of the United States (DISCUS) (Comment 5) wrote ''in strong support of the proposed amendments.'' Another commenter identifying his organization as Campo de Encanto Pisco (Comment 4) wrote that Pisco's ''history, tradition and current resurgence in the U.S. should be respected and its status as a unique category of distillate should be labeled and promoted accordingly.'' The Regulatory Council to Guarantee the Origin and Quality of Pisco, which is a non-profit organization subject to the laws and courts of the Republic of Peru and which represents the beneficiaries of the Pisco denomination of origin submitted an informative comment (Comment 7) detailing the Pisco production process. The comment did not state a position on TTB's proposal. TTB did not receive any comments concerning any COLAs that would be revoked by operation of regulation were the proposed rule to be adopted as a final rule.

Comments Concerning Aging in Wood/Oak Containers

One individual's comment (Comment 2) stated, ''[t]he technical premise for this proposed rule, at least in the case of Peruvian Pisco, is erroneous. Pisco is a distilled spirit, NOT a brandy because it is not stored in wood casks.'' [Emphasis in original.] Another commenter, Chile's Agricultural and

Livestock Service (SAG), (Comment 11) also argued that classifying Pisco as a type of brandy ''is not appropriate because it does not take into account international definitions such as the OIV [(International Organization of Vine and Wine)],'' which define Pisco as a ''spirit product'' and provide that brandy must be aged in oak containers.

TTB Response

TTB disagrees with the two commenters who assert that Pisco is not a brandy because it might not be aged or stored in wood/oak containers. TTB and its predecessor agencies have long considered Pisco to be a brandy, as evidenced by its listing in § 5.22(k)(3) as ''Pisco brandy'' since 1936. The relevant definition is the definition of brandy in § 5.22(d), rather than definitions of brandy in other jurisdictions, and this regulation does not specify that brandy must be stored or aged in oak containers. TTB notes that § 5.22(d)(1) generally provides that grape brandy that has been stored in oak containers for less than two years must be labeled with the word ''immature,'' but also lists several types of brandy (specifically neutral brandy, pomace brandy, marc brandy, and grappa, as well as any fruit brandy that is not derived from grapes) that are exempt from this requirement. To recognize that Peruvian and Chilean Pisco production practices do not generally require that Pisco be stored or aged in oak containers, in the final rule text, TTB is amending § 5.22(d)(1) to clarify that Pisco not stored in oak containers for at least 2 years is also exempt from any requirement that it be labeled with the word ''immature.''

Comments Concerning the 40 Percent ABV Requirement

Six commenters expressed concerns about the proposed 40 percent alcohol by volume minimum alcohol content for Pisco. One individual commenter (Comment 1) stated, ''To ensure that the integrity of the Pisco brandy * * * is not compromised, the requirement . . . [for] Pisco brandy to be consumed in the United States [should] not require 40% alcohol by volume.'' Another individual (Comment 3) stated that, ''TTB should reconsider the classification of Pisco as a brandy so that the regulation recognizes all Piscos that are manufactured in compliance with the laws'' of their respective countries of origin. A third individual (Comment 6) proposed that TTB adopt an exception for Pisco to the requirement that brandy be bottled at not less than 40 percent alcohol by volume. The commenter also argued that requiring Pisco bottled at less than 40 percent alcohol by volume to be labeled differently would confuse consumers.

The Pisco Producers Association of Chile (Comment 9), the Directorate-General for International Economic Relations of Chile's Ministry of Foreign Affairs (Comment 10), and Chile's Agricultural and Livestock Service (SAG) (Comment 11) also expressed concerns about the proposed 40 percent alcohol by volume minimum alcohol content for Pisco. These commenters pointed out that Chilean law permits production of Pisco with an alcohol content by volume of as low as 30 percent, and requested that TTB take this into consideration.

TTB Response

TTB notes that the U.S. standards of identity for distilled spirits require that all of the major classes of distilled spirits (neutral spirits (including vodka), whisky, gin, brandy, rum, and tequila) be bottled at not less than 80° proof (which is equivalent to 40 percent alcohol by volume). TTB believes it is appropriate to apply this 80° proof standard to like products of foreign countries so that the same standard applies to domestic producers and foreign producers. There is precedent for applying this 80° proof standard to distinctive products of other countries. The standard of identity for Tequila in § 5.22(g), which states that ''Tequila is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of Tequila for consumption in that country,'' applies the 80° proof minimum despite the fact that Mexican regulations allow Tequila to be bottled at 35 percent alcohol by volume (70° proof).

As noted above, products that are manufactured in Peru or Chile in accordance with the laws and regulations governing the manufacture of Pisco in those countries and that contain less than 40 percent alcohol by volume could be imported into the United States labeled as a ''diluted Pisco'' or as distilled spirits specialty products bearing a statement of composition. This is not a new requirement; under TTB's current practice and that of its predecessor agencies, ''Pisco'' products imported into the United States from Chile or Peru containing less than 40 percent alcohol by volume must be labeled as ''diluted Pisco'' or as a distilled spirits specialty product bearing a statement of composition. This final rule does not change that requirement. Finally, TTB believes that maintaining this consistent and long-standing 80° proof minimum for the major classes of distilled spirits would prevent consumer confusion rather than create it.

Comment From the Government of Peru

The Government of Peru submitted a comment concerning several different issues (Comment 8). The comment included a history of the name ''Pisco'' and a description of the production process for Peruvian Pisco. The Government of Peru also suggested that the current regulations prevent the import and trade of products with the name ''Pisco'' that ''do not come from the place of origin of 'Pisco' (Peru).'' Second, the Government of Peru requests that we confirm its understanding that 27 CFR 5.51 and 5.55, which require a COLA before imported and domestic products are removed from bond, will apply to ''imported and domestic commercialization''.

Finally, the Government of Peru argued that Pisco produced in Peru is very different from other grape or wine brandies, and proposed that TTB, instead of creating one type designation in Class 4 for ''Pisco'' that would include both Peruvian and Chilean Pisco, create a Class 4 type designation for Peruvian Pisco to include the terms ''Pisco Peru'' and ''Pisco''. The Government of Peru, in its comment, leaves to the consideration of United States authorities what standard of identity should be created for the ''grape/wine brandy'' manufactured in Chile.

TTB Response

TTB believes that evidence suggests that the generally recognized geographical limits of the Pisco-producing areas do not extend beyond the boundaries of Peru and Chile. TTB believes this rulemaking is necessary to prevent confusion on this issue. Furthermore, TTB confirms that the standard of identity for Pisco will apply to the universe of distilled spirits removed either from U.S. Customs custody or from the bonded premises of a domestic distilled spirits plant.

TTB considered the alternate proposal from the Government of Peru, and found that it would give rise to several unintended consequences. Currently, pursuant to § 5.22(k)(3), TTB allows the terms ''Pisco'' and ''Pisco brandy'' to be used on labels for products manufactured in either Peru or Chile. If TTB amended its regulations to remove ''Pisco brandy'' from § 5.22(k)(3) and provide type designations for ''Pisco Perú'' and ''Pisco Chileno (Chilean Pisco)'' but not a type designation for ''Pisco,'' all of the existing COLAs using ''Pisco'' or ''Pisco brandy'' as the class

and type designation—estimated at approximately 100 COLAs— would be revoked by operation of regulation. The existing COLAs using ''Pisco'' or ''Pisco brandy'' would not fit into either the ''Pisco Perú'' or the ''Pisco Chileno (Chilean Pisco)'' type designation, and these COLAs would not comply with TTB's regulations without the broader, overall type designation for ''Pisco.'' TTB does not believe that such a disruption to the trade is warranted. TTB also notes that consumers will easily be able to identify the country of origin of any Pisco product because under 27 CFR 5.32(b)(2), imported distilled spirits product labels must include the country of origin.

Clarification of the Regulatory Language

DISCUS, in response to Notice No. 127, which proposed a standard of identity for Cachaça, questioned the wording of that proposed standard of identity. In Notice No. 127, TTB proposed to define Cachaça as ''a type of rum that is a distinctive product of Brazil, manufactured in Brazil in compliance with the laws of Brazil regulating the manufacture of Cachaça *for consumption in that country''* (emphasis added). DISCUS commented that the highlighted language could inadvertently cause confusion as to whether a product that is produced in full conformity with Brazil's regulations governing the manufacture of Cachaça for consumption in Brazil and bottled at less than 40 percent alcohol by volume could be labeled and sold in the United States as ''Cachaça.'' DISCUS also noted that deleting this language would be consistent with TTB Notice No. 126, Standards of Identity for Pisco and Cognac.

TTB believes that including the phrase ''for consumption in that country'' is appropriate for both Cachaça and Pisco because the wording clarifies that the laws of the country of manufacture cannot provide standards that are different for products being exported than for products to be consumed within the country of manufacture. TTB inadvertently omitted this phrase in its proposed standard of identity for Pisco in Notice No. 126, and believes, for clarity, that the phrase should be included in the final rule text. However, such a requirement does not override the current practice, described above, that ''Pisco'' products imported into the United States from Chile or Peru containing less than 40 percent alcohol by volume must be labeled as ''diluted Pisco'' or as a distilled spirits specialty product bearing a statement of composition.

TTB Finding

After careful review of the comments discussed above, and after consideration of the obligations incurred in the international agreements, TTB has determined that it is appropriate to adopt the proposed regulatory amendments contained in Notice No. 126, with the two modifications (the clarification that Pisco need not be aged in oak containers, and the addition of the phrases ''for consumption in the country of manufacture'' and ''for consumption in that country,'') as discussed above. TTB notes that these regulatory changes will revoke by operation of regulation any COLAs that specify ''Pisco'' as the class and type or, brand name, or fanciful name of distilled spirits products that are not products of Peru or Chile.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), TTB certifies that this final rule will not have a significant economic impact on a substantial number of small entities. These amendments clarify the status of Pisco under the standards of identity for distilled spirits and do not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

This final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

Karen E. Welch of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects in 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, and Packaging and containers.

Amendment to the Regulations

For the reasons discussed in the preamble, TTB amends 27 CFR part 5 as follows:

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

■ 2. Section 5.22 is amended by:
■ a. In paragraph (d) introductory text, removing the words ''paragraphs (d)(1) through (8)'' and adding, in their place, the words ''paragraphs (d)(1) through (9)'';
■ b. In paragraph (d)(1), in the third sentence, revising the parenthetical phrase to read ''(other than neutral brandy, pomace brandy, marc brandy, grappa brandy, Pisco, Pisco Perú, or Pisco Chileno)'';
■ c. In paragraph (k)(3), by removing the words ''Cognac,'' and ''Pisco brandy,''; and
■ d. Adding new paragraph (d)(9) to read as follows:

§ 5.22 The standards of identity.

* * * * *

(d) * * *

(9) ''Pisco'' is grape brandy manufactured in Peru or Chile in accordance with the laws and regulations of the country of manufacture governing the manufacture of Pisco for consumption in the country of manufacture.

(i) ''Pisco Perú'' (or ''Pisco Peru'') is Pisco manufactured in Peru in accordance with the laws and regulations of Peru governing the manufacture of Pisco for consumption in that country.

(ii) ''Pisco Chileno'' (or ''Chilean Pisco'') is Pisco manufactured in Chile in accordance with the laws and regulations of Chile governing the manufacture of Pisco for consumption in that country.

* * * * *

Signed: February 7, 2013.

John J. Manfreda,

Administrator.

Approved: March 5, 2013.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2013–11705 Filed 5–15–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0375]

Safety Zone; Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the 2013 Pridefest

fireworks on June 8, 2013, from 9:15 p.m. until 10:15 p.m. If the fireworks display is cancelled due to inclement weather, then the zone will be enforced on June 9, 2013, from 9:15 p.m. until 10:15 p.m. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the fireworks display. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port, Lake Michigan.

DATES: This regulation will be enforced from 9:15 p.m. until 10:15 p.m. on June 8, 2013. If the fireworks display is cancelled due to inclement weather, then the zone will be enforced on June 9, 2013, from 9:15 p.m. until 10:15 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.935, Safety Zone, Milwaukee Harbor, Milwaukee, WI, for the 2013 Pridefest fireworks. This zone will be enforced from 9:15 p.m. until 10:15 p.m. on June 8, 2013. If the fireworks display is cancelled due to inclement weather, then the zone will be enforced on June 9, 2013, from 9:15 p.m. until 10:15 p.m.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or his or her on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or his or her on-scene representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement period via broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port, Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: May 6, 2013.

M. W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–11626 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0339]

Safety Zones; Fireworks Displays in the Sector Columbia River Captain of the Port Zone Columbia River Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones listed in this notice for fireworks displays in the Sector Columbia River Captain of the Port Zone from May 2013 until October 2013. This action is necessary to ensure the safety of the crews onboard the vessels displaying the fireworks, the maritime public, and all other observers. During the enforcement period for each specific safety zone, no person or vessel may enter or remain in the safety zone without permission of the Sector Columbia River Captain of the Port or his designated representatives.

DATES: The regulations in 33 CFR 165.1315 will be enforced at the dates and times listed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign Ian P. McPhillips, Waterways Management Division, MSU Portland, Coast Guard; telephone 503–240–9319, email *MSUPDXWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulations in 33 CFR 165.1315 for fireworks displays in the Columbia River Captain of the Port Zone during the dates and times listed below:

(1) Cinco de Mayo Fireworks Display, Portland, OR: May 3, 2013 from 9:30 p.m. until 10 p.m.

(2) Portland Rose Festival Fireworks Display, Portland OR: May 24, 2013, from 10 p.m. until 10:30 p.m.

(3) Tri-City Chamber of Commerce Fireworks Display, Columbia Park, Kennewick, WA: July 4, 2013, from 10 p.m. until 10:30 p.m.

(4) Cedco Inc. Fireworks Display, North Bend, OR: July 3, 2013, from 10:10 p.m. until 10:30 p.m.

(5) Astoria 4th of July Fireworks, Astoria, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(6) Waterfront Blues Festival Fireworks, Portland, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(7) Oregon Symphony Concert Fireworks Display, Portland, OR: August 29, 2013, from 9:30 p.m. until 10 p.m.

(8) Florence Chamber 4th of July Fireworks Display, Florence, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(9) Oaks Parks July 4th Celebration, Portland, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(10) Rainier Days Fireworks Celebration, Rainier, OR: July 13, 2013, from 10 p.m. until 10:30 p.m.

(11) Ilwaco July 4th Committee Fireworks, Ilwaco, WA: July 6, 2013, from 10 p.m. until 10:30 p.m.

(12) Splash Aberdeen Waterfront Festival, Aberdeen, WA: July 4, 2013, from 9 p.m. until 11 p.m.

(13) City of Coos Bay July 4th Celebration, Coos Bay, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(14) Arlington Chamber of Commerce Fireworks Display, Arlington, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(15) Cascade Locks July 4th Fireworks Display, Portland, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(16) Astoria Regatta Association Fireworks Display, Astoria, OR: August 10, 2013, from 10 p.m. until 10:30 p.m.

(17) City of Washougal July 4th Fireworks Display, Washougal, WA: July 4, 2013, from 10 p.m. until 10:30 p.m.

(18) City of St. Helens 4th of July Fireworks Display, St. Helens, OR: July 4, 2013, from 9:30 p.m. until 10:30 p.m.

(19) Waverley Country Club 4th of July Fireworks Display, Milwaukie, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(20) Hood River 4th of July, Hood River, OR: July 4, 2013, from 10 p.m. until 10:30 p.m.

(21) Rufus 4th of July Fireworks, Rufus, OR: July 4, 2013, from 9:30 p.m. until 10:30 p.m.

Under the provisions of 33 CFR 165.1315, 33 CFR 165.20, and 33 CFR 165.23, no person or vessel may enter or remain in the safety zones without permission of the Captain of the Port Columbia River or his designated representative. Persons or vessels wishing to enter the safety zones may request permission to do so from the Captain of the Port Columbia River or

his designated representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1315 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via the Local Notice to Mariners.

Dated: April 30, 2013.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2013–11613 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0223; FRL–9813–8]

Approval and Promulgation of Implementation Plans; Georgia; State Implementation Plan Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve changes to the Georgia State Implementation Plan (SIP) submitted by the Georgia Environmental Protection Division to EPA in four separate SIP submittals dated September 15, 2008, August 30, 2010 (two submittals), and December 15, 2011. In the portions of the submittals being approved today, the SIP revisions update the Georgia SIP to reflect EPA's current national ambient air quality standards (NAAQS) for sulfur dioxide, nitrogen dioxide, ozone, lead, and particulate matter found in the Code of Federal Regulations.

DATES: This direct final rule is effective July 15, 2013 without further notice, unless EPA receives adverse comment by June 17, 2013. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0223, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0223, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0223. 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Georgia SIP, contact Mr. Richard Wong, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Wong's telephone number is (404) 562–8726; email address: *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Analysis of the State's Submittal
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

Sections 108 and 109 of the Clean Air Act (CAA or Act) govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR Part 50—*National Primary and Secondary Ambient Air Quality Standards.* In this rulemaking, EPA is proposing to approve portions of Georgia's September 15, 2008, August 30, 2010 (two submittals), and December 15, 2011, submissions amending the State's rules identifying the current NAAQS table for sulfur dioxide, nitrogen dioxide, ozone, lead and particulate matter that are found at Rule 391–3–1–.02(4)b, c, e, f, and g. The SIP submissions amending Georgia's rules to incorporate the NAAQS can be found in the Docket for this proposed rulemaking at *www.regulations.gov* and are summarized below. The remainder

of Georgia's September 15, 2008,[1] August 30, 2010 (two submittals), and December 15, 2011, SIP revisions are being considered in a separate rulemaking.

II. Analysis of the State's Submittal

a. Sulfur Dioxide

On June 22, 2010, EPA revised the primary NAAQS for the 1-hour sulfur dioxide to 75 parts per billion (ppb). *See* 75 FR 35520. Accordingly, in a December 15, 2011, SIP submission, Georgia updated state rule 391–3–1–.02(4)(b) ''Sulfur Dioxide'' to be consistent with the NAAQS that were promulgated in 2010. EPA has reviewed this revision to Georgia's rule for sulfur dioxide and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to Georgia's SIP.

b. Nitrogen Dioxide

On October 8, 1996, EPA revised the primary and secondary NAAQS for the annual nitrogen dioxide to 53 ppb. *See* 61 FR 52852. On February 9, 2010, EPA revised the primary NAAQS for the 1-hour nitrogen dioxide to 100 ppb. *See* 75 FR 6474. Accordingly, in a December 15, 2011, SIP submission, Georgia updated state rule 391–3–1–.02(4)(g) ''Nitrogen Dioxide'' to be consistent with the NAAQS that were promulgated in 1996 and 2010 for the primary and secondary annual and primary 1-hour, respectively. EPA has reviewed the changes to Georgia's rule for nitrogen dioxide and has made the determination that the changes are consistent with federal regulations; thus, EPA is approving the changes to Georgia's SIP.

c. Ozone

On March 27, 2008, EPA revised the primary and secondary NAAQS for the 8-hour ozone to 75 ppb to provide increased protection of public health and welfare, respectively. *See* 73 FR 16436. Accordingly, in a August 30, 2010, SIP submission, Georgia updated state rule 391–3–1–.02(4)(e) ''Ozone'' to update the definition for ozone to be consistent with the 8-hour ozone NAAQS that were promulgated in 2008. EPA has reviewed this revision to Georgia's rule for ozone and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to Georgia's SIP.

d. Lead

On November 12, 2008, EPA revised the lead NAAQS from 1.5 micrograms per cubic meter ($\mu g/m^3$) to 0.15 $\mu g/m^3$ based on a rolling 3-month average for both the primary and secondary standards. *See* 73 FR 66964. Accordingly, in a August 30, 2010, SIP submission, Georgia updated state rule 391–3–.02(4)(f) ''Lead'' to update the definition for lead to be consistent with the NAAQS that were promulgated in 2008. EPA has reviewed this revision to Georgia's rule for lead and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to Georgia's SIP.

e. Particulate Matter

On October 17, 2006, EPA retained the annual average NAAQS at 15 $\mu g/m^3$ but revised the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations. Under EPA regulations at 40 CFR part 50, the primary and secondary 2006 24-hour $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 35 $\mu g/m^3$ at all relevant monitoring sites in the subject area over a 3-year period. *See* 71 FR 61144. EPA has previously approved Georgia's retainment of the annual average NAAQS at 15 $\mu g/m^3$. *See* 75 FR 6309, February 9, 2010. Accordingly, in a September 15, 2008, and August 30, 2010, SIP submissions, Georgia updated state rule 391–3–1–.02(4)(c) ''Particulate Matter'' to update the definition for 24-hour and significant digits for the annual $PM_{2.5}$ NAAQS, respectively, to be consistent with the NAAQS that were promulgated in 2006. EPA has reviewed this revision to Georgia's rule for the 24-hour and annual $PM_{2.5}$ NAAQS and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to Georgia's SIP.

Additionally, on October 17, 2006, EPA revoked the PM_{10} annual NAAQS of 50 $\mu g/m^3$, while keeping in place the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. *See* 71 FR 61144. Accordingly, in a August 30, 2010, SIP submission, Georgia updated state rule 391–3–1–.02(4)(c) ''Particulate Matter'' to update the definition for the PM_{10} NAAQS to be consistent with the NAAQS that were promulgated in 2006. EPA has reviewed this revision to Georgia's rule for the 24-hour PM_{10} NAAQS and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to Georgia's SIP.

III. Final Action

EPA is approving the aforementioned changes to the State of Georgia SIP, because it is consistent with EPA's standards for sulfur dioxide, nitrogen dioxide, ozone, lead and particulate matter. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 15, 2013 without further notice unless the Agency receives adverse comments by June 17, 2013.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 15, 2013 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

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

- is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities

[1] On September 15, 2008, Georgia submitted to EPA a SIP for miscellaneous revisions/Title V programs. EPA took action on a portion of Georgia's September 15, 2008, regarding the RACT (y), (ii), (kkk) and published in the **Federal Register** on September 28, 2012 (77 FR 59554). Action on the remaining portions of the September 15, 2008, submittal is still under consideration and will be addressed in a separate action.

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**; rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: May 3, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart L—Georgia

■ 2. Section 52.570(c) is amended under Table 1, under Emission Standards by revising the entry for ''391–3–1–.02(4)'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	*	*	* *	*
Emission Standards				
* * *	*	*	* *	*
391–3–1–.02(4)	Ambient Air Standards	9/13/2011	5/16/2013 [Insert citation of publication].	
* * *	*	*	* *	*

* * * * *

[FR Doc. 2013–11567 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0602; FRL–9813–5]

Approval and Promulgation of Implementation Plans; North Carolina; State Implementation Plan Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final Rule.

SUMMARY: EPA is taking direct final action to approve a portion of a revision to the North Carolina State Implementation Plan (SIP) submitted on February 3, 2010, through the North Carolina Department of Environment and Natural Resources (NC DENR). This revision updates the North Carolina SIP to reflect EPA's current national ambient air quality standards for ozone, lead, and particulate matter found in the Code of Federal Regulations.

DATES: This direct final rule is effective July 15, 2013 without further notice, unless EPA receives adverse comment by June 17, 2013. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–0602, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2007–0602, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2007–0602. 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's telephone number is 404–562–9222. She can also be reached via electronic mail at *Sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Analysis of the State's Submittal
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I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards.* In this rulemaking, EPA is proposing to approve a portion of North Carolina's February 3, 2010, submission amending the State's NAAQS table for ozone, lead and particulate matter that are found at 15A NCAC 02D .0405, .0408, .0409, and .0410. The SIP submittal amending North Carolina's rules to incorporate the NAAQS can be found in the Docket for this proposed rulemaking at *www.regulations.gov* and are summarized below. The remainder of North Carolina's February 3, 2010, SIP revision is being considered in a separate rulemaking.

II. Analysis of the State's Submittal

a. Ozone

On March 27, 2008, EPA revised the primary and secondary NAAQS for the 8-hour ozone to 75 parts per billion (ppb) to provide increased protection of public health and welfare, respectively. *See* 73 FR 16436. Accordingly, in a February 3, 2010, SIP submission, North Carolina updated state rule 15A NCAC 02D .0405 ''Ozone'' to update the definition for ozone to be consistent with the 8-hour ozone NAAQS that were promulgated in 2008. EPA has reviewed this revision to North Carolina's rule for ozone and has made the determination that this change is consistent with federal regulations; thus

EPA is approving this change to North Carolina's SIP.

b. Lead

On November 12, 2008, EPA revised the lead NAAQS from 1.5 micrograms per cubic meter (μg/m^3) to 0.15 μg/m^3 based on a rolling 3-month average for both the primary and secondary standards. *See* 73 FR 66964. Accordingly, in a February 3, 2010, SIP submission, North Carolina updated state rule 15A NCAC 02D .0408 ''Lead'' to update the definition for lead to be consistent with the NAAQS that were promulgated in 2008. EPA has reviewed this revision to North Carolina's rule for lead and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to North Carolina's SIP.

c. Particulate Matter

On October 17, 2006, EPA retained the annual average NAAQS at 15 μg/m^3 but revised the 24-hour NAAQS to 35 μg/m^3, based again on the 3-year average of the 98th percentile of 24-hour concentrations. Under EPA regulations at 40 CFR part 50, the primary and secondary 2006 24-hour $PM_{2.5}$ NAAQS are attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 35 μg/m^3 at all relevant monitoring sites in the subject area over a 3-year period. *See* 71 FR 61144. Accordingly, in a February 3, 2010, SIP submission, North Carolina updated state rule 15A NCAC 02D .0410 ''$PM_{2.5}$ Particulate Matter'' to update the definition for 24-hour $PM_{2.5}$ NAAQS to be consistent with the NAAQS that were promulgated in 2006. EPA has reviewed this revision to North Carolina's rule for the 24-hour $PM_{2.5}$ NAAQS and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to North Carolina's SIP.

Additionally, on October 17, 2006, EPA revoked the PM_{10} annual NAAQS of 50 μg/m^3, while keeping in place the 24-hour PM_{10} NAAQS of 150 μg/m^3. *See* 71 FR 61144. Accordingly, in a February 3, 2010, SIP submission, North Carolina updated state rule 15A NCAC 02D .0409 ''PM_{10} Particulate Matter'' to update the definition for the PM_{10} NAAQS to be consistent with the NAAQS that were promulgated in 2006. EPA has reviewed this revision to North Carolina's rule for the 24-hour PM_{10} NAAQS and has made the determination that this change is consistent with federal regulations; thus, EPA is approving this change to North Carolina's SIP.

III. Final Action

EPA is approving the aforementioned changes to the State of North Carolina SIP, because it is consistent with EPA's standards for ozone, lead and particulate matter. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 15, 2013 without further notice unless the Agency receives adverse comments by June 17, 2013.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 15, 2013 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a

comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**; rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b) (2).

List of Subjects in 40 CFR Part 52

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

Dated: May 1, 2013.

A. Stanley Meiburg,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart II—North Carolina

■ 2. Section 52.1770 (c) is amended under Table 1, at Subchapter 2D Air Pollution Control Requirements, Section .0400 Ambient Air Quality Standards by revising the entries for ''.0405,'' ''.0408,'' ''.0409'' and ''.0410'' to read as follows:

§ 52.1770 Identification of plan .

* * * * *

(c)* * *

EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
* *	*	*	* *	* *
Section .0400 Ambient Air Quality Standards				
* *	*	*	* *	* *
Section .0405	Ozone	1/1/2010	5/16/2013 [Insert citation of publication].	
* *	*	*	* *	* *
Section .0408	Lead	1/1/2010	5/16/2013 [Insert citation of publication].	
Section .0409	Particulate Matter	1/1/2010	5/16/2013 [Insert citation of publication].	
Section .0410	$PM_{2.5}$ Particulate Matter	1/1/2010	5/16/2013 [Insert citation of publication].	
* *	*	*	* *	* *

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[FR Doc. 2013–11562 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WP Docket No. 07–100, FCC 13–52]

Private Land Mobile Radio Stations Below 800 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules regarding private land mobile radio (PLMR) licensing, including increasing the power limit for end-of-train devices, modifying trunking rules for PLMR stations below 800 MHz, and permitting digital transmission of station identification by PLMR station with exclusive use of their spectrum, as addressed in the *Second Further Notice of Proposed Rulemaking and Order* in this proceeding. This proceeding is part of our continuing effort to provide clear and concise rules that facilitate new wireless technologies, devices and services, and are easy for the public to understand.

DATES: Effective June 17, 2013 except for amendments to §§ 90.187 and 90.425, which contain information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Rodney P. Conway, at *Rodney.Conway@FCC.gov,* Wireless Telecommunications Bureau, (202) 418–2904, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fifth Report and Order* in WP Docket No. 07–100, FCC 13–52, adopted on April 16, 2013, and released April 18, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. In the *Second Report and Order,* at 75 FR 19277, April 14, 2010, in this proceeding, the Commission adopted various changes to the rules regarding

PLMR licensing, including frequency coordination and eligibility issues. The accompanying *Second Further Notice of Proposed Rule Making* (*Second FNPRM*), at 75 FR 19340, April 14, 2010, proposed various changes to the PLMR licensing and service rules. Below, in this document, the Commission addresses these proposals, with the exception of those issues relating to Wireless Medical Telemetry Services (WMTS). The Commission believes that the benefits of the rule changes adopted herein outweigh any potential costs, and that these rule changes will afford licensees new options for enhancing the safety and reliability of their operations.

2. *End-of-Train Devices.* End-of-Train (EOT) devices operate on frequency pair 452/457.9375 MHz and transmit information regarding the brake pipe pressure on the rear car to the lead locomotive for display to the locomotive engineer and allow the engineer to apply the rear train brakes in an emergency. As a practical matter, EOT devices must be mounted on the coupling knuckle behind the last car in the train, but the path from the end of the train to the front of the train is always blocked by intervening train cars, and also can be adversely affected by variable terrain factors.

3. In the *Second FNPRM,* the Association of American Railroads, which is the Commission's certified frequency coordinator for frequency pair 452/457.9375 MHz and the adjacent frequencies, argued that the current two-watt power limit offers little margin for degradation of the communications link, especially on longer trains (some of which are 7,000 to 8,000 feet long), and that the proposed increase in power was unlikely to cause interference to railroad operations. The *Second FNPRM* sought comment on the proposal.

4. Commenters unanimously support increasing the maximum transmitter output power for EOT devices to eight watts. We agree and will modify § 90.238(e) accordingly. Allowing these devices to operate with up to eight watts transmitter output power is justified to minimize the possibility of communications link failure in light of the changing needs of the rail industry. Operation of higher-power EOTs will benefit the public by increasing the safety of life and property for railroads and their employees, and for people in communities through which trains travel. It also will reduce the indirect delay costs incurred by railroads when trains must stop or slow down due to loss of a telemetry link. In addition, given that use of the frequency pair and the adjacent frequencies is coordinated by the railroad industry, and they generally are not used by non-railroad entities, it appears that there is little risk of interference due to the increase in power. Moreover, since the waiver was issued for operation of EOT devices at the higher power level, we have not received any interference complaints and are not aware of any interference concerns. Accordingly, the benefits of this rule change greatly exceed the costs.

5. *Trunking Rules.* Section 90.187 of the Commission's rules specifies the manner in which trunking may be accomplished in the PLMR bands below 800 MHz. A trunked radio system employs technology that can search two or more available channels and automatically assign a user an open channel. In a centralized trunked system, the base station controller provides dynamic channel assignments by automatically searching all channels within the system and assigning an open channel to a user; in a decentralized trunked system, the system monitors the assigned channels for activity both within and outside the trunked system, and transmits only when an open channel is found.

6. The Commission noted in the *Second FNPRM* that § 90.187 had been the subject of several decisions clarifying or interpreting it since it was adopted, and, accordingly, the Commission proposed or sought comment in this proceeding on various amendments intended to simplify or clarify the trunking rules. Most of the proposals were not controversial, and we adopt those herein. In particular, we amend § 90.187 to clarify that it neither requires applicants for decentralized trunked systems to obtain consent from affected licensees nor permits decentralized trunked systems to operate without monitoring. We also remove unnecessary language from §§ 90.187(b)(2)(v) (which, redundantly of § 90.175(a), allows a potential applicant to ask the Commission to overturn a frequency coordinator's determination that proposed operations would cause objectionable interference) and § 90.187(d) (which provides a procedure to prevent ''strike'' applications, which already are prohibited by § 1.935). We also take this opportunity to correct the 800 MHz band trunking rules to set forth the correct cross-reference in § 90.631(d), to the table in § 90.741. We also correct cross-references contained in § 90.210. We find that the public will benefit from these changes by eliminating potential confusion and simplifying the rules, thereby better effectuating the interference protection provided by the rules for incumbent stations. Moreover, we do not anticipate that these changes will impose new costs on parties.

7. Section 90.187 provides that a trunked system must monitor the frequencies and employ equipment that prevents transmission on a frequency if a signal from another system is present on it, unless the licensee either operates on 470–512 MHz band frequencies on which it has obtained exclusive use by loading pursuant to § 90.313 of the Commission's rules or the licensee obtains the written consent of all ''affected licensees.'' Whether an incumbent is an ''affected licensee'' depends on the spectral proximity of the existing and proposed frequencies and the physical proximity of the existing and proposed facilities.

8. Under the existing rule, a geographically proximate incumbent (under the criteria discussed *infra,* paragraph 10) is an ''affected licensee'' if its assigned frequency is 15 kilohertz or less from the assigned frequency of a proposed 25 kilohertz bandwidth station, 7.5 kilohertz or less from the assigned frequency of a proposed 12.5 kilohertz bandwidth station, or 3.75 kilohertz or less from the assigned frequency of a proposed 6.25 kilohertz bandwidth station. The *Second FNPRM* sought comment on a proposal by the Land Mobile Communications Council (LMCC) to broaden the definition of ''affected licensee'' to include more incumbent stations (depending on the authorized bandwidth of the incumbent station) in certain cases involving proposed narrowband stations. Some commenters argued that LMCC's proposed protection parameters provided excessive protection to incumbent wideband systems and, as a result, were too restrictive to allow potential adjacent channel narrowband systems and would stifle migration to narrowband systems. LMCC subsequently modified its proposal to decrease the proposed protection for incumbent wideband systems and increase the protection for very narrowband (6.25 kHz) systems. We find that the protection criteria submitted by LMCC in its supplemental comments adequately address concerns raised by other commenters in the record and provide an appropriate balance between protecting incumbent wideband stations and allowing the establishment of new narrowband systems.

9. LMCC's modified proposal also, for the first time, differentiated between analog and digital 25 kilohertz bandwidth incumbents. We note that neither LMCC nor any other commenter submitted justification for treating analog and digital stations differently.

As a result, we are not persuaded that the protection criteria should differ depending on the incumbent's emission type. Instead, we find LMCC's revised proposed criteria for digital stations to be appropriate for all incumbent 25 kilohertz bandwidth stations. We therefore amend the spectral separation criteria as set forth in the table in new § 90.187(d)(1)(A).

10. With respect to physical proximity, the current rule allows the applicant to choose between two methods of determining whether spectrally proximate incumbents are ''affected licensees'': stations with service contours that are overlapped by a circle with a seventy-mile radius from the proposed base station (distance analysis), or stations with service contours that are overlapped by the proposed station's interference contour (contour analysis). Given its understanding that almost all applications for new centralized trunked systems rely on contour analysis, the Commission proposed to streamline the rule by eliminating the distance analysis option. No commenter opposed this proposal, and we amend § 90.187 accordingly for the reasons set forth in the *Second FNPRM*.

11. Currently, the contour analysis must be performed only to demonstrate that a proposed system's interference contour does not overlap any spectrally proximate incumbent system's service contour. The *Second FNPRM* sought comment on whether the contour analysis should also be conducted in reverse, *i.e.,* whether an applicant for a new centralized trunked system should be required to demonstrate that its proposed service contour would not be overlapped by the interference contour of any incumbent system. Such a requirement would prevent the licensing of stations that appear to be of limited use but which would preclude the expansion of the service contour of the existing system. We agree with the commenters in support of the proposal that the public interest is not served by authorizing stations that may be of limited use but will affect future use of the spectrum by viable incumbent stations. Another commenter, RadioSoft, argues that proposed stations that will incur ''limited'' interference should be authorized on a secondary basis, but proposes no criteria for an acceptable interference level. We agree with LMCC that, rather than defining any limited circumstances under which we will authorize new stations with service contours overlapped by incumbents' interference contours, we should permit applicants with legitimate reasons for seeking authorization for service contours overlapped by incumbents' interference contours to seek case-by-case waivers. We disagree with the State of Wisconsin Department of Transportation's assertion that requiring a two-way contour analysis will unnecessarily ''double the difficulty and workload to study these situations.'' We find that the benefits of this rule change in protecting the expansion needs of viable stations outweigh the limited additional burden on frequency coordinators of performing a two-way analysis to ensure that a station of limited use is not authorized that will potentially restrict expansion possibilities of existing stations. We amend § 90.187(d) accordingly.

12. Finally, the Commission sought comment in the *Second FNPRM* on how systems that have no permanent base stations should be treated for purposes of the trunking rules. It sought comment on different possible ways to treat such stations for purposes of the contour analysis, and on whether ''affected licensee'' status should be accorded to mobile-only stations for which the license does not specify geographic coordinates (*e.g.,* licenses authorizing operation within a particular county or state), or only to mobile-only stations with an authorized operating area defined as a radius around geographic coordinates. Commenters unanimously agree that mobile-only stations should be protected with respect to proposed centralized trunked systems whether their authorized operating area is defined by a point-radius or a particular jurisdiction such as a county or state. We conclude that a method suggested by LMCC's supplemental comments balances the appropriate protection level with ease of administration better than previous proposals set forth in the *Second FNPRM:* for purposes of determining whether an incumbent licensee's written consent is required, a mobile-only system's authorized operating area will be used as both the station's service contour and its interference contour, regardless of whether that licensee has defined its operating area as a point-radius or by jurisdictional boundaries. As the Commission noted in the *Second FNPRM,* other possible methods for analyzing a mobile-only system by placing a mobile unit at the center or edge of the authorized operating area could understate or overstate the system's potential to cause or receive interference. We believe that using the service area boundary for both the protected contour and the interference contour will allow establishment of new facilities while still providing an appropriate level of protection to the mobile operations. We amend § 90.187 accordingly.

13. *470–512 MHz band offset channels.* In 1997, the Commission directed the certified frequency coordinators for the PLMR services to reach a consensus on the applicable coordination procedures for the 12.5 kHz offset channels in the 470–512 MHz band. That consensus is embodied in the LMCC procedures for evaluating adjacent channel interference in the 470–512 MHz band using the interference criteria of TIA/EIA/TSB–88 (TSB–88). The LMCC Consensus provides that an application shall not be certified if an incumbent or the applicant has unacceptable interference of more than five percent reduction of the calculated service area reliability.

14. In the *Second FNPRM,* the Commission sought comment on LMCC's suggestion that the TSB–88 requirement be codified in our rules in order to reduce confusion concerning the requirement. The Commission also asked commenters to consider whether it would be preferable to leave the requirement uncodified, so that the frequency coordinators can continue to modify the TSB–88 procedures without an amendment of the Commission's rules. It noted that if the TSB–88 requirement were codified in our rules, it could unnecessarily reduce the flexibility that the frequency coordinators currently have to tailor the TSB–88 analysis to specific situations because any changes to the procedure would have to be codified before they could take effect. We agree with LMCC, the only commenter to address this issue, that on balance it would be preferable not to codify the TSB–88 requirement in order to allow the frequency coordinators flexibility to modify the procedures as necessary. We therefore will not modify the Commission's rules to codify the TSB–88 requirement.

15. *Station Identification.* Generally, part 90 station identification must be transmitted by voice in the English language or by Morse Code. However, the following types of stations may, if they are licensed on an exclusive basis, transmit station identification information in digital format if the licensee will provide the Commission with information sufficient to decode the digital transmission to ascertain the call sign transmitted: 800 and 900 MHz band stations that normally employ digital emissions and Commercial Mobile Radio Service (CMRS) stations in any band. The *Second FNPRM,* sought comment on Motorola's request that the rules be amended to afford the

same flexibility to VHF and UHF PLMR licensees that are licensed on an exclusive basis. Some commenters opposed the request, or asked that digital transmission of PLMR station identification information be readable without specialized equipment. They note that instances of interference are frequently mitigated between licensees without Commission involvement when the licensees can identify and contact each other directly. However, the proposed station identification changes would apply only where licensees have exclusive use of the spectrum, and permitting other exclusive-use licensees this flexibility has not resulted in increased interference complaints to the Commission.

16. We therefore amend § 90.425 to allow PLMR licensees in the bands between 150 and 512 MHz that are licensed on an exclusive basis to transmit station identification information in digital format, on the condition that the licensee will provide the Commission with information sufficient to decode the digital transmission to ascertain the call sign transmitted. Because this simply gives licensees an option regarding the method of transmission of required call sign information, but does not impose a new burden, licensees will not incur new costs—specifically the cost associated with providing the Commission sufficient information to decode the transmission—unless they choose the digital transmission option. Moreover, as indicated above, by limiting this option to exclusive-use licensees, we do not anticipate that this will cause any significant increase in interference complaints or result in any significant impairment of the ability of licensees to work with each other in resolving interference problems. Therefore, we find that the benefits of granting flexibility with respect to call sign transmission outweigh any associated costs.

17. The *Second FNPRM* also sought comment on Motorola's request to allow PLMR licensees to use a single call sign for commonly owned facilities that are operated as part of a single system, similar to flexibility already available to CMRS licensees. The only other commenter to address the proposal supports it. We conclude that multi-station PLMR licensees should be afforded the same call sign flexibility that is enjoyed by CMRS licensees. We amend § 90.425 accordingly.

18. Finally, as Motorola notes, certain 800 and 900 MHz trunked systems are required to transmit station identification only on the lowest frequency in the base station trunk group assigned to the licensee, while VHF and UHF PLMR trunked systems must transmit station identification on every assigned frequency. Motorola requests that the rules be amended to afford similar flexibility for trunked VHF and UHF PLMR trunked systems with exclusive frequencies. Unlike the 800 and 900 MHz bands, however, VHF and UHF PLMR frequencies are assigned individually rather than by predefined group. Consequently, a party seeking to determine a monitored station's call sign does not automatically know the station's lowest assigned frequency. For this reason, we decline to adopt Motorola's suggestion.

19. *Multiple Licensing.* As explained in the *Notice of Proposed Rulemaking (NPRM),* at 72 FR 32582, June 13, 2007, most PLMR communication systems employ mobile relays (repeaters) with wide-area coverage so that communication may be maintained between mobile units that otherwise would be out of range of one another. It is common practice for an entity that owns and operates a repeater to share a base station with a number of other users. Under this practice, each user of the mobile relay station (commonly called a ''community repeater'') applies for and obtains an individual license for the station. Thus, a single base station is licensed to multiple users. The *NPRM* sought comment on the continued usefulness of multiple licensing, given that changes in the Commission's Rules have created new means for multiple entities to share facilities or spectrum, or otherwise meet their communications needs.

20. Most commenters argue that multiple licensing continues to serve an important purpose and should be retained. We agree that multiple licensing provides for a cost effective licensing option to entities while also facilitating efficient use of spectrum. Therefore, we conclude that there are public interest benefits in allowing multiple licensing of the same facility, and we will take no action to phase it out at this time.

I. Procedural Matters

A. Ex Parte Rules—Permit-But-Disclose Proceeding

21. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Paperwork Reduction Act

22. This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

II. Final Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Second FNPRM* in this proceeding was incorporated in the *Second FNPRM*. Written public comments were requested on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Proposed Rules

24. This proceeding is part of our continuing effort to provide clear rules that are easy for licensees to comprehend. The *Fifth Report and Order* makes changes to certain regulatory requirements contained in part 90 of the Commission's rules pertaining to telemetry operations by railroad licensees, and trunking of private land mobile radio operations below 512 MHz to allow for more flexibility in the efficient use of radio spectrum.

Summary of Significant Issues Raised by Public Comment in Response to the IRFA

25. No comments were submitted specifically in response to the IRFA. As discusses in Section E of this FRFA, we have considered the potential economic impact on small entities of these rules, and we have considered alternatives that would reduce the potential economic impact of the rules enacted herein, regardless of whether the potential economic impact was discussed in any comments.

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

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms

''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes adopted in this *Fifth Report and Order*.

27. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons. *See 13 CFR 121.201, NAICS code 517210.* According to the Commission's records, a total of approximately 470,316 licenses comprise PLMR users. Despite the lack of specific information, however, the Commission believes that a substantial number of PLMR licensees may be small entities.

28. *Frequency Coordinators.* Neither the Commission nor the SBA has developed a small business size standard specifically applicable to spectrum frequency coordinators. The Commission has not developed a small business size standard specifically applicable to frequency coordinators. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. *See 13 CFR 121.201, NAICS code 517210.* Under this category and size standard, we estimate that a majority of frequency coordinators can be considered small.

29. *RF Equipment Manufacturers.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. *See 13 CFR 121.201, NAICS code 334220.* According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had fewer than 100 employees and 148 had more than 100 employees. *See U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005).* Thus, under this size standard, the majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

30. The rule changes adopted in the *Fifth Report and Order* allow PLMR licensees in the bands between 150 and 512 MHz that are licensed on an exclusive basis to transmit station identification information in digital format, on the condition that the licensee will provide the Commission with information sufficient to decode the digital transmission to ascertain the call sign transmitted. This requirement already applies to other licensees that are permitted to transmit station identification information in digital format. Because this simply gives stations an option regarding the method of transmission of required call sign information, but does not impose a new burden, stations will not incur new costs—specifically the cost associated with providing the Commission sufficient information to decode the transmission—unless they choose the digital transmission option.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. The RFA requires an agency to describe the steps it has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected. *See 5 U.S.C. 603(c).*

32. We believe the changes adopted in the *Fifth Report and Order* will promote flexibility and more efficient use of the spectrum, reduce administrative burdens on both the Commission and licensees, and allow licensees to better meet their communication needs. In this *Fifth Report and Order,* we will allow an increase in the telemetry power operations for railroad licensees to allow increased flexibility and safety for operations of longer trains in difficult terrain. Additionally, the *Fifth Report and Order* decides to allow for the transmission of station identification information, in certain situations, in a digital format. The *Fifth Report and Order* also provides for a more streamlined, concise and understandable regulations concerning proposals for new trunking stations.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

33. None.

Report to Congress: The Commission will send a copy of the *Fifth Report and Order,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Fifth Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Fifth Report and Order* and the FRFA (or summaries thereof) will also be published in the **Federal Register**.

III. Ordering Clauses

34. Pursuant to sections 4(i), 302, 303(b), 303(f), 303(g), 303(o), 303(p), 303(r), and 405 of the Communications Act of 1934, 47 U.S.C. 154(i), 302a, 303(b), 303(f), 303(g), 303(o), 303(p), 303(r), and 405, that this *Fifth Report and Order* is *hereby adopted.*

35. Part 90 of the Commission's rules *is amended* as specified in below, effective thirty days after publication of the *Fifth Report and Order* in the **Federal Register**.

36. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Fifth Report and Order,* including the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, radio, reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90–PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7) and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 2. Section 90.7 is amended by adding definitions for ''centralized trunked system'' and ''decentralized trunked system'' in alphabetical order and by revising the definition of ''trunked radio system'' to read as follows:

§ 90.7 Definitions.

* * * * *

Centralized trunked system. A system in which there is dynamic assignment of communications paths by automatically searching all communications paths in the system and assigning to a user an open communications path within that system. Individual communications paths within a trunked system may be classified as centralized or decentralized in accordance with the requirements of § 90.187.

* * * * *

Decentralized trunked system. A system which monitors the communications paths within its assigned channels for activity within and outside of the trunked system and transmits only when an available communications path is found. Individual communications paths within a trunked system may be classified as centralized or decentralized in accordance with the requirements of § 90.187.

* * * * *

Trunked radio system. A radio system employing technology that provides the ability to search two or more available communications paths and automatically assigns an open communications path to a user.

* * * * *

■ 3. Section 90.187 is revised to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 MHz.

(a) Applicants for centralized and decentralized trunked systems operating on frequencies between 150 and 512 MHz (except 220–222 MHz) must indicate on their applications (radio service and class of station code, instructions for FCC Form 601) that their system will be trunked. Licensees of stations that are not trunked may trunk their systems only after modifying their license (see § 1.927 of this chapter).

(b) Except as provided in paragraphs (c) and (d) of this section, trunked systems operating under this section must employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency. The level of monitoring must be sufficient to avoid harmful interference to other systems.

(c) The monitoring requirement in paragraph (b) of this section does not apply to trunked systems operating in the 470–512 MHz band that meet the loading requirements of § 90.313 and have exclusive use of their frequencies in their service area.

(d) The monitoring requirement in paragraph (b) of this section does not apply if the application is accompanied by written consent from all affected licensees.

(1) Affected licensees for the purposes of this section are licensees (and previously filed pending applicants) meeting both a spectral and a contour overlap as defined:

(i) *Spectral overlap.* Licensees (and filers of previously filed pending applications) with an assigned (or proposed) frequency having a spectral separation from a frequency of the proposed centralized trunked station that does not exceed these values:

Proposed station	Incumbent authorized bandwidth		
	25 kHz	*12.5 kHz*	*6.25 kHz*
25 kHz	15.0 kHz	15.0 kHz	15.0 kHz
12.5 kHz	15.0 kHz	7.5 kHz	7.5 kHz
6.25 kHz	15.0 kHz	7.5 kHz	5.0 kHz

The left column is the authorized bandwidth requested for the proposed trunked station. The second row is the authorized bandwidth of the incumbent. The other cells in the table show the frequency range above and below the frequency of the proposed centralized trunked station that must be considered.

(ii) *Contour overlap.* (A) Licensees (and filers of previously filed pending applications) with a service contour (37 dBu for stations in the 150–174 MHz band, and 39 dBu for stations in the 421–512 MHz band) that is overlapped by the proposed centralized trunked station's interference contour (19 dBu for stations in the 150–174 MHz band, and 21 dBu for stations in the 421–512 MHz band). Contour calculations are required for base station facilities and not for mobile stations associated with those base stations.

(B) The calculation of service and interference contours shall be performed using generally accepted engineering practices and standards, including appropriate derating factors, agreed to by a consensus of all certified frequency coordinators. Frequency coordinators shall make this information available to the Commission upon request.

(C) For purposes of this section, the authorized operating area of a station or proposed station with no associated base station shall be used as both the station's service contour and its interference contour.

(D) After January 1, 2013, licensees with an authorized bandwidth exceeding 12.5 kHz will not be deemed affected licensees, unless the licensee meets the efficiency standard set forth in § 90.203(j)(3) or the licensee was granted a waiver of § 90.209(b).

(2) The written consent from an affected licensee shall state all terms agreed to by the parties and shall be signed by the parties. The written consent shall be maintained by the operator of the centralized trunked station and be made available to the Commission upon request. An application for a centralized trunked station shall include either a certification from the applicant that written consent has been obtained from all affected licensees, or a certification from the frequency coordinator that there are no affected licensees.

(3) In addition, the service contour for proposed centralized trunked stations shall not be overlapped by an

incumbent licensee's interference contour.

(e) The exclusive service area of a station that has been authorized for centralized trunked operation will be protected from proposed centralized trunked, decentralized trunked or conventional operations in accordance with the standards of paragraph (d) of this section.

(f) Trunking of systems licensed on paging-only channels or licensed in the Radiolocation Service (subpart F) is not permitted.

(g) *Channel limits.* (1) No more than 10 channels for new centralized trunked operation in the Industrial/Business Pool may be applied for at a single transmitter location or at locations with overlapping service contours as specified in paragraph (d) of this section. Subsequent applications for centralized trunked operation are limited to no more than an additional 10 channels, and must be accompanied by a certification, submitted to the certified frequency coordinator coordinating the application, that all of the applicant's existing channels authorized for centralized trunked operation at that location or at locations with overlapping service contours have been constructed and placed in operation. Certified frequency coordinators are authorized to require documentation in support of the applicant's certification that existing channels have been constructed and placed in operation.

(2) Applicants for Public Safety Pool channels may request more than 10 centralized trunked channels at a single location or at locations with overlapping service contours if accompanied by a showing of sufficient need. The requirement for such a showing may be satisfied by submission of loading studies demonstrating that requested channels in excess of 10 will be loaded with 50 mobiles per channel within a five year period commencing with the grant of the application.

(h) If a licensee authorized for centralized trunked operation discontinues trunked operation for a period of 30 consecutive days, the licensee, within 7 days thereafter, shall file a conforming application for modification of license with the Commission.

■ 4. Section 90.210 is amended by revising the introductory text, the table, and paragraphs (d)(4) and (e)(4) to read as follows:

§ 90.210 Emission masks.

Except as indicated elsewhere in this part, transmitters used in the radio services governed by this part must comply with the emission masks outlined in this section. Unless otherwise stated, per paragraphs (d)(4), (e)(4), and (o) of this section, measurements of emission power can be expressed in either peak or average values provided that emission powers are expressed with the same parameters used to specify the unmodulated transmitter carrier power. For transmitters that do not produce a full power unmodulated carrier, reference to the unmodulated transmitter carrier power refers to the total power contained in the channel bandwidth. Unless indicated elsewhere in this part, the table in this section specifies the emission masks for equipment operating under this part.

APPLICABLE EMISSION MASKS

Frequency band (MHz)	Mask for equipment with audio low pass filter	Mask for equipment without audio low pass filter
Below 25 [1]	A or B	A or C
25–50	B	C
72–76	B	C
150–174 [2]	B, D, or E	C, D or E
150 paging only	B	C
220–222	F	F
421–512 [2 5]	B, D, or E	C, D, or E
450 paging only	B	G
806–809/851–854	B	H
809–824/854–869 [3 5]	B	G
896–901/935–940	I	J
902–928	K	K
929–930	B	G
4940–4990 MHz	L or M	L or M
5850–5925 [4].		
All other bands	B	C

[1] Equipment using single sideband J3E emission must meet the requirements of Emission Mask A. Equipment using other emissions must meet the requirements of Emission Mask B or C, as applicable.

[2] Equipment designed to operate with a 25 kHz channel bandwidth must meet the requirements of Emission Mask B or C, as applicable. Equipment designed to operate with a 12.5 kHz channel bandwidth must meet the requirements of Emission Mask D, and equipment designed to operate with a 6.25 kHz channel bandwidth must meet the requirements of Emission Mask E.

[3] Equipment used in this licensed to EA or non-EA systems shall comply with the emission mask provisions of § 90.691 of this chapter.

[4] DSRCS Roadside Units equipment in the 5850–5925 MHz band is governed under subpart M of this part.

[5] Equipment may alternatively meet the Adjacent Channel Power limits of § 90.221.

* * * * *

(d) * * *

(4) The reference level for showing compliance with the emission mask shall be established using a resolution bandwidth sufficiently wide (usually two or three times the channel bandwidth) to capture the true peak emission of the equipment under test. In order to show compliance with the emission mask up to and including 50 kHz removed from the edge of the authorized bandwidth, adjust the resolution bandwidth to 100 Hz with the measuring instrument in a peak hold mode. A sufficient number of sweeps must be measured to insure that the emission profile is developed. If video filtering is used, its bandwidth must not be less than the instrument resolution bandwidth. For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (o) of this section. If it can be shown that use of the above instrumentation settings do not accurately represent the true interference potential of the equipment

under test, an alternate procedure may be used provided prior Commission approval is obtained.

(e) * * *

(4) The reference level for showing compliance with the emission mask shall be established using a resolution bandwidth sufficiently wide (usually two or three times the channel bandwidth) to capture the true peak emission of the equipment under test. In order to show compliance with the emission mask up to and including 50 kHz removed from the edge of the authorized bandwidth, adjust the resolution bandwidth to 100 Hz with the measuring instrument in a peak hold mode. A sufficient number of sweeps must be measured to insure that the emission profile is developed. If video filtering is used, its bandwidth must not be less than the instrument resolution bandwidth. For emissions beyond 50 kHz from the edge of the authorized bandwidth, see paragraph (o) of this section. If it can be shown that use of the above instrumentation settings do not accurately represent the true interference potential of the equipment under test, an alternate procedure may be used provided prior Commission approval is obtained.

* * * * *

■ 5. Section 90.238 is amended by revising paragraph (e) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(e) In the 450–470 MHz band, telemetry operations will be authorized on a secondary basis with a transmitter output power not to exceed 2 watts on frequencies subject to § 90.20(d)(27) or § 90.35(c)(30), except that telemetry operations used by Railroad licensees may be authorized on frequency pair 452/457.9375 MHz with a transmitter output power not to exceed 8 watts.

* * * * *

■ 6. Section 90.425 is amended by revising paragraph (e)(3) and adding paragraph (f) to read as follows:

§ 90.425 Station identification.

* * * * *

(e) * * *

(3) CMRS stations granted exclusive channels may transmit their call signs digitally. A licensee that identifies its call sign in this manner must provide the Commission, upon request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

(f) Special provisions for stations licensed under this part that are not classified as CMRS providers under part 20 of this chapter.

(1) Stations subject to a station identification requirement will be permitted to use a single call sign for commonly owned facilities that are operated as part of a single system.

(2) Stations licensed on an exclusive basis in the bands between 150 and 512 MHz that normally employ digital signals for the transmission of data, text, control codes, or digitized voice may be identified by digital transmission of the call sign. A licensee that identifies its call sign in this manner must provide the Commission, upon request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

■ 7. Section 90.631 is amended by revising paragraph (d) to read as follows:

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(d) In rural areas, a licensee of a trunked system may request to increase its system capacity by five more channels than it has constructed without meeting the loading requirements specified in paragraphs (b) and (c) of this section. A rural area is defined for purposes of this section as being beyond a 100-mile radius of the following designated centers of the following urban areas: New York, NY; Los Angeles, CA; Chicago, IL; Philadelphia, PA; San Francisco, CA; Detroit, MI; Boston, MA; Houston, TX; Washington, DC; Dallas-Fort Worth, TX; Miami, FL; Cleveland, OH; St. Louis, MO; Atlanta, GA; Pittsburgh, PA; Baltimore, MD; Minneapolis-St. Paul, MN; Seattle, WA; San Diego, CA; and Tampa-St.Petersburg, FL. The coordinates for the centers of these areas are those referenced in § 90.741, except that the coordinates (referenced to North American Datum 1983 (NAD83)) for Tampa-St. Petersburg are latitude 28°00′1.1″ N, longitude 82°26′59.3″ W.

* * * * *

[FR Doc. 2013–11581 Filed 5–15–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 209, 217, 252, and Appendix F to Chapter 2

RIN 0750–AH87

Defense Federal Acquisition Regulation Supplement: System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012–D053)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect the joining of the Central Contractor Registration (CCR), Online Representations and Certification Application (ORCA), and Excluded Parties Listing System (EPLS) databases into the System for Award Management (SAM) database.

DATES: *Effective Date:* May 16, 2013.

FOR FURTHER INFORMATION CONTACT: Lee Renna, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

The E-Government Act of 2002 (Pub. L. 107–347, 44 U.S.C. 101) was enacted in an effort to improve the management and promotion of electronic Government services and processes. The Act established a framework of measures that require using Internet-based information technology to improve citizen access to Government information and services. The General Services Administration (GSA) has embraced the intent of the Act by consolidating the Government-wide acquisition and award support systems into SAM. SAM is a procurement system that streamlines the Federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information, thereby eliminating the need to enter multiple sites and perform duplicative data entry. SAM consolidates hosting to improve the efficiency of doing business with the Government.

The General Services Administration (GSA) began implementation of Phase 1 of SAM on July 29, 2012. Phase 1 combined the functional capabilities of the CCR, ORCA, and EPLS procurement systems into the SAM database. Upon implementation, the pre-existing

procurement systems were retired, and all requirements for entity registration, representations and certifications, and exclusions are now accomplished via SAM. This final rule amends DFARS subparts 204, 209, 217, 252, and Appendix F by updating references and names to conform to the SAM designation. This final rule also makes a number of minor additional conforming changes, such as updates to definitions. A Federal Acquisition Regulation (FAR) case, 2012–033, is also being processed to effect similar conforming updates.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only serves to ensure that the procurement systems that are referenced in the DFARS reflect those that are currently being utilized by the acquisition workforce in the performance of those functions relating to entity registration, representations and certifications, and exclusions. Therefore, this rule has no significant effect beyond the internal operating procedures of the Government, nor does the rule create a significant cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 204, 209, 217, 252, and Appendix F

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD amends 48 CRF parts 204, 209, 217, and 252 as follows:

■ 1. The authority citation for parts 204, 209, 217, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Revise section 204.203 to read as follows:

204.203 Taxpayer identification information.

(b) The procedure at FAR 4.203(b) does not apply to contracts that include the provision at FAR 52.204–7, System for Award Management. The payment office obtains the taxpayer identification number and the type of organization from the System for Award Management database.

■ 3. Revise the subpart heading of subpart 204.11 to read as follows:

Subpart 204.11—System For Award Management

■ 4. Amend section 204.1103 by—

■ a. Adding introductory text;

■ b. In paragraph (1), removing ''Central Contractor Registration (CCR)'' and adding the word ''(SAM)'' in its place; and

■ c. In paragraphs (2)(i), (3), and (4), removing the word ''CCR'' and adding the word ''SAM'' in its place.

The added text reads as follows:

204.1103 Procedures.

See PGI 204.1103 for helpful information on navigation and data entry in the System for Award Management (SAM) database.

* * * * *

■ 5. Revise section 204.1105 to read as follows:

204.1105 Solicitation provision and contract clauses.

When using the clause at FAR 52.204–7, System for Award Management, use the clause with 252.204–7004, Alternate A, System for Award Management.

■ 6. Amend section 204.7202–1 by—

■ a. Revising paragraph (b)(1); and

■ b. In paragraph (b)(2) introductory text, removing the word ''CCR'' and adding the word ''SAM'' in its place.

The revised text reads as follows:

204.7202–1 CAGE codes.

* * * * *

(b)(1) If a prospective contractor located in the United States must register in the System for Award Management (SAM) database (see FAR subpart 4.11) and does not have a CAGE code, DLA Logistics Information Service will assign a CAGE code when the prospective contractor submits its request for registration in the SAM database. Foreign registrants must obtain a North Atlantic Treaty Organization CAGE (NCAGE) code in order to register in the SAM database. NCAGE codes may be obtained from the Codification Bureau in the foreign registrant's country. Additional information on obtaining NCAGE codes is available at *http://www.dlis.dla.mil/Forms/Form_AC135.asp*.

* * * * *

204.7207 [Amended]

■ 7. Amend section 204.7207, in paragraph (a), by removing ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

PART 209—CONTRACTOR QUALIFICATIONS

209.105–1 [Amended]

■ 8. Amend section 209.105–1, in paragraph (1), by removing ''Excluded Parties List System'' and adding ''System for Award Management Exclusions'' in its place.

PART 217—SPECIAL CONTRACTING METHODS

217.207 [Amended]

■ 9. Amend section 217.207, in paragraph (c), by removing ''Central

Contractor Registration'' and adding ''System for Award Management'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Revise section 252.204–7004 to read as follows:

252.204–7004 Alternate A, System for Award Management.

ALTERNATE A, SYSTEM FOR AWARD MANAGEMENT (DATE)

As prescribed in 204.1105, substitute the following paragraph (a) for paragraph (a) of the provision at FAR 52.204–7:

(a) *Definitions.* As used in this clause—

''System for Award Management (SAM) database'' means the primary Government repository for contractor information required for the conduct of business with the Government.

''Commercial and Government Entity (CAGE) code'' means—

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an ''NCAGE code.''

''Data Universal Numbering System (DUNS) number'' means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

''Data Universal Numbering System +4 (DUNS+4) number'' means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR 32.11) for the same parent concern.

''Registered in the System for Award Management (SAM) database'' means that—

(1) The contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, and Contractor and Government Entity (CAGE) code into the SAM database;

(2) The contractor has completed the Core Data, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as part of the SAM registration process; and

(4) The Government has marked the record ''Active.''

■ 11. Amend section 252.204–7007 by—

■ a. Removing the clause date ''(JUL 2012)'' and adding ''(DATE)'' in its place;

■ b. In paragraph (d)(1) introductory text, removing the word ''ORCA'' and adding ''the System for Award Management (SAM) database'' in its place;

■ c. In paragraph (d)(2) introductory text, removing the word ''ORCA'' and adding the word ''SAM'' on its place;

■ d. In paragraph (e), removing ''Online Representations and Certifications Application (ORCA)'' and adding the word ''SAM'' in its place; and

■ e. Revising last sentence of paragraph (e).

The revised text reads as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications located in the SAM database.

* * * * *

252.232–7006 [Amended]

■ 12. Amend section 252.232–7006 by—

■ a. Removing the clause date ''(JUN 2012)'' and adding ''(DATE)'' in its place; and

■ b. In paragraph (c)(1), removing ''Central Contractor Registration'' and adding ''System for Award Management'' in its place.

■ 13. Amend section 252.232–7011 by—

■ a. Removing the clause date ''(JUL 2010)'' and adding ''(DATE)'' in its place; and

■ b. Revising paragraph (c)(2)(ix)(B) to read as follows:

252.232–7011 Payments in Support of Emergencies and Contingency Operations.

* * * * *

(c) * * *

(2) * * *

(ix) * * *

(B) If electronic funds transfer banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct electronic funds transfer banking information in accordance with the applicable solicitation provision (e.g., FAR 52.232–38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., FAR 52.232–33, Payment by Electronic Funds Transfer—System for Award Management, or FAR 52.232–34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

* * * * *

252.245–7004 [Amended]

■ 14. Amend section 252.245–7004 by—

■ a. Removing the clause date ''(APR 2012)'' and adding ''(DATE)'' in its place; and

■ b. In paragraph (a)(3)(i), removing ''Excluded Parties Listing (EPLS) (*https://www.epls.gov/*)'' and adding ''System for Award Management Exclusions located at *https://www.acquisition.gov*'' in its place.

APPENDIX F TO CHAPTER 2—[AMENDED]

■ 15. In appendix F to chapter 2, amend section F–301 by—

■ a. In paragraph (a)(3)(iii), removing ''CCR (Central Contractor Registration)'' and adding ''System for Award Management (SAM)'' in its place; and

■ b. In paragraph (a)(4), removing the word ''CCR'' and adding the word ''SAM'' in its place.

[FR Doc. 2013–11398 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 121101598–3455–02]

RIN 0648–XC334

Atlantic Highly Migratory Species; North and South Atlantic 2013 Commercial Swordfish Quotas

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

ACTION: Final rule.

SUMMARY: This final rule adjusts the 2013 fishing season quotas for North and South Atlantic swordfish based upon 2012 commercial quota underharvests and international quota transfers consistent with the International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendations 11–02 and 12–01. This final rule will affect commercial and recreational fishing for swordfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This action implements ICCAT recommendations, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective from June 15, 2013 through December 31, 2013.

ADDRESSES: Copies of the supporting documents—including the 2012

Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) for North Atlantic swordfish, the 2007 EA, RIR, and FRFA for South Atlantic swordfish, and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP)—are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/* or by contacting Steve Durkee by phone at 202–670–6637 or Jennifer Cudney by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Steve Durkee by phone at 202–670–6637, Jennifer Cudney by phone at 301–427–8503, or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Atlantic North and South Atlantic swordfish fisheries are managed under the 2006 Consolidated HMS FMP. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.,* and ATCA, 16 U.S.C. 971 *et seq.* The United States implements ICCAT recommendations under ATCA, through regulations as may be necessary and appropriate.

For North Atlantic swordfish, this final action maintains the U.S. baseline quota of 2,937.6 metric tons (mt) dressed weight (dw) for North Atlantic swordfish, implements the quota transfer of 112.8 mt dw from the United States to Morocco, and carries over the maximum 2012 underharvest pursuant to Recommendation 11–02. For South Atlantic swordfish, this action maintains the U.S. South Atlantic swordfish quota at 75.2 mt dw (100 mt whole weight (ww)), carries over 75 mt dw of 2012 underharvest, and authorizes the transfer of 50 mt ww (37.6 mt dw) to Namibia, 25 mt ww (18.8 mt dw) to Côte d'Ivoire, and 25 mt ww (18.8 mt dw) to Belize as required by ICCAT recommendation.

North Atlantic Swordfish Quota

At the 2011 ICCAT annual meeting, Recommendation 11–02 was adopted, maintaining the North Atlantic swordfish total allowable catch (TAC) of 10,301 mt dw (13,700 mt ww) through 2013. Of this TAC, the United States baseline quota is 2,937.6 mt dw (3,907 mt ww) per year. ICCAT Recommendation 11–02 also includes a 112.8 mt dw (150 mt ww) annual quota transfer from the United States to Morocco and limits allowable underharvest carryover to 25 percent of a contracting party's baseline quota. Therefore, the United States may carry over a maximum of 734.4 mt dw (976.8 mt ww) of underharvest from the previous year (2012) to be added to the 2013 baseline quota. This final rule adjusts the U.S. baseline quota for the 2013 fishing year to account for the annual quota transfer to Morocco and the 2012 underharvest.

The 2013 North Atlantic swordfish baseline quota is 2,937.6 mt dw (3,907 mt ww). As of February 28, 2013, the North Atlantic swordfish underharvest for 2012 was 1,169.2 mt dw (1,555.6 mt ww), which exceeds the maximum carryover cap of 734.4 mt dw (976.8 mt ww). Therefore, we are carrying forward the maximum amount allowed per ICCAT Recommendation 11–02. The 2,937.6 mt dw (3,907 mt ww) baseline quota is reduced by the 112.8 mt dw (150 mt ww) annual quota transfer to Morocco and increased by the underharvest carryover maximum of 734.4 mt dw (976.8 mt ww), resulting in 3,559.2 mt dw (4733.7 mt ww), which is the adjusted North Atlantic swordfish quota for the 2013 fishing year. From that adjusted quota, we are allocating the directed category 3,209.2 mt dw (4,268.2 mt ww), which is split equally into two seasons (January through June, and July through December). Fifty mt dw (66.5 mt ww) from the adjusted quota is allocated to the reserve category for inseason adjustments and research, and 300 mt dw (399 mt ww) from the adjusted quota is allocated to the incidental category, which includes recreational landings and catch by incidental swordfish permit holders, for the 2013 fishing season, per HMS regulations at 50 CFR 635.27(c)(1)(i)(B) (see Table 1).

The underharvest carryover noted above was calculated based on a landings estimate, which is based on commercial dealer reports and reports by anglers in the HMS Non-Tournament Recreational Swordfish and Billfish Landings Database and the Recreational Billfish Survey received as of February 28, 2013, and does not include an estimate of dead discards. The dead discard estimate is calculated using observer sampling data and logbook reported effort levels and is generally not available until the summer of each year. However, we do not expect the final dead discard estimate to be large enough to change the total underharvest carryover. For the dead discard estimate to change the underharvest carryover, the estimate would have to exceed 435.2 mt dw. Since 2007, the average annual dead discard estimate is 113 mt dw and, in 2011, dead discards were estimated to equal 101.5 mt dw. Thus, because these estimates are significantly lower than 435.2 mt dw and because there has not been a significant change in the manner in which swordfish are fished, we do not believe the 2012 dead discard estimate will be large enough to change the total underharvest carryover available or the resulting adjusted quota. If the dead discard estimate exceeds 435.2 mt dw, we will take additional action to either adjust the 2013 quota accordingly or adjust the 2014 quota, as appropriate.

South Atlantic Swordfish Quota

In 2006, ICCAT Recommendation 06–03 established the South Atlantic swordfish TAC at 17,000 mt ww for 2007, 2008, and 2009. Of this, the United States received 75.2 mt dw (100 mt ww). As with the North Atlantic swordfish recommendation, ICCAT Recommendation 06–03 limited the amount of underharvest that can be carried forward. For South Atlantic swordfish, the United States may carry forward up to 100 percent of the baseline quota (75.2 mt dw). In 2009, Recommendation 09–03 reduced the South Atlantic swordfish TAC to 15,000 mt ww but maintained the U.S. quota share of 75.2 mt dw (100 mt ww) and underharvest carryover limit through 2012. Recommendation 09–03 also included a total of 75.2 mt dw (100 mt ww) of quota transfers from the United States to other countries. These transfers were: 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d'Ivoire, and 18.8 mt dw (25 mt ww) to Belize. ICCAT Recommendation 12–01 extended the U.S. baseline quota, underharvest carryover limit, and international quota transfer amounts and provisions through 2013.

In 2012, U.S. fishermen did not land any South Atlantic swordfish as of reports received by February 28, 2013. Therefore, 75.2 mt dw (100 mt ww) of underharvest is available to carry over to 2013 and can cover the entire 75.2 mt dw (100 mt ww) of annual international quota transfers outlined above. As a result, the 2013 adjusted quota for South Atlantic swordfish is 75.2 mt dw (100 mt ww) (see Table 1).

The landings estimates for South Atlantic swordfish are based on dealer reports received as of February 28, 2013, and do not include dead discards. We do not expect dead discard estimates to change the 2013 adjusted quota since estimates over the past several years have equaled 0 mt dw. If dead discards estimates necessitate a need to further adjust the quota, we would take additional action at that time.

Impacts

Impacts resulting from the 2013 North Atlantic swordfish specifications were

analyzed in the EA, RIR, and IRFA that were prepared for the 2012 Swordfish Quota Specifications Final Rule (July 31, 2012; 77 FR 45273). The impacts resulting from the 2013 South Atlantic swordfish specifications were analyzed in the EA, RIR, and IRFA that were prepared for the 2007 Swordfish Quota Specification Final Rule (October 5, 2007; 72 FR 56929). The quota adjustments in this final rule will not increase overall quotas and are not expected to increase fishing effort, protected species interactions, or environmental effects beyond those considered in the 2012 and 2007 EAs. Therefore, because there would be no changes to the North or South Atlantic swordfish management measures in this final rule, or the affected environment or any environmental effects that have not been previously analyzed, we have determined that the North and South Atlantic swordfish specifications and impacts to the human environment as a result of the quota adjustments do not require additional NEPA analysis beyond that discussed in the 2012 and 2007 EAs.

TABLE 1—2013 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

North Atlantic swordfish quota (mt dw)		2012	2013
Baseline Quota		2,937.6	2,937.6
Quota Transfer to Morocco		(−)112.8	(−)112.8
Total Underharvest from Previous Year+		1,388.5	1,169.2
Underharvest Carryover from Previous Year+		(+)734.4	(+)734.4
Adjusted Quota		3,559.2	3,559.2
Quota Allocation	Directed Category	3,209.2	3,209.2
	Incidental Category	300	300
	Reserve Category	50	50
South Atlantic Swordfish Quota (mt dw)		2012	2013
Baseline Quota		75.2	75.2
International Quota Transfers*		(−)75.2	(−)75.2
Total Underharvest from Previous Year+		75.2	75.2
Underharvest Carryover from Previous Year+		75.2	75.2
Adjusted quota		75.2	75.2

+ Underharvest carryover is capped at 25 percent of the baseline quota allocation for the North Atlantic and 100 percent of the baseline quota allocation for the South Atlantic. 2012 underharvest data current as of February 28, 2013; does not include dead discards.

* Under Recommendation 12–01, 100 mt ww of the U.S. underharvest and base quota, as necessary, was transferred to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww).

While this action only implements this year's adjusted quota, other management actions related to Atlantic swordfish quotas are expected later this year. At its November annual meeting, ICCAT will renegotiate a North Atlantic swordfish recommendation, including quota levels, because Recommendation 11–02 expires this year. Additionally, in February, NMFS published a proposed rule for Amendment 8 to the HMS FMP, considering ways to increase access to available North Atlantic swordfish quota, including a new open access permit that would allow the retention and sale of swordfish caught with certain handgears. The comment period for this action closed on May 8, 2013.

Response to Comments

We received two comments, but they were not directly related to the proposed rule.

Changes From the Proposed Rule

The final rule contains no changes from the proposed rule, except for minor landings updates based on more recent 2012 landings reports.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: May 13, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–11720 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 95
Thursday, May 16, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2013–0012]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security U.S. Immigration and Customs Enforcement—014 Homeland Security Investigations Forensic Laboratory System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security/U.S. Immigration and Customs Enforcement—014 Homeland Security Investigations Forensic Laboratory System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before June 17, 2013.

ADDRESSES: You may submit comments, identified by docket number DHS–2013–0012 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Lyn Rahilly, Privacy Officer, (202–732–3300), U.S. Immigration and Customs Enforcement, 500 12th Street SW., Mail Stop 5004, Washington, DC 20536, email: *ICEPrivacy@dhs.gov.* For privacy issues please contact: Jonathan R. Cantor (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the ''DHS/U.S. Immigration and Customs Enforcement (ICE)—014 Homeland Security Investigations Forensic Laboratory (HSI–FL) System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

The Homeland Security Investigations Forensic Laboratory (HSI–FL) is an accredited crime laboratory located within ICE's Office of Homeland Security Investigations (HSI) that provides a broad range of forensic, intelligence, and investigative support services for ICE, DHS, and many other U.S. and foreign law enforcement agencies. Created in 1978 under the U.S. Department of Justice, Immigration and Naturalization Service, the HSI–FL became part of DHS on March 1, 2003, as part of the federal government's response to the 9/11 attacks. The HSI–FL is the only U.S. crime laboratory specializing in scientific authentication; forensic examination; research, analysis, and training related to travel and identity documents; latent and patent finger and palm prints; and audio and video files in support of law enforcement investigations and activities by DHS and other agencies. To facilitate forensic examinations and for use in forensic document training, research, and analysis, the HSI–FL maintains case files, a case management system, an electronic library of travel and identity documents (Imaged Documents and Exemplars Library (IDEAL)), and a hard copy library referred to as the HSI–FL Library.

As a crime laboratory specializing in the forensic examination and research of travel and identity documents, the HSI–FL attempts to determine the authenticity, authorship, and any actual or potential alterations of travel and identity documents. Examinations of such documents submitted by DHS and other U.S. and foreign law enforcement agencies and international organizations normally begin with a physical (naked eye, tactile) inspection and proceed to microscopic, instrumental, and comparative examinations, as necessary and appropriate. Depending on the document type, these examinations also may require the expert analyses of handwriting, hand printing, typewriting, printing processes, papers, inks, and stamp impressions.

HSI–FL examinations are predominantly performed on documents used to establish identity or facilitate travel, such as passports, visas, identification cards, and border crossing cards, but can be performed on virtually any document, including envelopes, handwritten documents, letters, vital records, and typewritten documents. DHS and other federal, state, and international government agencies, or organizations such as the United Nations, may submit requests to HSI–FL for document authentication. In response, the HSI–FL may conduct an analysis and share the results of forensic examinations within DHS and externally with other government agencies and international organizations in the course of law enforcement investigations and for admission into evidence in judicial proceedings.

In addition to the forensic examination of documents, the HSI–FL performs fingerprint analysis. The fingerprint analysis performed by HSI–FL may not be document-related. This analysis may include fingerprints collected from evidence during an investigation such as firearms, drug packaging, currency, periodicals, photo albums, CDs and computers. Fingerprint analysis will include both latent (invisible to the naked eye) and patent

(visible to the naked eye) finger and palm prints.

The HSI–FL also performs technical enhancements of audio and video files. The audio and video work performed by the HSI–FL is limited to enhancing files to improve their quality and clarifying detail to allow law enforcement agencies to better examine the files. For example, this could include removing background noise from an audio file or improving the clarity of an image in a video. The HSI–FL is not responsible for performing forensic examinations of the audio or video files but merely performs technical work to permit law enforcement agencies outside of the HSI–FL to conduct law enforcement investigations.

Laboratory Information Management System

In order to track evidence and cases, the HSI–FL implemented the Laboratory Information Management System (LIMS) as their case management system. LIMS allows the HSI–FL to capture information about the individual submitting the request for analysis, identify the evidence submitted, track the evidence as it moves throughout the HSI–FL for chain of custody purposes, capture case notes and results of examinations, store electronic images of evidence, and produce reports of findings. LIMS also captures other case-related activities such as descriptions of expert witness testimony provided by HSI–FL employees.

The HSI–FL also uses LIMS to record and store operational (non-forensic) requests for assistance, hours HSI–FL staff spend on training activities, and digital copies of training certificates of completion. In addition, LIMS generates recurring and *ad hoc* statistics reports in support of HSI–FL staff operations and management request.

Imaged Documents and Exemplars Library

The IDEAL database and the HSI–FL Library contain two categories of records: (1) Travel and identity documents and (2) reference materials used to help in the forensic analysis of travel and identity documents. The HSI–FL maintains the documents and reference materials in both hard copy and electronic format for use in comparative forensic examination and fraudulent document training, research, and analysis. The hard copies are maintained in the HSI–FL Library while the electronic copies are stored in the IDEAL database. IDEAL contains electronic images and document characteristics for all documents and reference materials stored in the HSI–FL Library and allows HSI–FL employees to access these electronic images and document characteristics from their own workstations. Further, IDEAL provides the inventory control of the hard copy material in the HSI–FL Library, which includes the support of ''checking out'' hard copy documents and reference materials in the HSI–FL Library by HSI–FL employees.

IDEAL indexes and assigns to all documents added to the HSI–FL Library an IDEAL identification number (IDEAL ID Number) and bar code, thus providing a standard identification and tracking mechanism and permitting indexing. The IDEAL ID Number is system-generated and allows documents to be quickly located in IDEAL. The bar code number links the images maintained in IDEAL to hardcopies maintained in the HSI–FL Library.

The HSI–FL collects and maintains genuine, altered, and counterfeit travel and identity documents (hereafter, ''documents'') in hard copy format from international organizations, government agencies, and law enforcement organizations from across the United States and around the world to research methods of document production and authenticate questionable documents through comparative forensic examinations. These travel and identity documents include documents such as passports, identification cards, birth certificates, stamps, visas, and any other document that can be used to establish nationality or identity from any country including the United States.

From these same sources, the HSI–FL also collects information that helps with the identification of potential counterfeit characteristics, potential fraud, security features, and other information valuable to forensic analysis (hereafter, ''reference materials''). HSI–FL employees also make use of reference materials issued by the United States and other nations that contain useful information such as descriptions of security features of travel and identity documents or information concerning attempts to counterfeit or alter such documents.

Document characteristics including personally identifiable information (PII) are manually entered into IDEAL to catalogue, track, and facilitate searching for documents and reference materials. Depending on the particular document, the document characteristics entered into IDEAL may include the document type, document number (e.g., passport number, driver's license number, state identification number), country of origin, region, authenticity of the document, information regarding the location and availability of the hard copy document in the HSI–FL Library, and a short description of the document. Social Security Numbers are not directly entered into IDEAL, instead the serial number on the back of the document is entered into the system. In addition to manually entered information, the document is scanned into IDEAL capturing and storing additional information, including PII. The PII stored on the images is view-only and may not be searched or used in any other manner in IDEAL.

The HSI–FL divides the documents maintained in the HSI–FL Library and electronically in IDEAL into five different categories: (1) Genuine standard documents; (2) verified documents; (3) unverified documents; (4) counterfeit documents; and (5) altered documents. The first category, genuine standard documents, is comprised of documents never used in circulation and officially submitted to the HSI–FL by a valid issuing authority or other officially recognized domestic or foreign agency. Valid issuing authorities produce genuine standard documents as samples of particular travel and identity documents (e.g., passports) and include all of the same characteristics and security features of that document. Genuine standard documents are usually issued under an obviously fictitious name, such as ''Happy Traveler,'' to ensure they are easily identified as samples. Genuine standard documents do not contain the PII of actual individuals; however, they may contain photographs of individuals who have consented for their images to be used and distributed on these sample documents. The HSI–FL uses genuine standard documents during forensic analysis to authenticate other travel and identity documents purporting to have been issued by the same issuing authority. This authentication is used to support law enforcement investigations in response to government agency inquiries from the United States and around the world and judicial proceedings.

The remaining four categories of documents are provided to the HSI–FL by the valid issuing authority of a domestic or foreign agency, or from other sources including international organizations; DHS; the U.S. Department of State (DOS); and other federal, state, and foreign government agencies and law enforcement organizations. These four categories of documents may be directly provided for inclusion in the HSI–FL Library or may be initially provided for other purposes such as forensic examination and then retained by the HSI–FL, with the submitting agency's permission, after

the examination is complete. The HSI–FL determines whether to include specific documents in the HSI–FL Library based upon the HSI–FL Library's need for that document, particularly whether the HSI–FL Library currently has a document of that type already in the HSI–FL Library. These categories of documents may contain the PII of individuals. Verified documents are documents that the HSI–FL has found to conform to comparable genuine travel and identity documents. Unverified documents are documents that the HSI–FL has analyzed and has not conclusively determined are verified, counterfeit, or altered. Counterfeit documents are documents that the HSI–FL has determined through forensic analysis are not authentic documents issued by a foreign or domestic governmental issuing authority. Altered documents are documents that were originally authentic documents issued by a foreign or domestic governmental issuing authority that have been changed in an unauthorized manner.

Certain designated users at DOS have read-only access to IDEAL. This read-only access allows certain designated DOS employees to search and view travel and identity documents and reference materials. These documents and materials may contain the PII of actual individuals. This information is used by the DOS for their reference and in support of their mission. This use includes supporting the processing of petitions or applications for benefits under the Immigration and Nationality Act, and other immigration and nationality laws including treaties and reciprocal agreements. It also includes when the DOS requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications. Authorized users from the DOS are the only non-DHS users with direct access to IDEAL.

Consistent with DHS' information sharing mission, information stored in the DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in the system of records notice.

This proposed rulemaking will be included in DHS' inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records. Some information in DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS' ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A system of records notice for DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 et seq.; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Add at the end of Appendix C to Part 5, the following new paragraph 70:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

70. The DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records contains records of evidence and cases submitted to the HSI–FL. This information will include information on the individual submitting the request, identify the evidence submitted, track the evidence as it moves throughout the HSI–FL, capture case notes and results of examinations, store electronic images of evidence, and produce reports of findings. Other case-related records are maintained including descriptions of expert witness testimony provided by HSI–FL employees. Records in the DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records also include the library of genuine, altered, and counterfeit travel and identity documents provided to the HSI–FL by international organizations, government agencies, and law enforcement organizations from across the United States and around the world to research methods of document production and authenticate questioned documents through comparative forensic examinations. The DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1),

(e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose classified and other security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: April 22, 2013.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–11727 Filed 5–15–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0421; Directorate Identifier 2013–NM–003–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–300, –400, and –500 series airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require, depending on airplane configuration, replacing fuel pump power control relays with new relays having a ground fault interrupter (GFI) feature, installing ground studs and a bonding jumper, doing certain bonding resistance measurements, and changing the GFI relay position. This proposed AD would also require revising the maintenance program to incorporate certain airworthiness limitations. We are proposing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by July 1, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the

regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0421; Directorate Identifier 2013–NM–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

We received a report of incorrect operation of a new GFI relay having part number (P/N) 9524G–10674 after AD 2011–12–09, Amendment 39–16716 (76 FR 33988, June 10, 2011), was incorporated. Subsequent investigation found that electromagnetic interference (EMI) between the new P/N 9524G–10674 relays and adjacent P/N KCG–X4L–001 relays could cause problems with the function of the new relays and the operation of the GFI system. The GFI system might not function correctly after installation on certain airplanes.

Related Rulemaking

The requirements of AD 2011–12–09, Amendment 39–16716 (76 FR 33988, June 10, 2011), affect all airplanes of this proposed AD. This proposed AD provides terminating actions for those airplanes.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0421.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

The phrase ''related investigative actions'' might be used in this proposed AD. ''Related investigative actions'' are follow-on actions that: (1) are related to the primary actions, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

This proposed AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (l) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 14 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace fuel pump power control relays, install ground studs and a bonding jumper, and do certain bonding resistance measurements, and change the GFI relay position, depending on airplane configuration.	Up to 31 work-hours × $85 per hour = $2,635.	Up to $21,338	Up to $23,973	Up to $335,622.
Maintenance program revision	1 work-hour × $85 per hour = $85	$0	$85	$1,190.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0421; Directorate Identifier 2013–NM–003–AD.

(a) Comments Due Date

We must receive comments by July 1, 2013.

(b) Affected ADs

Certain requirements of this AD terminate certain requirements of AD 2011–12–09, Amendment 39–16716 (76 FR 33988, June 10, 2011).

(c) Applicability

This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes; certificated in any category; identified as Groups 5, 6, 7, and 9 in Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2822, Fuel boost pump.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Installation of Ground Studs and Bonding Jumper and Fuel Boost Pump Relays Replacement

For airplanes in Groups 5, 6, 7, and 9, Configuration 1, as identified in Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012 (airplanes on which Boeing Alert Service Bulletin 737–28A1212 was not done): Within 60 months after the effective date of this AD, install ground studs and a bonding jumper, replace fuel boost pump relays, and do certain bonding resistance measurements, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012. Doing the actions required by this paragraph terminates the requirements of paragraph (g) of AD 2011–12–09, Amendment 39–16716 (76 FR 33988, June 10, 2011), for Groups 5, 6, 7, and 9, Configuration 1 only, provided that the requirements of paragraph (g) of this AD are done at the time given in AD 2011–12–09.

(h) Ground Studs and Bonding Jumper Installation and GFI Relay Position Change

For airplanes in Groups 5, 6, 7, and 9, Configuration 2, as identified in Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012 (airplanes on which Boeing Alert Service Bulletin 737–28A1212, dated July 23, 2009 was done): Within 60 months after the effective date of this AD, install ground studs and a bonding jumper, change the GFI relay position, and do certain bonding resistance measurements, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012. Doing the actions required by this paragraph terminates the requirements of paragraph (h) of AD 2011–12–09, Amendment 39–16716 (76 FR 33988, June 10, 2011), for airplanes identified as Groups 5, 6, 7, and 9, Configuration 2 only, provided that the requirements of paragraph (h) of this AD are done at the time given in AD 2011–12–09.

(i) Ground Fault Interrupt (GFI) Relay Position Change

For airplanes in Groups 5, 6, 7, and 9, Configuration 3, as identified in Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012 (certain airplanes on which Boeing Alert Service Bulletin 737–

28A1212, Revision 1, dated August 27, 2010 was done): Within 60 months after the effective date of this AD, change the GFI relay position and do certain bonding resistance measurements, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1212, Revision 2, dated October 18, 2012.

(j) Maintenance Program Revision

Concurrently with accomplishing the actions required by paragraph (g), (h), or (i) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating Airworthiness Limitation 28–AWL–22 of Boeing 737–100/200/200C/300/400/500 AWL and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2012. The initial compliance time for the actions specified in AWL 28–AWL–22 of Boeing 737–100/200/200C/300/400/500 AWL and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision August 2012, is within 1 year after accomplishing the installation required by paragraph (g), (h), or (i) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(k) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishing the revision required by paragraph (j) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l) of this AD.

(l) Alternative Methods of Compliance (AMOCs)

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

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

(m) Related Information

(1) For more information about this AD, contact Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6482; fax: 425–917–6590; email: *georgios.roussos@faa.gov*.

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

Issued in Renton, Washington, on May 8, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–11694 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0420; Directorate Identifier 2011–NM–241–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This proposed AD was prompted by a report of a disbonded doubler and a skin crack in section 41 of the fuselage, and multiple reports of cracked or missing fastener heads. This proposed AD would require repetitive inspections for cracking of the fuselage skin, discrepant fasteners, and for disbonds at the doublers; and related investigative and corrective actions if necessary. For certain airplanes, this proposed AD would also require a terminating repair for repair doublers. We are proposing this AD to prevent rapid decompression and loss of structural integrity of the airplane due to such disbonding and subsequent cracking of the skin panels.

DATES: We must receive comments on this proposed AD by July 1, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0420; Directorate Identifier 2011–NM–241–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any

personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report of a disbonded doubler and a 10-inch crack found at 21,800 total flight cycles in the skin in section 41 of the fuselage; and two reports of cracked or missing fastener heads found on four airplanes. Cracked and/or missing fastener heads were found at station (STA) 480 and STA 520 between stringers S–8 and S–10 on airplanes with 10,529 and 10,531 total flight cycles. Also, missing fastener heads were found between STA 400 and 420 at stringer S–24AL on airplanes with 28,153 and 28,319 total flight cycles.

Fatigue cracks can start in the body skin at fastener holes where internal doublers have disbonded from the skin panel. Fatigue cracks that are not found and repaired could extend with continued use of the airplane and could cause a rapid decompression and loss of structural integrity.

Relevant Service Information

We reviewed Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0420.

Terminating Action for Other ADs

- Accomplishing the requirements of this proposed AD terminates the requirements of paragraphs (f), (g), and (h) of AD 2006–20–02, Amendment 39–14771 (71 FR 56861, September 28, 2006).
- Accomplishing the requirements of this proposed AD terminates the requirements of paragraphs (f), (k), and (l) of AD 2006–24–02, Amendment 39–14831 (71 FR 67445, November 22, 2006).
- Accomplishing the requirements of this proposed AD terminates the requirements of paragraphs (f) and (i) of AD 2006–24–05, Amendment 39–14834 (71 FR 68434, November 27, 2006).

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information''.

The phrase ''related investigative actions'' might be used in this proposed AD. ''Related investigative actions'' are follow-on actions that: (1) Are related to the primary actions, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between the Proposed AD and the Service Information

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 98 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	878 work-hours × $85 per hour = $74,630 per inspection cycle.	$0	$74,630 per inspection cycle	$7,313,740 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0420; Directorate Identifier 2011–NM–241–AD.

(a) Comments Due Date

We must receive comments by July 1, 2013.

(b) Affected ADs

This AD affects AD 2006–20–02, Amendment 39–14771 (71 FR 56861, September 28, 2006); AD 2006–24–02, Amendment 39–14831 (71 FR 67445, November 22, 2006); and AD 2006–24–05, Amendment 39–14834 (71 FR 68434, November 27, 2006).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category; as identified in Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a disbonded doubler and a skin crack in section 41 of the fuselage, and multiple reports of cracked or missing fastener heads. We are issuing this AD to prevent rapid decompression and loss of structural integrity of the airplane due to such disbonding and subsequent cracking of the skin panels.

(f) Compliance

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

(g) Repetitive Skin Panel, Fastener, and Doubler Inspection

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, except as required by paragraphs (i)(1) and (i)(3) of this AD: Do the applicable inspections (including detailed, high frequency eddy current (HFEC), and low frequency eddy current (LFEC)) for any cracking of the fuselage skin, for discrepant fasteners, and for disbonds at the doublers; and do all applicable related investigative and corrective actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, except as provided by paragraph (i)(2) of this AD. Repeat the applicable inspections thereafter at intervals not to exceed those specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012. Do all applicable related investigative and corrective actions at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012. Options provided in Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2011, for accomplishing the disbond inspection are acceptable for the corresponding requirements of this paragraph provided that the inspection is done at the applicable times in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2011.

(1) Replacing a skin panel, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, is an acceptable alternative to doing the service repair manual (SRM) skin panel repairs and the repetitive skin panel inspections specified in tables 1, 2, and 3 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, for only the skin panel that has been replaced.

(2) Accomplishment of the terminating repair identified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, terminates the repetitive inspections identified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, for only the area on which the terminating repair has been done.

(h) Terminating Action for Repairs

For airplanes identified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012: At the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, do the terminating action for the repair doubler, including doing an open hole HFEC inspection for skin cracks at the fastener holes common to the inspection area and an inspection for disbond of the internal doubler; and as applicable, replacing the existing external repair doubler with a new extended external repair doubler, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, except as provided by paragraph (i)(2) of this AD. Accomplishment of the terminating action identified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, terminates the repetitive inspections identified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, for only areas on which the terminating action has been done.

(i) Exceptions to Certain Service Information Instructions

This paragraph specifies exceptions to certain instructions in Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012.

(1) Where Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, specifies a compliance time after the ''original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, specifies to contact Boeing for special repair instructions, this AD requires using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(3) The Condition column of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2747, Revision 2, dated February 22, 2012, refers to certain conditions ''as of the original issue date of this service bulletin.'' This AD, however, applies to the airplanes with the specified condition as of the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 747–53A2747, Revision 1, dated October 12, 2011, which is not incorporated by reference in this AD.

(k) Terminating Action for Other ADs

(1) Accomplishing the requirements of this AD terminates the requirements of paragraphs (f), (g), and (h) of AD 2006–20–02, Amendment 39–14771 (71 FR 56861, September 28, 2006).

(2) Accomplishing the requirements of this AD terminates the requirements of paragraphs (f), (k), and (l) of AD 2006–24–02, Amendment 39–14831 (71 FR 67445, November 22, 2006).

(3) Accomplishing the requirements of this AD terminates the requirements of paragraphs (f) and (i) of AD 2006–24–05, Amendment 39–14834 (71 FR 68434, November 27, 2006).

(l) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/certificate holding district office.

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

(m) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

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

Issued in Renton, WA, on May 8, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–11687 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 385

[Docket No. 2011–3 CRB]

Scope of the Register of Copyright's Exclusive Authority Over Statements of Account Under the Section 115 Compulsory License

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Order.

SUMMARY: The Copyright Royalty Judges, acting pursuant to statute, referred material questions of substantive law to the Register of Copyrights concerning the scope of the Register of Copyright's exclusive authority over Statements of Account under the section 115 Compulsory License. Specifically, the Copyright Royalty Board requested a decision by the Register of Copyrights regarding ''whether the detail requirements set forth in 37 CFR as proposed § 385.12(e) (existing) and proposed § 385.22(d) (new) as well as the confidentiality requirement proposed for §§ 385.12(f) and 385.22(e) encroach upon the exclusive statutory domain of the Register under § 115 of the Act.'' The Register of Copyrights responded in a timely fashion by delivering a Memorandum Opinion to the Copyright Royalty Board on May 1, 2013.

FOR FURTHER INFORMATION CONTACT: Stephen Ruwe, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: In the Copyright Royalty and Distribution Reform Act of 2004, Congress amended Title 17 to replace the Copyright Arbitration Royalty Panel (''CARP'') with the Copyright Royalty Judges (''CRJs''). One of the functions of the CRJs is to make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004 of the Copyright Act. The CRJs have the authority to request from the Register of Copyrights (''Register'') an interpretation of any material question of substantive law that relates to the construction of provisions of Title 17 and arises out the course of the proceeding before the CRJs. *See* 17 U.S.C. 802(f)(1)(A)(ii).

On April 17, 2013, the CRJs delivered to the Register: (1) An Order referring material questions of substantive law; and (2) a brief filed with the CRJs by Settling Participants (identified below in the Register's Memorandum Opinion). The CRJs' delivery of the request for an interpretation triggered the 14-day response period prescribed in section 802 of the Copyright Act. This statutory provision states that the Register ''shall deliver to the Copyright Royalty Judges a written response within 14 days after the receipt of all briefs and comments from the participants.'' *See* 17 U.S.C. 802(f)(1)(A)(ii). The statute also requires that ''[t]he Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights if it is timely delivered, and [that] the response shall be included in the record that accompanies the final determination.'' *Id.* On May 1, 2013 the Register responded in a Memorandum Opinion to the CRJs that addressed the material questions of law. To provide the public with notice of the decision rendered by the Register, the Memorandum Opinion is reproduced in its entirety, below.[1]

Dated: May 9, 2013.

Maria A. Pallante,

Register of Copyrights.

Before the U.S. Copyright Office
Library of Congress
Washington, DC 20559

In the Matter of) Mechanical and Digital Phonorecord

Delivery Rate Adjustment Proceeding

Docket No. 2011–3 CRB
(Phonorecords II)

MEMORANDUM OPINION ON MATERIAL QUESTIONS OF SUBSTANTIVE LAW

I. Procedural Background

On May 17, 2012, the Copyright Royalty Judges (''CRJs'') published for comment in the **Federal Register** proposed regulations for the section 115 compulsory license, which were the result of a settlement submitted to the CRJs on April 11, 2012. Notice of Proposed Rulemaking, Mechanical and Digital Phonorecord Delivery Compulsory License, Docket No. 2011–3 CRB Phonorecords II, 77 FR 29259 (May 17, 2012). The proposed regulations included ''detail requirements'' for 37 CFR 385.12(e) and 385.22(d), which would require statements of account filed by licensees to include each step of the royalty calculations, the type of licensed activity engaged in (in certain cases), and the number of plays or downloads. The proposed regulations also included a ''confidentiality requirement'' for 37 CFR 385.12(f) and 385.22(e), which would require copyright owners to maintain statements of account that they receive under the license to be maintained in confidence. *Id.*

The ''detail requirements'' provision proposed for § 385.12(e) states:

Accounting. The calculations required by paragraph (b) of this section shall be made in good faith and on the basis of the best knowledge, information and belief of the licensee at the time payment is due, and subject to the additional accounting and certification requirements of 17 U.S.C. 115(c)(5) and § 201.19 of this title. Without limitation, a licensee's statements of account shall set forth each step of its calculations with sufficient information to allow the copyright owner to assess the accuracy and manner in which the licensee determined the payable royalty pool and per-play allocations (including information sufficient to

[1] After the Memorandum Opinion was delivered, the CRJs noted an error in the second sentence of the last paragraph on the last page of the Memorandum Opinion. The Register clarified the error with the CRJs.

The original sentence erroneously stated:

''As such, the proposed ''detail requirements'' do not encroach upon the Register's authority with respect to statements of account as provided in 17 U.S.C. 115(c)(5).''

The corrected sentence, as it now appears in the Memorandum Opinion below, states:

''As such, the proposed ''confidentiality requirement'' does not encroach upon the Register's authority with respect to statements of account as provided in 17 U.S.C. 115(c)(5).''

demonstrate whether and how a minimum royalty or subscriber-based royalty floor pursuant to § 385.13 does or does not apply) and, for each offering reported, also indicate the type of licensed activity involved and the number of plays of each musical work (including an indication of any overtime adjustment applied) that is the basis of the per-work royalty allocation being paid. *Id.* at 29267.

Section 385.22(d), which is proposed for Subpart C of the Settelement, is nearly identical to § 385.12(e), except for immaterial changes to conform it to its placement in proposed Subpart C.

The ''confidentiality requirement'' proposed for §§ 385.12(f) and 385.22(e) states:

Confidentiality. A licensee's statements of account, including any and all information provided by a licensee with respect to the computation of a subminimum, shall be maintained in confidence by any copyright owner, authorized representative or agent that receives it, and shall solely be used by the copyright owner, authorized representative or agent for purposes of reviewing the amounts paid by the licensee and verifying the accuracy of any such payments, and only those employees of the copyright owner, authorized representative or agent who need to have access to such information for such purposes will be given access to such information; provided that in no event shall access be granted to any individual who, on behalf of a record company, is directly involved in negotiating or approving royalty rates in transactions authorizing third party services to undertake licensed activity with respect to sound recordings. A licensee's statements of account, including any and all information provided by a licensee with respect to the computation of a subminimum, shall not be used for any other purpose, and shall not be disclosed to or used by or for any record company affiliate or any third party, including any third-party record company. *Id.* at 29262.

After considering the proposed Settlement regulations and the comments received in response to them, on March 27, 2013, Chief Copyright Royalty Judge Suzanne Barnett proposed material questions of substantive law for referral to Register of Copyrights and invited participants to submit briefs to accompany the referral of questions to the Register of Copyrights, pursuant to the terms of 17 U.S.C. 802(f)(1)(A)(ii). The referral asked ''whether the detail requirements set forth in 37 CFR as proposed § 385.12(e) *(existing)* and proposed § 385.22(d) *(new)* as well as the confidentiality requirement proposed for §§ 385.12(f) and 385.22(e) encroach upon the exclusive statutory domain of the Register under § 115 of the Act.'' CRJ Order Referring Material Question of Substantive Law, Docket No. 2011–3 CRB (Mar. 27, 2013). After receiving a brief filed jointly by the Settling Participants [2] regarding whether proposed terms encroach upon the exclusive statutory domain of the Register, the Chief Copyright Royalty Judge delivered the referred questions and the Settling Participants brief to the Register on April 17, 2013.

The Register understands that the referred inquiry, quoted above, poses the following two questions:

(1) Whether the ''detail requirements'' proposed for 37 CFR 385.12(e) and 385.22(d) encroach upon the exclusive statutory domain of the Register under section 115 of the Copyright Act; and

(2) Whether the ''confidentiality requirement'' proposed for 37 CFR 385.12(f) and 385.22(e) encroach upon the exclusive statutory domain of the Register under section 115 of the Copyright Act.

As required by 17 U.S.C. 802(f)(1)(A)(ii), the Register hereby responds to the CRJs.

II. Statutory Authority in Section 115 and Chapter 8 of Title 17

Prior to 1995, copyright law empowered the Copyright Royalty Tribunal and, subsequently, the Copyright Arbitration Royalty Panels (''CARPs'') and the Librarian of Congress, to set only the rates applicable to the section 115 license. This authority was modified in 1995 by the Digital Performance Right in Sound Recording Act of 1995 in which Congress added provisions to section 115 for ''digital phonorecord deliveries.'' The CARPs were authorized to set ''reasonable terms and rates of royalty payments'' for digital phonorecord deliveries (''DPDs''), and these rates and terms were subject to modification by the Librarian upon recommendation by the Register of Copyrights. The same legislation authorized the Librarian to ''establish requirements by which copyright owners may receive reasonable notice of the use of their works . . ., and under which records of such use shall be kept and made available by persons making digital phonorecord deliveries.'' 17 U.S.C. 115(c)(3)(D) (1996). With respect to physical phonorecords, the CARPs' authority was limited to setting rates; there was no statutory authorization to set ''terms.'' *See* 17 U.S.C. 801(b)(1) (1996). However, the Register of Copyrights had the authority to issue regulations concerning payment. Section 115(c)(5) provided (and continues to provide), in pertinent part:

Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.
17 U.S.C. 115(c)(5).

In 2004, Congress passed the Copyright Royalty and Distribution Reform Act (''CRDRA''). This legislation created the CRJs and empowered them to set ''terms and rates of royalty payments'' under section 115. *See* 17 U.S.C. 801(b)(1). It also amended section 115 to provide that the CRJs had authority to set ''reasonable rates and terms of royalty payments'' for use of works under the license as well as ''requirements by which records of such use shall be kept and made available.'' 17 U.S.C. 115(c)(3)(D). However, the statutory provisions authorizing the Register to regulate notice of intention to obtain the section 115 license and requirements regarding monthly payment and monthly and annual statements of account remained in place. Copyright Royalty and Distribution Reform Act of 2004, Pub. L. No. 108–419, 118 Stat. 2341 (2004).

III. Register's Determination in Response to Previously Referred Question

On August 8, 2008, the Register responded to the CRJs Referred Questions regarding the division of authority in the administration of section 115. The Register determined that Congress intentionally split the administration of the license between the CRJs and the Register of Copyrights. The result of this division of authority is that the CRJs may issue regulations that supplant currently applicable regulations, including those heretofore issued by the Librarian of Congress, solely in the areas of notice of use and recordkeeping. 17 U.S.C. 803(c)(3). However, the scope of the CRJs' authority in the areas of notice of use and recordkeeping for the section 115 license must be construed in light of Congress' more specific delegation of responsibility to the Register of Copyrights, which includes the authority to issue regulations regarding notice of intention to obtain the section 115 license as well as those regarding monthly payment and monthly and annual statements of account. Register's Division of Authority Decision, Docket No. RF 2008–1 CRB, 73 FR 48396 (Aug. 19, 2008); *see* 17 U.S.C. 115(b)(1) and 115(c)(5).

The Register recounted that in the CRDRA, Congress amended section 115(c)(3)(D) to authorize the CRJs to ''establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept and made available by persons making digital phonorecord deliveries.'' Register's Division of Authority Decision, Docket No. RF 2008–1 CRB, 73 FR 48396, 48397 (Aug. 19, 2008). The CRDRA also added a new section 803(c)(3), which allowed the CRJs to ''specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.'' 17 U.S.C 803(c)(3). The Register acknowledged that on its face it may appear as if the CRJs are empowered to supplant all current regulations in the area of notice and recordkeeping. However, the Register noted that the CRJs' authority to issue regulations in the areas of notice and recordkeeping must be construed in light of the specific grants of responsibility over the section 115 license to the Register of Copyrights. Register's Division

[2] The National Music Publishers' Association, Inc., the Songwriters Guild of America, the Nashville Songwriters Association International, the Church Music Publishers Association, the Recording Industry Association of America, Inc., the Digital Media Association, CTIA—The Wireless Association, RealNetworks, Inc., Rhapsody International Inc., Cricket Communications, Inc., and Rdio, Inc.

of Authority Decision, Docket No. RF 2008–1 CRB, 73 FR 48396, 48397–98 (Aug. 19, 2008) (*citing Simpson v. United States,* 435 U.S. 6, 15 (1978)).

The Register concluded that the CRJs' authority to issue regulations on notice of use and recordkeeping is limited by the Register's specific grant of authority to issue regulations regarding statements of account. The Register acknowledged that that it may be conceivable that the CRJs may determine that licensees should be required to provide some information related to notice of use that is not addressed in either the notice of intention to obtain the section 115 license or the statements of account. The Register noted that if the CRJs are able to identify such information that is not addressed in either the notice of intention to obtain the section 115 license or the statements of account, then the CRJs may require that a licensee include that type of information in a notice of use (but not in the statement of account) to be served on the copyright owner. Additionally, the Register noted that a recommendation by the CRJs to the Register to amend the regulations governing statements of account to include additional information presumably would likely meet with a favorable response. *Id.* at 48398.

IV. Summary of Parties' Arguments

In the sole brief submitted in relation to the referral of questions to the Register, the Settling Participants acknowledge that, pursuant to section 115(c)(5), the Register has authority to set requirements for the form, content, and manner of certification of statement of account. They note the Register's current regulations includes a requirement that ''[e]ach step in computing the monthly payment, including the arithmetical calculations involved in each step, shall be set out in detail in the Monthly Statement.'' Brief of Settling Participants, Docket No. 2011–3 CRB Phonorecords II (Apr. 5, 2013) at 8–12, citing 37 CFR 201.19(e)(4)(iii).

The Settling Participants conclude that because the proposed ''detail requirements'' are consistent with the Register's current statement of account regulations the ''detail requirements'' do not encroach on the Register' authority. They also acknowledge the Register's 2008 Division of Authority Decision. But they argue that the Division of Authority Decision was directed toward proposed terms that would have been inconsistent with and would have supplanted the Register's rules regarding statements of account. They assert that therefore that the Division of Authority Decision should not properly be read to preclude regulations proposed as part of a settlement that are wholly consistent with and merely amplify and clarify the application of the Register's regulations to specific fee calculations. Brief of Settling Participants, Docket No. 2011–3 CRB Phonorecords II (Apr. 5, 2013) at 8–12.

The Settling Participants also acknowledge the Register's statements regarding division of authority in the Register's 2009 Review of the CRJs' previous determination of rates and terms for the section 115 license stating that the ''CRJ s cannot alter requirements issued by the Register regarding statements of account.'' *Id.* at 10 (*citing* Review of Copyright Royalty Judges Determination, Docket No. 2009–1, 74 FR 4537, 4543 (Jan. 26, 2009)).

The Settling Participants then consider the question of what should happen to effectuate accounting when the CRJs properly adopt a new rate structure different than that contemplated by the statement of account regulations. They acknowledge the Register's prior answer to such a concern as stated in the 2008 Division of Authority Decision. There, the Register offered that the CRJs had two options: first, ''require that a licensee include that type of information in a notice of use (but not in the statement of account)'' or second, make ''a recommendation… to the Register to amend the regulations governing statements of account to include additional information.'' *Id.* at 11 (*citing* 73 FR at 48,398). Despite the Register's recitation of the two options, the Settlement Participants opine that it does not appear that the Register had in mind the possibility of an entirely new rate structure. *Id.* They assert that while in theory having the Register update the statement of account regulations may seem like a better alternative, waiting for the Register to issue new statement of account regulations will require an inconvenient lag time before appropriate statement of account regulations can be effectuated. The Settling Participants conclude that while the Register is authorized to set forth statement of account regulations, it is most consistent with the overall operation of the section 115 license to allow the CRJs to specify additional data elements to be included in statements of account, and that the Register should find such detail requirements permissible. *Id.*

The Settling Participants again acknowledge the Register's express statutory grant of authority is to prescribe the ''form, content, and manner of certification.'' *Id.* at 13, citing 17 U.S.C. 115(c)(5). However, they state that while the ''confidentiality requirement'' might in some sense be considered to relate to statements of account, the ''confidentiality requirement'' does not have anything to do with the form, content or manner of certification of statements of account. They conclude therefore that the ''confidentiality requirement'' does not does not encroach on the Office's power with respect to statements of account as provided in section 115(c)(5). The Settling Participants accurately state that the ''confidentiality requirement'' does not add to, subtract from or otherwise alter the content of the statement, modify the form of the statement, or affect certification, in any way. The Settling Participants assert that the ''confidentiality requirement'' merely specifies what a copyright owner may do (or not do) with information in a statement of account after that statement has been prepared and served in accordance with the Office's regulations. *Id.*

The Settling Participants further elaborate their views that the ''confidentiality requirement'' was an integral part of the Settlement which represents a comprehensive compromise, designed to protect sensitive business information, and that all parties agreed the provision was in the best interests of all participants, the industry generally, and the public. They state that the ''confidentiality requirement'' does not add to or subtract from, modify or change the timing or manner of service of statements of account, in any way and that such entirely additional and non-intrusive provisions do not in any way impinge on the Office's unique power to prescribe the form, content and manner of certification of statements of account. The Settling Participants also address concerns that the ''confidentiality requirement'' may impede litigation by noting that use of statements of account in litigation could be accommodated by being shielded from disclosure via a protective order. *Id.* at 13–14.

The Settling Participants conclude by offering that the Register should conclude that the CRJs have authority to adopt both the ''detail requirements'' and the ''confidentiality requirement'' as part of the Settlement. They also state that if the Register does not agree with their recommendation, then the Copyright Office should incorporate the provisions into its statement of account regulations, and the Register should announce the intention to do so as part of the Register's decision on this referral. *Id.* at 16.

IV. Register's Determination

A. Whether the ''detail requirements'' proposed for 37 CFR 385.12(e) and 385.22(d) encroach upon the exclusive statutory domain of the Register under section 115 of the Act.

As the Settling Participants acknowledge, pursuant to section 115(c)(5), the Register has authority to set requirements for the form, content, and manner of certification of statement of account. The ''detail requirements'' proposed for 37 CFR 385.12(e) and 385.22(d) clearly attempt to set forth requirements addressing the content that licensees must include in statements of account, as opposed to requirements addressing the content that licensees must include in a notice of use. As such, the proposed ''detail requirements'' encroach upon the exclusive statutory domain of the Register to issue regulations regarding statements of account set forth in 17 U.S.C. 115(b)(1) and 115(c)(5).

The proposed ''detail requirements'' represent an encroachment on the Register's authority regardless of whether or not they conflict with the Register's current regulations for statements of account. The Settling Participants accurately state that the Register's current regulations include a requirement that ''[e]ach step in computing the monthly payment, including the arithmetical calculations involved in each step, shall be set out in detail in the Monthly Statement.'' 37 CFR 201.19(e)(4)(iii). This provision is consistent with the ''detail requirements'' proposed for 37 CFR 385.12(e) and 385.22(d). The fact that the ''detail requirements'' are consistent with the Register's current regulations does not diminish the Register's exclusive authority regarding statements of account.

While the Register is reluctant to state an intended outcome in its ongoing rulemaking regarding amendments to the regulations regarding statements of account, the Register

is actively considering the possibility of including in the Office's updated regulations provisions that would enhance or expand upon the details required for including all steps in rate calculation. *See* Notice of Proposed Rulemaking, Mechanical and Digital Phonorecord Delivery Compulsory License 77 FR 44179 (July 27, 2012).

B. Whether the ''confidentiality requirement'' proposed for 37 CFR 385.12(f) and 385.22(e) encroach upon the exclusive statutory domain of the Register under § 115 of the Act.

As the Settling Participants accurately set forth, the ''confidentiality requirement'' does not address the form, content, and manner of certification of statements of account. As such, the proposed ''confidentiality requirement'' does not encroach upon the Register's authority with respect to statements of account as provided in 17 U.S.C. 115(c)(5). Furthermore, the Register is not aware that the ''confidentiality requirement'' conflicts with any other authority reserved for the Register. However, the Register also notes that it is unclear whether the CRJs have any independent authority to issue regulations such as the proposed ''confidentiality requirement'' which would impose obligations on a copyright owner with regard to what he or she is able to do with a statement of account received by a licensee. The Register, suggests that the question of whether the CRJs have authority to issue regulations imposing requirements on what a *copyright owner* (as opposed to a licensee) may do (or not do) with information in a statement of account after that statement has been prepared and served in accordance with the Office's regulations, represents a novel question of law that may be separately referred to the Register. If such a novel question is referred to the Register, the Register submits that the participants should be afforded an opportunity to brief that specific issue, which was not adequately addressed in the participants' brief on the instant referral. If such a novel question is referred, the Register encourages the participants to cite specific sources supporting the view that the CRJs enjoy such authority.

May 1, 2013.

Maria A. Pallante,
Register of Copyrights.

[FR Doc. 2013–11560 Filed 5–15–13; 8:45 am]

BILLING CODE 1410–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0066; FRL– 9814–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Adoption of Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Which Includes Pleasure Craft Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of the Environment (MDE) on January 10, 2013. The SIP revision consists of a new regulation pertaining to control of volatile organic compound emissions from pleasure craft coating operations. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 17, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0066 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0066, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0066. 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.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. EPA Action
II. Background
III. SIP Revision Submitted by the State of Maryland
IV. Proposed Action
V. Statutory and Executive Order Review

I. EPA Action

EPA is proposing to approve revisions to Maryland's SIP which were submitted by MDE on January 10, 2013. The SIP revision submittal adopts the requirements as recommended by EPA's control technique guidelines (CTG) for Miscellaneous Metal Parts and Plastic Coating (MMPPC) operations and as recommended by trade associations representing the pleasure craft industry.

Specifically, MDE has added Regulation .27–1 under COMAR 26.11.19 to reduce further volatile organic compound (VOC) emissions from pleasure craft coating operations. This revision reflects technology developments and expands VOC emission controls, as well as reflects the recommended reasonably available control technology (RACT) requirements in EPA's CTG for MMPPC.

II. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. EPA defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' (44 FR 53761, September 17, 1979).

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information that should assist them in determining RACT for VOC from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOC in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process.

EPA developed the CTG for MMPPC in September 2008. The miscellaneous metal product and plastic parts surface coatings categories under section 183(e) of the CAA include the coatings that are applied to the surfaces of a varied range of metal and plastic parts and products. Such parts or products are constructed either entirely or partially from metal or plastic. These miscellaneous metal products and plastic parts include, but are not limited to, metal and plastic components of the following types of products as well as the products themselves: Fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products.

The pleasure craft coating category does not include coatings that are a part of other product categories listed under Section 183(e) of the CAA for which CTGs have been published or included in other CTGs. As a result, members of the pleasure craft coatings industry contacted EPA requesting reconsideration of the pleasure craft VOC limits contained in EPA's 2008 MMPPC CTG. In response, EPA issued a memorandum on June 1, 2010, titled ''Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration,'' recommending that the pleasure craft industry work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated. EPA has stated that states can use the recommendations from the MMPPC CTG to form their own determinations as to what constitutes RACT for pleasure craft coating operations in their particular ozone nonattainment area. CTGs impose no legally binding requirements on any entity, including pleasure craft coating facilities. As stated in the memorandum, EPA will evaluate state-developed RACT rules and determine whether the submitted rules meet the RACT requirements of the CAA.

III. SIP Revision Submitted by the State of Maryland

On January 10, 2013, MDE submitted a SIP revision adopting the recommendations contained in both EPA's MMPPC CTG and in comments from trade associations representing the pleasure craft industry for the control of VOC as RACT. The SIP revision adds Regulation .27–1 under COMAR 26.11.19 in order to: (1) Establish applicability for pleasure craft and fiberglass boat coating operations at facilities with actual VOC emissions of 15 pounds or more per day (15 lb/day) from coating operations as determined on a monthly average on or after January 1, 2013; (2) establish exemptions for certain types of coatings; (3) add definitions and terms to reflect pleasure craft coating operations; (4) incorporate by reference the standard test method for Specular Gloss; (5) establish that the least stringent emission limitation is applicable if more than one emission limitation applies to a specific coating; (6) establish application methods; and (7) specify VOC limit requirements for pleasure craft coating operations in Table 1 below.

TABLE 1—PLEASURE CRAFT COATING STANDARDS

[Expressed in terms of mass of VOC per volume of coating excluding water and exempt compounds, as applied]

Coating types	Pounds (lbs) VOC/gallon	Kilograms (kg) VOC/liter
Extreme high gloss topcoat	5.0	0.60
High gloss topcoat	3.5	0.42
Pretreatment wash primers	6.5	0.78
Finish primer/surface:		
Applicable through March 31, 2014	5.0	0.60
Applicable through March 31, 2014	3.5	0.42
High build primer/surface	2.8	0.34
Aluminum substrate antifoulant coating	4.7	0.56
Antifouling sealer/tiecoat	3.5	0.42
Other substrate antifoulant coating	3.3	0.40
All other pleasure craft surface coatings	3.5	0.42

More detailed information on these provisions can be found in the technical support document located in the docket prepared for this rulemaking action.

IV. Proposed Action

EPA is proposing to approve the State of Maryland SIP revision submitted on January 10, 2013, adopting the requirements as recommended by the MMPPC CTG and adopting the pleasure craft industry recommendations for the following four coating categories: Finish Primer/Surfacer; Antifouling Sealer/Tiecoat; Other Substrate Antifoulant; and Extreme High Gloss. For these four categories, Maryland reviewed industry data and determined that for the purpose of functionality, cost, and VOC emissions, the alternative limits adopted for these four coating categories constitute RACT. EPA believes that Maryland's approach is consistent with the guidance memorandum entitled, ''Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration,'' and therefore, believes that these regulations reflect RACT. EPA concurs with MDE's analysis in the SIP submittal that this regulation reflects RACT. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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 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 proposed rule, pertaining to the State of Maryland's amendments to regulations for the control of VOCs for MMPPC, 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, Ozone, Volatile organic compounds.

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

Dated: May 2, 2013.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2013–11789 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0602; FRL–9813–4]

Approval and Promulgation of Implementation Plans; North Carolina; State Implementation Plan Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a portion of a revision to the North Carolina State Implementation Plan submitted on February 3, 2010, through the North Carolina Department of Environment and Natural Resources. This revision updates the North Carolina SIP to reflect EPA's current national ambient air quality standards for ozone, lead and particulate matter found in the Code of Federal Regulations. In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before June 17, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–0602 by one of the following methods:

(a) *www.regulations.gov:* Follow the on-line instructions for submitting comments.

(b) *Email: R4-RDS@epa.gov.*

(c) *Fax:* (404) 562–9019.

(d) *Mail:* EPA–R04–OAR–2007–0602, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

(e) *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: For information regarding this source specific SIP revision, contact Ms. Kelly Sheckler, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's telephone number is (404) 562–9222; email address: *sheckler.kelly@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: May 1, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–11563 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0223; FRL–9813–7]

Approval and Promulgation of Implementation Plans; Georgia; State Implementation Plan Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing changes to the Georgia State Implementation Plan (SIP) submitted by the Georgia Environmental Protection Division to EPA in four separate SIP submittals dated September 15, 2008, August 30, 2010 (two submittals), and December 15, 2011. In the portions of the submittals being approved today, the SIP revisions update the Georgia SIP to reflect EPA's current national ambient air quality standards for sulfur dioxide, nitrogen dioxide, ozone, lead, and particulate matter found in the Code of Federal Regulations. In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before June 17, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0223 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email: R4-RDS@epa.gov*.

3. *Fax:* (404) 562–9019.

4. *Mail:* EPA–R04–OAR–2013–0223, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: For information regarding this source specific SIP revision, contact Mr. Richard Wong, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Wong's telephone number is (404) 562–8726; email address: *wong.richard@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: May 3, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–11565 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0271; FRL–9814–2]

Approval and Promulgation of Implementation Plans; Kentucky; Stage II Requirements for Enterprise Holdings, Inc. at Cincinnati/Northern Kentucky International Airport in Boone County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a source-specific State Implementation Plan (SIP) revision submitted to EPA by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ) on April 25, 2013, for the purpose of exempting Enterprise Holdings, Inc., facility from the Clean Air Act (CAA or Act) Stage II vapor control requirements. The Enterprise Holdings, Inc., facility is currently being constructed at the Cincinnati/Northern Kentucky International Airport in Boone County, Kentucky. EPA's proposed approval of this revision to Kentucky's SIP is based on the December 12, 2006, EPA policy memorandum from Stephen D. Page, entitled *''Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated.''* This action is being taken pursuant to the CAA.

DATES: Comments must be received on or before June 17, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0271 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4–RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0271, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2013–0271.'' 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding this source specific SIP revision, contact Ms. Kelly Sheckler, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's telephone number is (404) 562–9992; email address: *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Analysis of the Commonwealth's submittal
III. Proposed Action
IV. Statutory and Executive Order Reviews

I. Background

Under the CAA Amendments of 1990, EPA designated and classified three Kentucky Counties (Boone, Campbell and Kenton) and four Ohio Counties (Butler, Clermont, Hamilton and Warren) as a ''moderate'' nonattainment area for the 1-hour ozone national ambient air quality standards (NAAQS) as part of the Cincinnati/Northern Kentucky Area. *See* 56 FR 56694, effective January 6, 1992. The designation was based on the Area's 1-hour ozone design value of 0.157 parts per million for the three year period of 1988–1990.

Pursuant to the requirements of section 182(b)(3) of the CAA, KDAQ developed the Kentucky Administrative Regulations (KAR) 401 KAR 59:174 Stage II controls at gasoline dispensing facilities, and submitted the rule to EPA for approval as part of Kentucky's ozone SIP. The rule was adopted by Kentucky on January 12, 1998, and approved by EPA into the SIP on December 8, 1998. *See* 63 FR 67586. Under this regulation, gasoline dispensing facilities with a monthly throughput of 25,000 gallons or more located in a Kentucky County in which the entire County is classified as severe, serious, or moderate nonattainment for ozone are required to install Stage II vapor recovery systems.

On October 29, 1999, having implemented all measures required of Kentucky to that date for moderate ozone nonattainment areas under the CAA, and with three years of data (1996–1998) showing compliance with the 1-hour ozone standards, KDAQ submitted to EPA an ozone maintenance plan and request for redesignation of the Kentucky portion of Cincinnati/Northern Kentucky area to attainment status. The maintenance plan, as required under section 175A of the CAA, showed that nitrogen oxides and volatile organic compounds (VOC) emissions in the Area would remain below the 1990 ''attainment year's'' levels. In making these projections KDAQ factored in the emissions benefit (primarily VOC) of the Area's Stage II program, and did not remove this program from the Kentucky SIP. The redesignation request and maintenance plan were approved by EPA, effective June 19, 2000 (65 FR 37879).

Since the Kentucky Stage II program was already in place and had been included in the Commonwealth's October 29, 1999, redesignation request and 1-hour ozone maintenance plan for the Area, KDAQ elected not to remove the program from the SIP at that time. On April 6, 1994, EPA promulgated regulations requiring the phase-in of onboard refueling vapor recovery (ORVR) systems on new motor vehicles. Under section 202(a)(6) of the CAA, moderate ozone nonattainment areas are not required to implement Stage II vapor recovery programs after promulgation of ORVR standards.

II. Analysis of the Commonwealth's Submittal

EPA's primary consideration for determining the approvability of Kentucky's request to exempt Stage II vapor control requirements for the Enterprise Holdings, Inc., facility

located at the Cincinnati/Northern Kentucky International Airport in Boone County is whether this requested action complies with section 110(l) of the CAA. Below is EPA's analysis of these considerations.

a. Federal Requirements for Stage II

States were required to adopt Stage II rules for all areas classified as ''moderate'' or worse under section 182(b)(3) of the CAA. However, section 202(a)(6) of the CAA states that ''the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after the promulgation of such [ORVR] standards.'' ORVR regulations were promulgated by EPA on April 6, 1994. *See* 59 FR 16262, and 40 CFR 86.001, .098). As a result, the CAA no longer requires moderate areas to impose Stage II controls under section 182(b)(3), and such areas may seek SIP revisions to remove such requirements from their SIP, subject to section 110(l) of the Act. EPA's policy memorandum related to ORVR, dated March 9, 1993, and June 23, 1993, provided further guidance on an allowance for removing Stage II requirements from certain areas. The policy memorandum dated March 9, 1993, states ''[w]hen onboard rules are promulgated, a State may withdraw its Stage II rules for moderate areas from the SIP (or from consideration as a SIP revisions) consistent with its obligation under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirements of the Act.'' Because Kentucky is taking credit for Stage II in its maintenance plan, the Commonwealth's request for a source specific exemption from the State II vapor control requirements is subject to section 110(l) of the CAA.

Section 110(l) of the Act provides that EPA cannot approve a SIP revision if that revision interferes with any applicable requirement regarding attainment, reasonable further progress (RFP) or any requirement established in the CAA. EPA can approve a SIP revision that removes or modifies control measures in the SIP once states make a ''noninterference'' demonstration that such a removal or modification will not interfere with attainment of the NAAQS, RFP or any other CAA requirement. As such, Kentucky must make a demonstration of noninterference in order to exempt Stage II from the SIP for Enterprise Holdings, Inc. facility located at the Cincinnati/Northern Kentucky International Airport in Boone County.

b. Cincinnati-Hamilton Interstate Area Air Quality Status

With respect to ozone, on April 30, 2004, EPA designated the Cincinnati/Northern Kentucky Area as nonattainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857. On January 29, 2010, the Commonwealth submitted to EPA a redesignation request and maintenance plan for the 1997 8-hour ozone NAAQS. As a result the Cincinnati/Northern Kentucky area was redesignated to attainment for the 1997 8-hour ozone NAAQS on August 5, 2010 (75 FR 4718). EPA then designated portions of Boone, Campbell and Kenton Counties in Kentucky as nonattainment for the 2008 8-hour ozone NAAQS as part of the Cincinnati/Northern Kentucky Nonattainment Area. This designation for the 2008 8-hour ozone NAAQS was effective July 20, 2012. *See* 77 FR 30088.

With respect to PM, on July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual $PM_{2.5}$ standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations. On January 5, 2005, at 70 FR 944, and supplemented on April 14, 2005, at 70 FR 19844, EPA designated Boone, Campbell, and Kenton Counties in Kentucky as part of the Tri-state Cincinnati-Hamilton Nonattainment Area for the 1997 $PM_{2.5}$ NAAQS.[1]

On January 27, 2011, KDAQ submitted a request to redesignate the Kentucky portion of the Tri-state Cincinnati-Hamilton Area $PM_{2.5}$ Nonattainment Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS based on 2007–2009 data. On December 15, 2011, EPA published the final rulemaking redesignating the Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. *See* 76 FR 77904.

In 2006, EPA strengthened the primary and secondary 24-hour $PM_{2.5}$ NAAQS from 65 $\mu g/m^3$ to 35 $\mu g/m^3$, and retained the current primary and secondary annual $PM_{2.5}$ NAAQS at 15 $\mu g/m^3$. *See* 71 FR 61144, October 17, 2006. The revision of the 24-hour $PM_{2.5}$ NAAQS in 2006, triggered the designation process for the NAAQS. The Cincinnati/Northern Kentucky Area was designated attainment for the 2006 $PM_{2.5}$ NAAQS. *See* 74 FR 58688, November 13, 2009.

c. Non-Interference Demonstration for Exemption of Stage II Requirements.

EPA is making the preliminary determination that Kentucky's April 25, 2013, proposed source-specific revision to the Kentucky SIP is approvable based on the CAA and the December 12, 2006, EPA memorandum from Stephen D. Page entitled, ''*Removal of Stage II Vapor Recovery in Situations Where Widespread use of On-board Refueling Vapor Recovery is Demonstrated,*'' which provides guidance to states concerning the removal of Stage II gasoline vapor recovery systems where states demonstrate to EPA that widespread use of ORVR has occurred in specific portions of the motor vehicle fleet.

As previously discussed, States were required to adopt Stage II rules for such areas under section 182(b)(3) of the CAA. However, section 202(a)(6) of the CAA provides that the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified as moderate for ozone shall not apply after the promulgation of ORVR standards. In addition, section 202(a)(6) further provides that the Administrator may, by rule, revise or waive the application of requirements of section 182(b)(3) for areas classified as serious, severe, or extreme for ozone.

Section 202 ORVR regulations were promulgated by EPA on April 6, 1992, and the requirements of these regulations were phased in. In this circumstance, EPA does not view section 202 as requiring a determination of ''widespread'' use as is necessary for the source-specific SIP revision for Stage II requirements for the Enterprise Holdings, Inc. facility because the area is not designated as serious or above for ozone. EPA, however, does view the widespread use analysis as relevant toward satisfying the section 110(l) demonstration necessary to exempt the Enterprise Holdings, Inc. facility from the Stage II vapor control requirements.

EPA believes the widespread use of ORVR has been sufficiently demonstrated.[2] EPA's December 12, 2006, memorandum states that if 95 percent of the vehicles in the fleet have ORVR, then widespread use will likely have been demonstrated for that fleet.

[1] EPA subsequently clarified that the Tri-state Cincinnati-Hamilton Area was classified unclassifiable/attainment for the 24-hour NAAQS promulgated in 1997. *See* 74 FR 58688 (November 13, 2009).

[2] On May 16, 2012, EPA made a determination that ORVR was in widespread use throughout the motor vehicle fleet for purposes of controlling motor vehicle refueling emissions. EPA estimated that approximately 70 percent of all vehicles would be equipped with on-board systems to capture these vapors by the end of 2012, rendering the use of Stage II vapor recovery systems redundant.

The memorandum addresses the following specific fleets:

- Initial fueling of new vehicles at automobile assembly plants;
- Refueling of rental cars at rental car facilities; and
- Refueling of flexible fuel vehicles at E85 dispensing pumps.

Most large rental companies rent current model vehicles, that are equipped with ORVR and vehicle models are updated to current year models every year or two. The Commonwealth of Kentucky has confirmed that 100 percent of the fleet will be equipped with 2006 model year (first model year vehicles required to be equipped with ORVR) and newer vehicles at the Enterprise Holdings, Inc., facility at the Cincinnati/Northern Kentucky International Airport in Boone County.

CAA section 110(a)(2)(D)(i)(I) prohibits facilities within the State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standards. The only pollutant emitted by refueling vehicles is VOC, which is a precursor of ozone, and its emissions are mitigated by the use of vehicles equipped with ORVR. EPA has preliminarily determined that Kentucky has adequately demonstrated that ORVR is in widespread use and that the Stage II requirements of the Kentucky SIP have been sufficiently supplanted by the ORVR such that exemption of the Enterprise Holdings, Inc., facility from the Stage II requirements would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA.

III. Proposed Action

EPA is proposing to approve the aforementioned source-specific SIP revision request from Kentucky. VOC emissions from vehicles at Enterprise Holdings, Inc., facilities are controlled by ORVR, therefore, EPA has preliminarily concluded that removal of Stage II requirements at this facility would not result in an increase of VOC emissions, and thus would not contribute to ozone formation. The Commonwealth is seeking to remove this requirement for this facility and EPA has preliminarily determined that Kentucky has fully satisfied the requirements of section 110(l) of the CAA. Therefore, EPA is proposing to approve this source-specific SIP revision, as being consistent with section 110 of the CAA.

IV. 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, these proposed actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by Commonwealth law. For that reason, these proposed actions:

- Are 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);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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
- do 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 proposed 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 Commonwealth, and 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, Greenhouse Gas, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 7, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–11713 Filed 5–15–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002: Internal Agency Docket No. FEMA–B–1152]

Proposed Flood Elevation Determinations for Armstrong County, Pennsylvania (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Armstrong County, Pennsylvania (All Jurisdictions).

DATES: This withdrawal is effective on May 16, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1152 to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On November 2, 2010, FEMA published a proposed rulemaking at 75 FR 67304, proposing flood elevation determinations along one or more flooding sources in Armstrong County, Pennsylvania. Because FEMA has or

will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11588 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1147]

Proposed Flood Elevation Determinations for Beaver County, Pennsylvania (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Beaver County, Pennsylvania (All Jurisdictions).

DATES: This withdrawal is effective on May 16, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1147 to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On October 5, 2010, FEMA published a proposed rulemaking at 75 FR 61377, proposing flood elevation determinations along one or more flooding sources in Beaver County, Pennsylvania. Because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11591 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1190]

Proposed Flood Elevation Determinations for Greene County, Pennsylvania (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Greene County, Pennsylvania (All Jurisdictions).

DATES: This withdrawal is effective on May 16, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1190 to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On May 10, 2011, FEMA published a proposed rulemaking at 76 FR 26978, proposing flood elevation determinations along one or more flooding sources in Greene County, Pennsylvania. Because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11594 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 231, 244, 246, and 252

RIN 0750–AH88

Defense Federal Acquisition Regulation Supplement: Detection and Avoidance of Counterfeit Electronic Parts (DFARS Case 2012–D055)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) in partial implementation of a section of the National Defense Authorization Act for Fiscal Year 2012, and a section of the National Defense Authorization Act for Fiscal Year 2013, relating to the detection and avoidance of counterfeit electronic parts.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before July 15, 2013, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012–D055, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D055'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the

link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D055.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D055'' on your attached document.

- *Email: dfars@osd.mil.* Include DFARS Case 2012–D055 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6098; facsimile 571–372–6101.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to partially implement section 818 (paragraphs (c) and (f)) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 (Pub. L. 112–81, enacted December 31, 2011). Section 818 is entitled ''Detection and Avoidance of Counterfeit Electronic Parts.'' Paragraph (c) of section 818 requires the issuance of DFARS regulations addressing contractor responsibilities for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts, the use of trusted suppliers, and requirements for contractors to report counterfeit electronic parts and suspect counterfeit electronic parts. Paragraph (f) of section 818 contains the definitions of ''covered contractor'' and ''electronic part.'' Other aspects of section 818 are being implemented separately.

In addition, this proposed rule addresses the amendments to section 818 that were made by section 833, entitled ''Contractor Responsibilities in Regulations Relating to Detection and Avoidance of Counterfeit Electronic Parts,'' of the NDAA for FY 2013 (Pub. L. 112–239, enacted January 2, 2013).

II. Discussion

The intent of section 818 is to hold contractors responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts. Three specific areas were identified that required either modification or additions to DFARS in order to implement the requirements defined in section 818.

A. *Definitions.* Several definitions are proposed. ''Electronic part'' is defined at paragraph (f) of section 818. Section 818(b)(1) requires definition of ''counterfeit electronic part'' and ''suspect counterfeit electronic part.'' As recommended by Government Accountability Office (GAO) Report GAO–10–389, entitled ''DoD Should Leverage Ongoing Initiatives in Developing Its Program to Mitigate Risk of Counterfeit Parts,'' to establish a clear and consistent definition of ''counterfeit parts.'' DoD is proposing to add a definition of ''legally authorized source'' to the definition of ''counterfeit part'' as an important component of its program to mitigate risks posed by counterfeit parts. The new terms are proposed to be located at DFARS 202.101, Definitions, because they will apply to multiple parts of the regulations.

B. *Contractor responsibilities. Detection and avoidance of counterfeit electronic parts or suspect counterfeit electronic parts.* New policy on counterfeit parts is proposed to be added to DFARS subpart 246.8, Contractor Liability for Loss of or Damage to Property of the Government. The proposed new coverage includes a clause at DFARS 252.246–7007, Contractor Counterfeit Electronic Part Avoidance and Detection System. In addition, this rule proposes to add compliance (with the requirements for identifying, avoiding, and reporting counterfeit parts) to the existing requirements for the contractor's purchasing system. To that end, the rule proposes to modify the clause at DFARS 252.244–7001, Contractor Purchasing System Administration, to add system criteria for the contractor's purchasing system. It also proposes an alternate which adds systems criteria for a less comprehensive review of the contractor's purchasing system that targets review of those elements relating to the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts. The alternate is prescribed for use in solicitations and contracts that include the clause at 252.246–7007, but do not include the clause at FAR 52.244–2, Subcontracts.

(1) *Unallowability of costs of rework and corrective action.* A new subsection, DFARS 231.205–71, proposes to prohibit contractors from claiming, as a reimbursable cost under DoD contracts, the cost of counterfeit electronic parts or suspect counterfeit electronic parts or the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts. However, section 833 of the NDAA for FY 2013 provides specific exceptions that would enable these costs to be reimbursed if (i) a contractor has a DoD-approved operational system to detect and avoid counterfeit parts; or the suspect counterfeit parts were provided as Government-furnished property; and (ii) the contractor has provided timely notice to the Government. These exceptions are included at DFARS 231.205–71(c) in the proposed rule.

(2) *Government role.* The Government's role in reviewing and monitoring the contractor's processes and procedures for detecting and avoiding counterfeit or suspect counterfeit electronic parts (see section 818(e)(2)(B)) is addressed as part of a contractor's purchasing system review (see proposed DFARS 244.303(b)).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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 is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to 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.,* because it applies only to contracts that are subject to the Cost Accounting Standards (CAS)(see section 818(f)). Contracts with small entities are exempt from CAS. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is intended to partially implement section 818 of the National Defense Authorization Act for Fiscal Year 2012 and section 833 of the National Defense Authorization Act for Fiscal Year 2013. Section 818 is entitled ''Detection and Avoidance of Counterfeit Electronic Parts;'' it requires DoD-wide regulations concerning contractors' requirements to identify, avoid, and report counterfeit and suspect electronic counterfeit parts. Further, paragraph (a) of section 818 requires DoD to establish and issue relevant DoD-wide definitions. Section 833 provides exceptions to cost unallowability if contractors take specific steps.

The rule will not apply to small entities as prime contractors. The requirements will apply to contracts that are subject to the Cost Accounting Standards (CAS) under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (other than educational institutions, Federally Funded Research and Development Centers operated by educational institutions, or University Associated Research Centers). Contracts and subcontracts with small entities are exempt from CAS requirements.

There is, however, the potential for an impact on small entities in the supply chain of a prime contractor with contracts subject to CAS. The impact should be negligible as long as the small entity is not supplying counterfeit electronic parts to the prime contractor.

The proposed rule would use the existing requirements for contractors' purchasing systems as the basis for the anti-counterfeiting compliance (see the clause at DFARS 252.244–7001, Contractor Purchasing System Administration).

The rule does not duplicate, overlap, or conflict with any other Federal rules.

The economic impact of this proposed rule on small entities has been minimized in the following ways:

(a) The proposed rule would use the existing requirements (and contract clause) for contractors' purchasing systems, rather than creating a separate, new system.

(b) The proposed rule would apply only to prime contractors that must comply with the Cost Accounting Standards, which excludes small entities without diminishing the ability of DoD to oversee compliance.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012–D055), in correspondence.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35; however, these changes to the DFARS, as they pertain to contractors' purchasing systems, will generally not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0253, entitled Purchasing Systems. The current information collection estimates that 90 respondents will submit one response annually, with 16 hours per response. We estimate that the additional information collection burden associated with the clause at 52.244–7001—Alternate, will be as much as five percent more than the existing burden. Therefore, the change to the current annual reporting burden for OMB Control Number 0704–0253 is estimated as follows:

Respondents: 5.
Responses per respondent: 1.
Total annual responses: 5.
Preparation hours per response: 16.
Total hours: 80.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Jasmeet_K._Seehra@omb.eop.gov,* with a copy to the Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *dfars@osd.mil.* Include DFARS Case 2012–D055 in the subject line of the message.''

List of Subjects in 48 CFR Parts 202, 231, 244, 246, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 202, 231, 244, 246, and 252 as follows:

■ 1. The authority citation for parts 202, 231, 244, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 202.101 by adding, in alphabetical order, the following definitions to read as follows:

202.101 Definitions.

* * * * *

Counterfeit part means—

(1) An unauthorized copy or substitute part that has been identified, marked, and/or altered by a source other than the part's legally authorized source and has been misrepresented to be from a legally authorized source;

(2) An item misrepresented to be an authorized item of the legally authorized source; or

(3) A new, used, outdated, or expired item from a legally authorized source that is misrepresented by any source to the end-user as meeting the performance requirements for the intended use.

* * * * *

Electronic part means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly (section 818(f)(2) of Pub. L. 112–81).

* * * * *

Legally authorized source means the current design activity or the original manufacturer or a supplier authorized by the current design activity or the original manufacturer to produce an item.

* * * * *

Suspect counterfeit part means a part for which visual inspection, testing, or other information provide reason to believe that a part may be a counterfeit part.

* * * * *

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 3. Add section 231.205–71 to read as follows:

231.205–71 Cost of remedy for use or inclusion of counterfeit electronic parts and suspect counterfeit electronic parts.

(a) *Scope.* This subsection implements the requirements of section 818(c)(2), National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) and section 833, National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239).

(b) Contractors that are subject to the Cost Accounting Standards (CAS) under 41 U.S.C. Chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (see the FAR appendix), and that supply electronic parts or products that include electronic parts under CAS-covered contracts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and for any rework or corrective action that may be required to remedy the use or inclusion of such parts.

(c) The costs of counterfeit electronic parts or suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are expressly unallowable, unless—

(1) The contractor has an operational system to detect and avoid counterfeit parts and suspect counterfeit electronic parts that has been reviewed and approved by DoD pursuant to 244.303;

(2) The counterfeit electronic parts or suspect counterfeit electronic parts are Government-furnished property as defined in FAR 45.101; and

(3) The covered contractor provides timely notice to the Government.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

■ 4. Revise section 244.303 to read as follows:

244.303 Extent of review.

(a) Also review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of ''commercial item'' in FAR 2.101.

(b) Also review the adequacy of the contractor's counterfeit electronic part avoidance and detection system under DFARS 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System.

■ 5. Revise section 244.305–71 to read as follows:

244.305–71 Contract clause.

Use the Contractor Purchasing System Administration clause or its alternate as follows:

(a) Use the clause at *252.244–7001,* Contractor Purchasing System Administration—Basic, in solicitations and contracts containing the clause at FAR 52.244–2, Subcontracts.

(b) Use the clause at *252.244–7001,* Contractor Purchasing System Administration—Alternate I, in solicitations and contracts that contain the clause at 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, but do not contain FAR 52.244–2, Subcontracts.

PART 246—QUALITY ASSURANCE

■ 6. The authority citation for part 246 is revised to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

■ 7. Add section 246.870 through 246.870–3 to read as follows:

246.870 Contractors' counterfeit electronic part avoidance and detection systems.

246.870–1 Scope.

This section—

(a) Implements section 818(c) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81); and

(b) Prescribes policy and procedures for preventing counterfeit parts and suspect counterfeit parts from entering the supply chain when procuring electronic parts or end items, components, parts, or materials that contain electronic parts.

246.870–2 Policy.

(a) *General.* Contractors are required to establish and maintain an acceptable counterfeit electronic part avoidance and detection system. Failure to do so may result in disapproval of the purchasing system by the contracting officer and/or withholding of payments (see *52.244–7001*).

(b) *System criteria.* A contractor's counterfeit electronic part avoidance and detection system must address, at a minimum, the following areas:

(1) The training of personnel.

(2) The inspection and testing of electronic parts, including criteria for acceptance and rejection.

(3) Processes to abolish counterfeit parts proliferation.

(4) Mechanisms to enable traceability of parts to suppliers.

(5) Use and qualification of trusted suppliers.

(6) The reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts.

(7) Methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit.

(8) The design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts.

(9) The flow down of counterfeit avoidance and detection requirements to subcontractors.

246.870–3 Contract clause.

Use the clause at *252.246–70XX,* Contractor Counterfeit Electronic Part Avoidance and Detection System, in solicitations and contracts (other than in contracts with educational institutions, Federally Funded Research and Development Centers (FFRDCs), or University Associated Research Centers (UARCs) operated by educational institutions) when procuring electronic parts or an end item, component, part, or material containing electronic parts or services where the contractor will supply electronic components, parts, or materials as part of the service and the resulting contract will be subject to the Cost Accounting standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (see the FAR Appendix).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Revise section 252.244–7001 to read as follows:

252.244–7001 Contractor purchasing system administration.

As prescribed in 244.305–71, use one of the following clauses.

Contractor Purchasing System Administration—Basic. For the specific use of the basic clause, see the prescription at 244.305–71(a).

Contractor Purchasing System Administration—Basic (Date)

(a) *Definitions.* As used in this clause—

''Acceptable purchasing system'' means a purchasing system that complies with the system criteria in paragraph (c) of this clause.

''Purchasing system'' means the Contractor's system or systems for

purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, and expediting delivery of materials.

''Significant deficiency'' means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain an acceptable purchasing system. Failure to maintain an acceptable purchasing system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) *System criteria.* The Contractor's purchasing system shall—

(1) Have an adequate system description including policies, procedures, and purchasing practices that comply with the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS);

(2) Ensure that all applicable purchase orders and subcontracts contain all flowdown clauses, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract;

(3) Maintain an organization plan that establishes clear lines of authority and responsibility;

(4) Ensure all purchase orders are based on authorized requisitions and include a complete and accurate history of purchase transactions to support vendor selected, price paid, and document the subcontract/purchase order files which are subject to Government review;

(5) Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support vendors selected and prices paid;

(6) Apply a consistent make-or-buy policy that is in the best interest of the Government;

(7) Use competitive sourcing to the maximum extent practicable, and ensure debarred or suspended contractors are properly excluded from contract award;

(8) Evaluate price, quality, delivery, technical capabilities, and financial capabilities of competing vendors to ensure fair and reasonable prices;

(9) Require management level justification and adequate cost or price analysis, as applicable, for any sole or single source award;

(10) Perform timely and adequate cost or price analysis and technical evaluation for each subcontractor and supplier proposal or quote to ensure fair and reasonable subcontract prices;

(11) Document negotiations in accordance with FAR 15.406–3;

(12) Seek, take, and document economically feasible purchase discounts, including cash discounts, trade discounts, quantity discounts, rebates, freight allowances, and company-wide volume discounts;

(13) Ensure proper type of contract selection and prohibit issuance of cost-plus-a-percentage-of-cost subcontracts;

(14) Maintain subcontract surveillance to ensure timely delivery of an acceptable product and procedures to notify the Government of potential subcontract problems that may impact delivery, quantity, or price;

(15) Document and justify reasons for subcontract changes that affect cost or price;

(16) Notify the Government of the award of all subcontracts that contain the FAR and DFARS flowdown clauses that allow for Government audit of those subcontracts, and ensure the performance of audits of those subcontracts;

(17) Enforce adequate policies on conflict of interest, gifts, and gratuities, including the requirements of 41 U.S.C. chapter 87, Kickbacks;

(18) Perform internal audits or management reviews, training, and maintain policies and procedures for the purchasing department to ensure the integrity of the purchasing system;

(19) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the FAR and DFARS, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, if applicable;

(20) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, if applicable;

(21) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are reasonably priced and from sources that meet contractor quality requirements, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, if applicable;

(22) Establish and maintain procedures to ensure performance of adequate price or cost analysis on purchasing actions;

(23) Establish and maintain procedures to ensure that proper types of subcontracts are selected, and that there are controls over subcontracting, including oversight and surveillance of subcontracted effort; and

(24) Establish and maintain procedures to timely notify the Contracting Officer, in writing, if—

(i) The Contractor changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of the work to be performed under the contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that the Contractor will provide added value; or

(ii) Any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

(d) Significant deficiencies. (1) The Contracting Officer will provide notification of initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's purchasing system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.

(f) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's purchasing system, and the contract includes the clause at 252.242–7005, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

Contractor Purchasing System Administration—Alternate I. For the specific use of Alternate I, see the prescription at 244.305–71. Alternate I paragraph (c) does not include paragraphs (c)(1) through (c)(18) and (c)(22) through (c)(24) of the basic clause and paragraphs (c)(19) through (c)(21) of the basic clause are revised and renumbered in Alternate I.

Contractor Purchasing System Administration—Alternate I (Date)

(a) *Definitions.* As used in this clause—

Acceptable purchasing system means a purchasing system that complies with the system criteria in paragraph (c) of this clause.

Purchasing system means the Contractor's system or systems for purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, and expediting delivery of materials.

Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish and maintain an acceptable purchasing system. Failure to maintain an acceptable purchasing system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) *System criteria.* The Contractor's purchasing system shall—

(1) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the FAR and DFARS, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System;

(2) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System; and

(3) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are from sources that meet contractor quality requirements, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System.

(d) *Significant deficiencies.* (1) The Contracting Officer will provide notification of initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's purchasing system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.

(f) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's purchasing system, and the contract includes the clause at 252.242–7005, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

■ 9. Amend subpart 252.2 by adding new section 252.246–70XX to read as follows:

252.246–70XX Contractor Counterfeit Electronic Part Avoidance and Detection System.

As prescribed in 246.870–3, use the following clause:

Contractor Counterfeit Electronic Part Avoidance and Detection System (Date)

(a) *Definitions.* As used in this clause—

Counterfeit part means—

(1) An unauthorized copy or substitute part that has been identified, marked, and/or altered by a source other than the part's legally authorized source and has been misrepresented to be from a legally authorized source;

(2) An item misrepresented to be an authorized item of the legally authorized source; or

(3) A new, used, outdated, or expired item from a legally authorized source that is misrepresented by any source to the end-user as meeting the performance requirements for the intended use.

Counterfeit electronic part avoidance and detection system means the Contractor's system or systems for eliminating counterfeit electronic parts from the supply chain.

Legally authorized source means the current design activity or the original manufacturer or a supplier authorized by the current design activity or the original manufacturer to produce an item.

Suspect counterfeit part means a part for which visual inspection, testing, or other information provide reason to believe that a part may be a counterfeit part.

(b) *General.* The Contractor shall establish and maintain an acceptable counterfeit electronic part avoidance and detection system. Failure to maintain an acceptable counterfeit electronic part avoidance and detection system, as defined in this clause, may result in disapproval of the purchasing system by the Contracting Officer and/or withholding of payments.

(c) *System criteria.* The Contractor's counterfeit electronic part avoidance and detection system shall develop and implement policies and procedures that address—

(i) The training of personnel;

(ii) The inspection and testing of electronic parts, including criteria for acceptance and rejection;

(iii) Processes to abolish counterfeit parts proliferation;

(iv) Mechanisms to enable traceability of parts to suppliers;

(v) Use and qualification of trusted suppliers;

(vi) The reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts;

(vii) Methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit;

(viii) The design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

(ix) The flow down of counterfeit avoidance and detection requirements to subcontractors.

(d) Government review and evaluation of the Contractor's policies and procedures will be accomplished as part of the evaluation of the Contractor's purchasing system in accordance with 252.244–7001, Contractor Purchasing System Administration.

(End of clause)

[FR Doc. 2013–11400 Filed 5–15–13; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 215, 225, and 252

RIN 0750–AH89

Defense Federal Acquisition Regulation Supplement: Only One Offer—Further Implementation (DFARS Case 2013–D001)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement DoD policy relating to competitive acquisitions in which only one offer is received, providing additional exceptions, and further addressing requests for data other than certified cost or pricing data from the Canadian Commercial Corporation.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before July 15, 2013, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2013–D001, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2013–D001'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2013–D001.'' Follow the instructions provided

at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2013–D001'' on your attached document.

- *Email: dfars@osd.mil.* Include DFARS Case 2013–D001 in the subject line of the message.
- *Fax:* 571–362–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to further implement policy with regard to acquisitions in which only one offer is received and requests for data other than certified cost or pricing data from the Canadian Commercial Corporation. This case is a follow-on to DFARS final rules published in the **Federal Register** under DFARS Case 2011–D013, Only One Offer (77 FR 39126 on June 29, 2012), and DFARS Case 2011–D049, Contracting with the Canadian Commercial Corporation (77 FR 43470 on July 24, 2012).

DFARS Case 2011–D013 was initiated to implement the initiative on promoting real competition that was presented by the Under Secretary of Defense for Acquisition, Technology & Logistics in a memorandum dated November 3, 2010, Implementation Directive for Better Buying Power—Obtaining Greater Efficiency and Productivity in Defense Spending. DFARS Case 2011–D049 was initiated to clarify the requirements for the Canadian Commercial Corporation to submit data other than certified cost or pricing data. Because these two cases were developed in parallel, the interrelationship between the two cases could not be incorporated into either final rule. Therefore, DoD is proposing to revise the DFARS to further implement both rules, in particular as they relate to each other.

II. Applicability

The final rule will apply to solicitations (including solicitations for task orders and delivery orders) issued on or after the publication date of the final rule.

III. Discussion

This rule proposes the following changes:

A. Applicability to commercial items. The rule proposes clarification at DFARS 212.301(f)(iv)(G), Solicitation provisions and contract clauses for the acquisition of commercial items, that the provision at DFARS 252.215–7003, Requirements for Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation, or the clause at DFARS 252.215–7004, Requirement for Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation, shall be used in acquisitions of commercial items when necessary to determine the price reasonableness of commercial items for acquisitions from the Canadian Commercial Corporation.

B. Exceptions

The rule proposes two additional exceptions to the policy on only one offer, because the acquisition procedures used for such acquisitions are not compatible with the requirements for handling the receipt of only one offer in response to a competitive solicitation at DFARS 215.371–2, i.e., to promote competition through review of requirements, and resolicitation, allowing an additional period of at least 30 days for receipt of offer. The two proposed new exceptions are as follows:

1. Architect-engineer services (see FAR subpart 36.6, and DFARS subpart 236.6).

2. Set-asides offered to and accepted by the Small Business Administration (SBA) into the 8(a) Program (see FAR subpart 19.8 and DFARS subpart 219.8).

All exceptions are revised to state that there is no exception to the requirements to ensure that prices are fair and reasonable.

C. Provision and Clause Prescriptions

1. The prescription for the provision at DFARS 252.215–7007, Notice of Intent to Resolicit, has been moved from DFARS 215.408 to DFARS 215.371–6, because it does not relate to pricing.

2. The remaining provision and clause prescriptions at 215.408 are re-ordered to be in numerical order of the provisions and clauses. The prescriptions for DFARS 252.215–7003, Requirement for Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation and 252.215–7004, Requirement for Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation, are revised consistent with DFARS 225.870–4(c) and relocated to DFARS 215.408(3).

3. Approval authorities for use of 252.215–7003 and 252.215–7004 are removed from the clause prescription and relocated to DFARS 225.870–4.

4. The use of DFARS 252.215–7004 in competitive solicitations is addressed. In competitive solicitations, if approval has been obtained as required at DFARS 225.870–4(c)(2)(ii), the solicitation may include both FAR 52.215–21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications, and DFARS 252.215–7004 to provide for the possibility of future modifications to the contract. The contracting officer shall then select the appropriate clause to include in the contract, depending on whether or not contract award is to the Canadian Commercial Corporation.

5. In order to accommodate the circumstance in which a contracting officer may require offerors to provide data other than certified cost or pricing data with each offer in a competitive acquisition, the statement that the provision FAR 52.215–20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, will only take effect as specified in 252.215–7008, Only One Offer, has been deleted. Rather, the prescription allows use of both 252.215–7008 and 52.215–20, if the contracting officer is requesting submission of data other than certified cost or pricing data with the offer.

D. Approval Authorities for Requesting Data From the Canadian Commercial Corporation

Discussion of contracting procedures when contracting with the Canadian Commercial Corporation at DFARS 225.870–4 has been amplified with regulations relating when approval is required to request data from the Canadian Commercial Corporation (moved from the prescriptions at DFARS 215.408). The rule also proposes that no further approval is required to request data in competitive solicitations if—

- Data other than certified cost or pricing data are required from all offerors; or
- The Canadian Commercial Corporation submits the only offer in response to a competitive solicitation

that meets the thresholds at 225.870–4(2)(i)(A) or (B), applicable to sole source acquisitions from the Canadian Commercial Corporation.

E. ''Only One Offer'' Provision

The rule proposes to amend the provision at DFARS 252.215–7008, Only One Offer, to remove the requirement to submit data requested by the contracting officer after receipt of only one offer in accordance with FAR 52.215–20. Rather, the provision incorporates the appropriate requirements of FAR 52.215–20 if the offeror is other than the Canadian Commercial Corporation and then separately addresses the requirements for submission of data if the sole offeror is the Canadian Commercial Corporation.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD does not expect this rule to 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule further implements DoD policy relating to competitive acquisitions in which only one offer is received, providing additional exceptions, and further addressing requests for data other than certified cost or pricing data from the Canadian Commercial Corporation, especially relating to competitive solicitations when only one offer is received from the Canadian Commercial Corporation.

The objective of the rule is to promote competition and ensure fair and reasonable prices by implementing DoD policy with regard to acquisitions when only one offer is received, including the Canadian Commercial Corporation.

The legal basis is 41 U.S.C. 421 and 48 CFR Chapter 1.

The final regulatory flexibility analysis for the final rule under FARS case 2011–D013, Only One Offer, was addressed in the **Federal Register** notice published in the **Federal Register** (77 FR 39126) on June 29, 2012). With regard to DFARS Case 2011–D049, Contracting with the Canadian Commercial Corporation (77 FR 43470 on July 24, 2012), DoD certified that there was no 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.,* because it only impacted Canadian business concerns. The changes proposed in this rule are not expected to impact a significant number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the only changes impacting domestic entities are the added exceptions for architect-engineer services and the 8(a) Program, which are more in the nature of a clarification than a change.

Architect-engineer services are purchased under the Brooks Act. The final rule for Only One Offer was not made applicable to FAR part 36. This rule specifically clarifies that it is inapplicable.

The final rule for Only One Offer was not made applicable to set-asides under FAR part 19. The final rule specifically excluded small business set-asides and set asides under the HUBZone Program, the Service-Disabled Veteran-Owned Small Business Procurement Program, and the Women-Owned Small Business Program. The 8(a) Program was inadvertently omitted from the list of specific exclusions. In accordance with FAR 19.805–1, an acquisition offered to the SBA shall be awarded on the basis of competition limited to eligible 8(a) firms if two conditions are met: (1) the anticipated total value of the contract exceeds the thresholds at FAR 19.805–1(a)(2); and (2) there must be a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers and that award can be made at a fair and reasonable price.

The proposed rule imposes no new reporting, recordkeeping, or other information collection requirements. The submission of certified cost or pricing data or data other than certified cost or pricing data is covered in FAR 15.4 and associated clauses in 52.215, OMB clearances 9000–013.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternatives to the rule that would adequately implement the DoD policy. There is no significant economic impact on a substantial number of small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2013–D001), in correspondence.

VI. Paperwork Reduction Act

The proposed rule does not impose any additional information collection requirements that require approval under the Paperwork Reduction Act (5 U.S.C. chapter 35). The submission of certified cost or pricing data or data other than certified cost or pricing data required for negotiation is covered in FAR 15.4 and associated clauses in FAR 52.215, OMB clearance 9000–013, Cost or Pricing Data Requirements and Information Other Than Cost or Pricing Data, in the amount of 10,101,684 hours.

List of Subjects in 48 CFR Parts 212, 215, 225, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 215, 225, and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 215, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.301 by—
■ a. Redesignating paragraphs (f)(iv)(G) and f)(iv)(H) through (R) as (f)(iv)(I) and f)(iv)(K) through (U) resepctively;
■ b. Adding new paragraphs (f)(iv)(G), (H), and (J);
■ c. Revising newly designated paragraph (f)(iv)(I).

The added and revised text reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(f) * * *

(iv) * * *

(G) Use the provision at 252.215–7003, Requirements for Submission of Data Other Than Certified Cost or

Pricing Data—Canadian Commercial Corporation, as prescribed at 215.408(3)(i).

(H) Use the clause at 252.215–7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation, when necessary to determine the price reasonableness of commercial items as prescribed at 215.408((3)(ii).

(I) Use the provisions at 252.215–7007, Notice of Intent to Resolicit, as prescribed at 215.408.

(J) Use the provision 252.215–7008, Only One Offer, as prescribed at 215.371–6.

* * * * *

PART 215—CONTRACTING BY NEGOTIATION

■ 3. Amend section 215.371–3 by—

■ a. In paragraph (a), removing ''at one level'' and adding ''at a level'' in its place.

■ b. In paragraph (b) introductory text, removing ''215.371–4(b)'' and adding ''215.371–4(a)(3)'' in its place.

■ c. In paragraph (b)(1), removing ''at one level'' and adding ''at a level'' in its place.

■ d. In paragraph (b)(2)(i) removing '', in accordance with FAR provision 52.215–20'' and removing ''FAR 15.403–1(c)'' and adding ''FAR 15.403–1(b)'' in its place.

■ 4. Revise section 215.371–4 to read as follows:

215.371–4 Exceptions.

(a) The requirements at sections 215.371–2 do not apply to—

(1) Acquisitions at or below the simplified acquisition threshold;

(2) Acquisitions in support of contingency, humanitarian or peacekeeping operations, or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack;

(3) Small business set-asides under FAR subpart 19.5, set asides offered and accepted into the 8(a) Program under FAR subpart 19.8, or set-asides under the HUBZone Program (see FAR 19.1305(c)), the Service-Disabled Veteran-Owned Small Business Procurement Program (see FAR 19.1405(c)), or the Women-Owned Small Business Program (see FAR 19.1505(d));

(4) Acquisitions of basic or applied research or development, as specified in FAR 35.016(a), that use a broad agency announcement; or

(5) Acquisitions of architect-engineer services (see FAR 36.601–2).

(b) The applicability of an exception in paragraph (a) of this section does not eliminate the need for the contracting officer to seek maximum practicable competition and to ensure that the price is fair and reasonable.

■ 5. Add section 215.371–6 to read as follows:

215.371–6 Solicitation provision.

Use the provision at 252.215–7007, Notice of Intent to Resolicit, in competitive solicitations that will be solicited for fewer than 30 days, unless an exception at 215.371–4 applies or the requirement is waived in accordance with 215.371–5.

215.403–1 [Amended]

■ 6. Amend section 215.403–1 by—

■ a. In second sentence of paragraph (c)(1)(A)(*1*), removing ''price analysis.'' and adding ''price analysis; and'' in its place.

■ b. In paragraph (c)(4)(C), removing ''215.408(5)'' and adding ''215.408(3)'' in its place.

■ 7. Amend section 215.408 by—

■ a. Revising paragraph (3);

■ b. In paragraph (4)(i), removing ''215.371–4(a)(1) applies.'' and adding ''215.371–4(a) applies.'' in its place.

■ c. In paragraph (4)(ii), removing ''but that provision will only take effect as specified in 252.215–7008'' and adding ''if the contracting officer is requesting submission of data other than certified cost or pricing data with the offer'' in its place.

■ d. Removing paragraph (5).

The revised text reads as follows:

215.408 Solicitation provisions and contract clauses.

* * * * *

(3) When contracting with the Canadian Commercial Corporation—

(i)(A) Use the provision at 252.215–7003, Requirement for Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation—

(*1*) In lieu of FAR 52.215–20, Requirement for Data Other Than Certified Cost or Pricing Data, in a solicitation for a sole source acquisition from the Canadian Commercial Corporation that is—

(*i*) Cost-reimbursement, if the contract value is expected to exceed $700,000; or

(*ii*) Fixed-price, if the contract value is expected to exceed $500 million; or

(*2*) In lieu of FAR 52.215–20, in a sole source acquisition from the Canadian Commercial Corporation that does not meet the thresholds specified in paragraph (3)(i)(A)(*1*), if approval is obtained as required at 225.870–4(c)(2)(ii); and

(B) Do not use 252.225–7003 in lieu of FAR 52.215–20 in competitive acquisitions. The contracting officer may use FAR 52.215–20 with its Alternate IV, as prescribed at 15.408(l)(3), even if offers from the Canadian Commercial Corporation are anticipated; and

(ii)(A) Use the clause at 252.215–7004, Requirement for Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation—

(*1*) In a solicitation for a sole source acquisition from the Canadian Commercial Corporation and resultant contract that is—

(*i*) Cost-reimbursement, if the contract value is expected to exceed $700,000; or

(*ii)* Fixed-price, if the contract value is expected to exceed $500 million;

(*2*) In a solicitation for a sole source acquisition from the Canadian Commercial Corporation and resultant contract that does not meet the thresholds specified in paragraph (3)(ii)(A)(*1*) of this section, if approval is obtained as required at 225.870–4(c)(2)(ii); or

(3)(i) In a solicitation for a competitive acquisition that includes FAR 52.215–21, Requirement for Data Other Than Certified Cost or Pricing Data—Modifications, or that meets the thresholds specified in paragraph (3)(ii)(A)(*1*) of this section.

(*ii*) The contracting officer shall then select the appropriate clause to include in the contract (52.215–21 only if award is not to the Canadian Commercial Corporation; or 252.215–7004 if award is to the Canadian Commercial Corporation and necessary approval is obtained in accordance with 225.870–4(c)(2)(ii)); and

(B) The contracting officer may specify a higher threshold in paragraph (b) of the clause 252.215–7004.

* * * * *

PART 225—FOREIGN ACQUISITION

■ 8. Amend section 225.870–4 by—

■ a. Revising paragraph (c)(2).

■ b. In paragraph (c)(3), removing ''215.408(5)(i)'' and adding ''215.408(3)(i)'' in its place.

The revision reads as follows:

25.870–4 Contracting procedures.

* * * * *

(c) * * *

(2) The Canadian Commercial Corporation is not exempt from the requirement to submit data other than certified cost or pricing data, as defined in FAR 2.101. In accordance with FAR 15.403–3(a)(1)(ii), the contracting officer shall require submission of data other than certified cost or pricing data from the offeror, to the extent necessary to determine a fair and reasonable price.

(i) No further approval is required to request data other than certified cost or pricing data from the Canadian Commercial Corporation in the following circumstances:

(A) In a solicitation for a sole source acquisitions that is—

(*1*) Cost-reimbursement, if the contract value is expected to exceed $700,000; or

(*2*) Fixed-price, if the contract value is expected to exceed $500 million.

(B) If the Canadian Commercial Corporation submits the only offer in response to a competitive solicitation that meets the thresholds specified in paragraph (c)(2)(i)(A) of this section.

(C) For modifications that exceed $150,000 in contracts that meet the criteria in paragraph (c)(2)(i)(A) or (B) of this section.

(D) In competitive solicitations in which data other than certified cost or pricing data are required from all offerors.

(ii) In any circumstances other than those specified in paragraph (c)(2)(i) of this section, the contracting officer shall only require data other than certified cost or pricing data from the Canadian Commercial Corporation if the head of the contracting activity, or designee no lower than two levels above the contracting officer, determines that data other than certified cost or pricing data are needed (or in the case of modifications that it is reasonably certain that data other than certified cost or pricing data will be needed) in order to determine that the price is fair and reasonable) (see FAR 15.403–3(a).

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.215.7003 [Amended]

■ 9. Amend section 252.215–7003 by, in the introductory text, removing ''As prescribed at 215.408(5)(i),'' and adding ''As prescribed at 215.408(3)(i),'' in its place.

■ 10. Amend section 252.215–7004 by—

■ a. In the introductory text, removing ''As prescribed at 215.408(5)(ii),'' and adding ''As prescribed at 215.408(3)(ii),'' in its place.

■ b. Removing the clause date of ''(JUL 2012)'' and adding ''(DATE)'' in its place.

■ c. In paragraph (b) introductory text, removing ''the simplified acquisition threshold'' and adding ''$150,000'' in its place.

■ d. Adding introductory text after the clause date and before paragraph (a) to read as follows:

252.215.7004 Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation.

* * * * *

This clause, in lieu of FAR 52.215–21, applies only if award is to the Canadian Commercial Corporation.

* * * * *

252.215–7007 [Amended]

■ 11. Amend section 252.215–7007 by, in the introductory text, removing ''As prescribed at 215.408(3),'' and adding ''As prescribed at 215.371–6,'' in its place.

252.215–7008

■ 12. Revise section 252.215–7008 to read as follows:

252.215–7008 Only one offer.

As prescribed at 215.408(4), use the following provision:

ONLY ONE OFFER (DATE)

(a) After initial submission of offers, the Offeror agrees to submit any subsequently requested additional cost or pricing data if the Contracting Officer notifies the Offeror that—

(1) Only one offer was received; and

(2) Additional cost or pricing data is required in order to determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost or pricing data (10 U.S.C. 2306a and FAR 15.403–3).

(b) *Requirement for submission of additional cost or pricing data.* Except as provided in paragraph (c) of this provision, the Offeror shall submit additional cost or pricing data as follows:

(1) If the Contracting Officer notifies the Offeror that additional cost or pricing data are required in accordance with paragraph (a) of this clause, the data shall be certified unless an exception applies (FAR 15.403–1(b)).

(2) *Exceptions from certified cost or pricing data.* In lieu of submitting certified cost or pricing data, the Offeror may submit a written request for exception by submitting the information described in the following paragraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the Offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include—

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.,* wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities;

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market; or

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(3) The Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Offeror's determination of the prices to be offered in the catalog or marketplace.

(4) *Requirements for certified cost or pricing data.* If the Offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(i) The Offeror shall prepare and submit certified cost or pricing data and supporting attachments in accordance with the instructions contained in Table 15–2 of FAR 15.408, which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15–2 are incorporated as a mandatory format to be used, unless the Contracting Officer and the Offeror agree to a different format.

(ii) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406–2.

(c) If the Offeror is the Canadian Commercial Corporation, certified cost or pricing data are not required. If the Contracting Officer notifies the Canadian Commercial Corporation that additional data other than certified cost or pricing data are required in accordance with 225.870–4(c), the Canadian Commercial Corporation shall obtain and provide the following:

(1) Profit rate or fee (as applicable).

(2) Analysis provided by Public Works and Government Services Canada to the Canadian Commercial Corporation to determine a fair and reasonable price (comparable to the analysis required at FAR 15.404–1).

(3) Data other than certified cost or pricing data necessary to permit a determination by the U.S. Contracting Officer that the

proposed price is fair and reasonable [*U.S. Contracting Officer to provide description of the data required in accordance with FAR 15.403–3(a)(1) with the notification*].

(4) As specified in FAR 15.403–3(a)(4), an offeror who does not comply with a requirement to submit data that the U.S. Contracting Officer has deemed necessary to determine price reasonableness or cost realism is ineligible for award unless the head of the contracting activity determines that it is in the best interest of the Government to make the award to that offeror.

(d) If negotiations are conducted, the negotiated price should not exceed the offered price.

(End of provision)

[FR Doc. 2013–11399 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 215

RIN 0750–AH86

Defense Federal Acquisition Regulation Supplement; Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to provide guidance to contractors for the submittal of forward pricing rate proposals to ensure the adequacy of forward pricing rate proposals submitted to the Government.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 15, 2013, to be considered in the formation of the final rule.

ADDRESSES: Submit comments, identified by DFARS Case 2012–D035, using any of the following methods:

Regulations.gov: http://www.regulations.gov. Submit comments via the Federal eRulemaking portal by inserting ''DFARS Case 2012–D035'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D035.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D035'' on your attached document. Follow the instructions for submitting comments.

Email: dfars@osd.mil. Include DFARS Case 2012–D035 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS at 215.403–5 by adding instructions to contracting officers to request contractors to submit the proposed forward pricing rate proposal adequacy checklist at Table 215–XX with forward pricing rate proposals. This proposed rule provides guidance to contractors for the submittal of forward pricing rate proposals by requesting that contractors submit a proposed forward pricing rate proposal adequacy checklist with their forward pricing rate proposals to ensure submission of thorough, accurate, and complete proposals.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this proposed rule to 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule amends the DFARS at 215.403–5 by adding instructions to contracting officers to request contractors to submit the proposed forward pricing rate proposal adequacy checklist with forward pricing rate proposals. The objective is to provide guidance to contractors for the submittal of forward pricing rate proposals.

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small because it only a small percentage of Government contractors are requested to submit a forward pricing rate proposal, as set forth at FAR 42.1701(a). The Government will ask only those contractors with a significant volume of Government contracts to submit such proposals.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

IV. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request for approval of a new information collection requirement concerning Defense Federal Acquisition Regulation Supplement; Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035) to the Office of Management and Budget.

A. Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden estimated as follows:

Respondents: 160.

Responses per respondent: 1.

Total annual responses: 160.

Preparation hours per response: 4 hours

Total response Burden Hours: 640 hours.

B. Request for Comments Regarding Paperwork Burden.

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington,

DC 20503, or email *Jasmeet_K._Seehra@omb.eop.gov*, with a copy to the Defense Acquisition Regulations System, Attn: Mark Gomersall, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mark Gomersall, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *dfars@osd.mil*. Include DFARS Case 2012–D035 in the subject line of the message.

List of Subjects in 48 CFR Part 215

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 215 as follows:

PART 215—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for part 215 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Add 215.403–5 to read as follows:

215.403–5 Instructions for submissions of certified cost or pricing data or data other than cost or pricing data pursuant to the procedures in FAR 42.1701(b).

(b)(3) For contractors following the commercial contract cost principles in FAR 31.2, if the contracting officer determines that a forward pricing rate proposal should be obtained pursuant to FAR 42.1701, the contracting officer shall require that the forward pricing rate proposals comply with FAR 15.408, Table 15–2, and DFARS 252.215–7002. The contracting officer should request that the proposal be submitted to the Government at least 90 days prior to the implementation date for the proposed rates. To ensure the proposal is complete, the contracting officer shall request the contractor complete the contractor forward pricing rate proposal adequacy checklist at Table 215–XX, and submit it with the forward pricing rate proposal.

Table 215–XX—Contractor Forward Pricing Rate Proposal Adequacy Checklist

The contractor should complete the following checklist, providing location of requested information, or an explanation of why the requested information is absent.

CONTRACTOR FORWARD PRICING RATE PROPOSAL ADEQUACY CHECKLIST

References	Submission item	Proposal page No.	If not provided EXPLAIN (may use continuation pages)
	GENERAL INSTRUCTIONS		
1. FAR 15.408, Table 15–2, Section I.A.	Is there a properly completed first page of the proposal or a summary format as specified by the contracting officer?		
2. FAR 15.407–1 and FAR 15.408, Table 15–2, Section I.A.(8).	Does the proposal disclose known or anticipated changes in business activities or processes that could materially impact the costs (if not previously provided)? For example: a. Management initiatives to reduce costs; Changes in management objectives as a result of economic conditions and increased competitiveness; c. Changes in accounting policies, procedures, and practices including: (i) reclassification of expenses from direct to indirect or vice versa; (ii) new methods of accumulating and allocating indirect costs and the related impact and (iii) advance agreements; d. Company reorganizations (including acquisitions or divestitures); e. Shutdown of facilities; f. Changes in business volume and/or contract mix/type.		
3. FAR 15.408, Table 15–2, Section I.B.	Does the proposal include a table of contents (index) identifying and referencing all supporting data accompanying or identified in the proposal?		
4. DFARS 252.215–7002(d)(4)(iv)	For supporting documentation not provided with the proposal, does the basis of estimate in the proposal include the location of the documentation and the point of contact (custodian) name, phone number, and email address?		

CONTRACTOR FORWARD PRICING RATE PROPOSAL ADEQUACY CHECKLIST—Continued

References	Submission item	Proposal page No.	If not provided EXPLAIN (may use continuation pages)
5. FAR 15.408, Table 15–2, Section I.C.(2)(i).	Is the proposal mathematically correct and does it reconcile to the supporting data referenced?		
6. FAR 15.408, Table 15–2, Section I.C.(2)(i) and DFARS 252.215–7002(d)(4)(iv).	Do proposed costs based on judgmental factors include an explanation of the estimating processes and methods used; including those used in projecting from known data?		
7. FAR 15.408, Table 15–2, Section I.D.	Is the proposal internally consistent (for example, is the direct labor base used for labor overhead consistent with direct labor in the G&A allocation base)?		
8. FAR 15.408, Table 15–2. Section II.C. and DFARS 252.215–7002(d)(4)(iv).	Does the proposal show trends and budgetary data? Is an explanation of how the data was used provided, including any adjustments to the data?		
	Direct Labor		
9. FAR 15.408, Table 15–2, Section II.B.	Does the proposal include an explanation of the methodology used to develop the direct labor rates and identify the basis of estimate?		
10. DFARS 252.215(d)(4)(iv)	Does the proposal include or identify the location of the supporting documents for the base-year labor rates (e.g., payroll records)?		
11. FAR 15.408 Table 15–2, Section I.C(2)(i); DFARS 252.215–7002(d)(4)(iv).	Does the proposal identify escalation factors for the out years, the costs to which escalation is applicable, and the basis of the factors used?		
12. FAR 15.407–1	Does the proposal identify planned or anticipated changes in the composition of labor rates, labor categories, union agreements, headcounts, or other factors that could significantly impact the direct labor rates?		
	Indirect Rates (Fringe, Overhead, G&A, etc.)		
13. FAR 15.408, Table 15–2, Section II.C.	Does the proposal identify the basis of estimate and provide an explanation of the methodology used to develop the indirect rates?		
14. FAR 15.408, Table 15–2, Section I.B.	Does the proposal include or identify the location of the supporting documents for the proposed rates?		
15. FAR 15.408 Table 15–2, Section I.D.	Does the proposal identify indirect expenses by burden center, by cost element, by year (including any voluntary deletions, if applicable) in a format that is consistent with the accounting system used to accumulate actual expenses?		
16. FAR 15.408, Table 15–2, Section I.C.(2)(ii).	Does the proposal identify any contingencies?		
17. FAR 15.407–1	Does the proposal identify planned or anticipated changes in the nature, type or level of indirect costs, including fringe benefits?		
18. DFARS 252.215–7002(d)(4)(iv)	Does the proposal identify corporate, home office, shared services, or other incoming allocated costs and the source for those costs, including location and point of contact (custodian) name, phone number, and email address?		
19. FAR 15.408 Table 15–2, Section II.C.; DFARS 252.215–7002(d)(4)(iv).	Does the proposal separately identify all intermediate cost pools and provide a reconciliation to show where the costs were allocated?		
20. FAR 15.408 Table 15–2, Section I.C(2)(i); DFARS 252.215–7002(d)(4)(iv).	Does the proposal identify the escalation factors for the out years, the costs to which escalation is applicable, and the basis of the factors used?		
21.DFARS 252.215–7002(d)(4)(iv)	Does the proposal provide appropriate details of the development of the allocation base?		
22. FAR 15.408 Table 15–2, Section I.B., DFARS 252.215–7002(d)(4)(xi).	Does the proposal include or reference the supporting data for the allocation base such as program budgets, negotiation memorandums, proposals, contract values, etc.?		
23. DFARS 252.215–7002(d)(4)(xi)	Does the proposal identify how the proposed allocation base reconciles with its long range plans, strategic plan, operating budgets, sales forecasts, program budgets, etc.?		

CONTRACTOR FORWARD PRICING RATE PROPOSAL ADEQUACY CHECKLIST—Continued

References	Submission item	Proposal page No.	If not provided EXPLAIN (may use continuation pages)
	Cost of Money (COM)		
24. FAR 15.408, Table 15–2, Section II.F.	Are Cost of Money rates submitted on Form CASB–CMF, with the Treasury Rate used to compute COM identified and a summary of the net book value of assets, identified as distributed & non-distributed?		
25. DFARS 252.215–7002(d)(4)(iv)	Does the proposal identify the support for the Form CASB–CMF, for example, the underlying reports and records supporting the net book value of assets contained in the form?		
	OTHER		
26. DFARS 252.215–7002(d)(4)(xiii)	Does the proposal include a comparison of prior forecasted costs to actual results in the same format as the proposal and an explanation/analysis of any differences?		
27. DFARS 252.215–7002(d)(4)(xiv)	If this is a revision to a previous rate proposal or an FPRA, does the new proposal provide a summary of the changes in the circumstances or the facts that the contractor asserts require the change to the rates?		

[FR Doc. 2013–11402 Filed 5–15–13; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AH84

Defense Federal Acquisition Regulation Supplement: Preparation of Letter of Offer and Acceptance (DFARS Case 2012–D048)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to address the contracting officer role in assisting the DoD implementing agency in preparation of the letter of offer and acceptance for a foreign military sales program that will require an acquisition.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before July 15, 2013, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012–D048, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2012–D048'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2012–D048.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2012–D048'' on your attached document.

○ *Email: dfars@osd.mil.* Include DFARS Case 2012–D048 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend DFARS 225.7302 to revise and move the text at PGI 225.7302(1) into the DFARS, because of potential impact on contractors.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this rule to 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.* However, DoD has prepared an Initial Regulatory Flexibility Analysis, which is summarized as follows:

This action is necessary because the directions to the contracting officer at PGI 225.7302(1) may have impact on prospective contractors, and therefore require relocation to the DFARS.

The objective of this rule is to provide direction to the contracting officer on actions required to work with the

prospective contractor to assist the DoD implementing activity in preparing the letter of offer and acceptance for a foreign military sales program that requires an acquisition. The legal basis for the rule is 41 U.S.C. 1303.

The rule will apply to approximately 380 small entities, based on the FPDS data for FY 2011 of the number of noncompetitive contract awards to small business entities that exceed $10,000 and use FMS funds.

There is no required reporting or recordkeeping. The rule requires the contracting officer to communicate with prospective FMS contractors in order to assist the DoD implementing agency in preparation of the letter of offer and acceptance. The contracting officer may request information on price, delivery, and other relevant factors, and provide information to the prospective contractor with regard to the FMS customer.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD does not expect the rule will have a significant economic impact on a significant number of small entities. No significant alternatives were identified that would accomplish the objectives of the proposed rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2012–D048), in correspondence.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 225

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 225 as follows:

PART 225—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 225.7302 to read as follows:

225.7302 Preparation of letter of offer and acceptance.

For FMS programs that will require an acquisition, the contracting officer shall assist the DoD implementing agency responsible for preparing the Letter of Offer and Acceptance (LOA) by—

(1) Working with prospective contractors to—

(i) Identify, in advance of the LOA, any unusual provisions or deviations (such as those requirements for Pseudo LOAs identified at *PGI 225.7301*);

(ii) Advise the contractor if the DoD implementing agency expands, modifies, or does not accept any key elements of the prospective contractor's proposal;

(iii) Identify any logistics support necessary to perform the contract (such as those requirements identified at *PGI 225.7301*); and

(iv) For noncompetitive acquisitions over $10,000, ask the prospective contractor for information on price, delivery, and other relevant factors. The request for information shall identify the fact that the information is for a potential foreign military sale and shall identify the foreign customer; and

(2) Working with the DoD implementing agency responsible for preparing the LOA, as specified in PGI 225.7302.

[FR Doc. 2013–11401 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130425406–3406–01]

RIN 0648–BD26

Control Date for Qualifying Landings History and To Limit Speculative Entry Into the Longfin Squid/Butterfish Fishery; Mackerel, Squid and Butterfish Fishery Management Plan

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

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: At the request of the Mid-Atlantic Fishery Management Council, this notice announces a control date that may be applicable, but not limited to, qualifying landings history for continued access to the longfin squid/butterfish moratorium limited access permit program. NMFS intends this notice to promote awareness of possible rulemaking, alert interested parties of potential eligibility criteria for future access, and discourage speculative entry into and/or investment in the longfin squid/butterfish fishery while the Mid-Atlantic Fishery Management Council considers if and how access to the longfin squid/butterfish fishery should be controlled.

DATES: May 16, 2013, shall be known as the ''control date'' for the longfin squid/butterfish fishery, and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with the Council's objectives and applicable Federal laws. Written comments must be received on or before 5 p.m., local time June 17, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0076 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-2013-0076,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

■ *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Longfin/butterfish Qualification Control Date.''

■ *Fax:* (978) 281–9135; Attn: Aja Szumylo.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. We may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). We accept attachments to electronic comments only in Microsoft

Word or Excel, WordPerfect, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–675–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION: The Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) is managed by the Mid-Atlantic Fishery Management Council (Council). Longfin squid (formerly *Loligo pealei,* now *Doryteuthis pealei*) supports important commercial fisheries along the Atlantic coast of the United States, primarily from New Jersey to Massachusetts, generating ex-vessel revenues in the $20–$30 million range annually in most years since 1989. Since April 2, 1996, the Council has managed longfin squid in combination with butterfish under a moratorium permit to prevent overcapitalization of the fleet (65 FR 14465). The Council has considered additional capacity controls since 2003. On May 20, 2003 (68 FR 27516), NMFS published, at the request of the Council, an ANPR indicating that the Council intended to consider alternatives to further control capacity in the longfin and *Illex* fisheries (*Illex* is not a subject of this notice). Accordingly, May 20, 2003, was termed a ''control date,'' and notice was provided that the control date may be used for establishing eligibility criteria for determining levels of future access to the squids and butterfish fisheries subject to Federal authority. On January 8, 2010 (75 FR 1024), NMFS published, at the request of the Council, a subsequent ANPR reaffirming the May 20, 2003, control date for both longfin and *Illex* squid fisheries.

In the case of the longfin squid/butterfish fishery, the Council is currently concerned with excess and/or latent capacity. Since 2003, approximately 95–120 of the 375 longfin squid/butterfish moratorium permitted-vessels have accounted for 95 percent of longfin squid landings. Activation of latent capacity, in conjunction with restrictions in other fisheries, may create a derby fishery in certain quota periods of the longfin squid/butterfish fishery. Therefore, the Council has expressed a need to examine excess capacity and/or latent capacity in the limited entry section of this fishery.

At its April 2013 meeting, the Council requested that NMFS also publish this control date to discourage speculative activation of previously unused effort or capacity in the longfin squid/butterfish fishery while alternative management regimes to control capacity or latent effort are discussed, possibly developed, and implemented. The control date communicates to fishermen that performance or fishing effort after the date of publication may not be treated the same as performance or effort that was expanded before the control date. The Council may choose to use different qualification criteria that do not incorporate the new control date. Accordingly, the Council could also choose to develop alternative qualification criteria based on the May 20, 2003, date and/or January 8, 2010, reaffirmation date. The Council may also choose to take no further action to control entry or access to the longfin squid/butterfish fishery.

This notification establishes May 16, 2013, as the new control date for potential use in determining historical or traditional participation in the longfin squid/butterfish fishery. Consideration of a control date does not commit the Council to develop any particular management regime or criteria for participation in these fisheries. The Council may choose a different control date; or may choose a management program that does not make use of such a date. Any action by the Council will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the longfin squid/butterfish fishery in Federal waters.

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

Dated: May 13, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–11711 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 95

Thursday, May 16, 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

Agricultural Marketing Service

[Doc. No. AMS–FV–13–0002]

Notice of Funds Availability (NOFA) Inviting Applications for the Specialty Crop Block Grant Program–Farm Bill (SCBGP–FB)

Correction

In notice document 2013–11048, appearing on pages 27178–27181 in the issue of Thursday, May 9, 2013, make the following correction:

In the table appearing on page 27181, in the second column, the second line ''85,231.03'' should read, ''185,231.03''.

[FR Doc. C1–2013–11048 Filed 5–15–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0043]

Monsanto Co.; Notice of Intent To Prepare an Environmental Impact Statement for Determination of Nonregulated Status of Herbicide Resistant Soybeans and Cotton, and Notice of Virtual Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are announcing to the public that the Animal and Plant Health Inspection Service (APHIS) intends to prepare an environmental impact statement (EIS) on environmental impacts that may result from the potential approval of two petitions from the Monsanto Company (Monsanto) seeking a determination of nonregulated status of herbicide resistant soybeans and cotton. Issues to be addressed in the EIS include the potential environmental impacts associated with the increased use of certain herbicides and possible selection for and spread of weeds resistant to the herbicide dicamba combined with resistance to other herbicides (multiple resistance). We are also requesting public comments to further delineate the scope of the alternatives and environmental impacts and issues to be included in this EIS. We are also announcing that APHIS will be hosting a virtual public meeting during the scoping period. The purpose of the scoping meeting will be to allow the public an opportunity to comment on the range of alternatives and environmental impacts and issues discussed in the EIS.

DATES: We will consider all comments that we receive on or before June 17, 2013. We will also consider comments made at a virtual public meeting that will be held during the comment period.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0043-0001*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0043, 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-2013-0043* 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.

Other Information: Details regarding the virtual scoping meeting, including times, dates, and how to participate, will be available at *http://www.aphisvirtualmeetings.com*.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Branch Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1238; (301) 851–3954. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3882, email: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (PPA), as amended (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received two petitions (referred to below as ''the petitions'') from the Monsanto Company (Monsanto) seeking a determination of nonregulated status for soybean and cotton cultivars genetically engineered to be resistant to herbicides. The first petition, APHIS Petition Number 10–188–01p, seeks a determination of nonregulated status of soybean (*Glycine max*) designated as event MON 87708, which has been genetically engineered for tolerance to the herbicide dicamba. The second petition, APHIS Petition Number 12–185–01p, seeks a determination of nonregulated status of cotton (*Gossypium* spp.) designated as event MON 88701, which has been genetically engineered for tolerance to the herbicides dicamba and glufosinate. The petitions state that these articles are unlikely to pose a plant pest risk and, therefore, should not be regulated articles under APHIS' regulations in 7 CFR part 340. These part 340 regulations are authorized by the PPA to

prevent the introduction or dissemination of plant pests, and the decision on whether or not to approve the petitions will be based on this standard.

Notices were published [1] in the **Federal Register** for each petition advising the public that APHIS had received the petition and was seeking public comments on the petitions. The notices also announced that APHIS would prepare either an environmental assessment (EA) or an environmental impact statement (EIS) in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA) to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request.

Under the provisions of NEPA, Federal agencies must examine the potential environmental impacts of proposed major Federal actions significantly affecting the quality of the human environment before those actions can be taken. In accordance with NEPA, the regulations of the Council on Environmental Quality 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 considered how to properly examine the potential environmental impacts of decisions for petitions for determinations of nonregulated status. For each petition for a determination of nonregulated status under consideration in the past, APHIS prepared an EA to provide the APHIS decisionmaker with a review and analysis of any potential environmental impacts. In two cases,[2] APHIS prepared an EIS.

In reviewing petitions for determinations of nonregulated status of crop cultivars genetically engineered to be resistant to various herbicides, APHIS has identified the potential selection of herbicide resistant weeds as a potential environmental impact. We have concluded that for the two Monsanto petitions it is appropriate to complete an EIS for the potential determinations of nonregulated status requested by the petitions in order to perform a comprehensive environmental analysis of the potential selection of dicamba resistant weeds and other potential environmental impacts that may occur as a result of making determinations of nonregulated status of these events. An EIS can examine the broad and cumulative environmental impacts of making determinations of nonregulated status of the two requested soybean and cotton cultivars, including potential impacts of the proposed action on the human environment, alternative courses of action, and possible mitigation measures for reducing potential impacts.

Alternatives

The Federal action being considered is whether to approve the two petitions for nonregulated status. This notice identifies reasonable alternatives and potential issues that may be studied in the EIS. We are requesting public comments to further delineate the range of alternatives and environmental impacts and issues to be evaluated in the EIS for the two petitions. We will be hosting a virtual meeting during the scoping period to discuss the scope of the EIS (see **ADDRESSES** above). We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

The EIS will consider a range of reasonable alternatives. APHIS is currently considering four alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of the soybean and cotton events and they would continue to be regulated articles, (2) approve both the petitions for determinations of nonregulated status of the soybean event and the cotton event, (3) approve the petition for determination of nonregulated status of the soybean event and deny the petition for determination of nonregulated status of the cotton event, or (4) approve the petition for determination of nonregulated status of the cotton event and deny the petition for determination of nonregulated status of the soybean event.

Environmental Issues for Consideration

We have also identified the following potential environmental issues for consideration in the EIS. We are requesting that the public provide information on the following questions during the comment period on this Notice of Intent (NOI):

- What are the impacts of weeds, herbicide-resistant weeds, weed management practices, and unmet weed management needs for crop cultivation, and how may these change with the approval of these petitions for nonregulated status of these herbicide-resistant crops?
- In which weeds would the approval of the two petitions likely contribute to controlling the spread of biotypes that are resistant to more than one herbicide mode of action and how will that control influence weed management strategies in cropland or managed non-cropland?
- What weeds are currently resistant to dicamba herbicide and what is their natural frequency and occurrence in soy and cotton crops, other crops, and in non-crop ecosystems?
- Would the increased use of dicamba associated with the approval of these two petitions cause an acceleration of the selection and spread of dicamba-resistant biotypes? Are there weeds that are more likely to be difficult to control if they become resistant to dicamba?
- In which crops or non-cropland weeds would the selection and spread of dicamba-resistant biotypes be most problematic in terms of available alternate weed management strategies and agronomic production?
- In which weeds would the approval of the two petitions likely contribute to the selection and spread of biotypes that are resistant to more the one herbicide mode of action and which would be most problematic for weed management strategies in cropland or managed non-cropland?
- What are the potential changes in agronomic practices, including crop rotation and weed management practices (e.g., herbicide use, tillage), for control of weeds in rotational crops that may occur with the use of these herbicide-resistant crops? What are the current and potentially effective strategies for management of herbicide-resistant weeds in crops? What are the costs associated with these practices and strategies?

Comments that identify other issues or alternatives that could be considered for examination in the EIS would be especially helpful. All comments received during the scoping period will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an opportunity to comment on it will be published in the **Federal Register**.

[1] Docket No. APHIS–2012–0047 published on July 13, 2012, 77 FR 41356–41357; Docket No. APHIS–2012–0097 published on February 27, 2013, 78 FR 13308–13309. The **Federal Register** notices for the petitions and supporting and related materials, including public comments, are available at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0047* and *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0097*.

[2] Glyphosate-Tolerant Alfalfa Events J101 and J163: Request for Nonregulated Status, Final Environmental Impact Statement-December 2010; Glyphosate-Tolerant H7–1 Sugar Beet: Request for Nonregulated Status, Final Environmental Impact Statement-May 2012.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of May 2013.

Michael Gregoire,

Deputy Administrator, Biotechnology Regulatory Services, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11580 Filed 5–15–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0042]

Dow AgroSciences LLC; Notice of Intent To Prepare an Environmental Impact Statement for Determination of Nonregulated Status of Herbicide Resistant Corn and Soybeans, and Notice of Virtual Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are announcing to the public that the Animal and Plant Health Inspection Service (APHIS) intends to prepare an environmental impact statement (EIS) on environmental impacts that may result from the potential approval of three petitions from Dow AgroSciences LLC seeking a determination of nonregulated status of herbicide resistant corn and soybeans. Issues to be addressed in the EIS include the potential environmental impacts associated with the increased use of certain herbicides and possible selection for and spread of weeds resistant to the herbicide 2,4-D combined with resistance to other herbicides (multiple resistance). We are also requesting public comments to further delineate the scope of the alternatives and environmental impacts and issues to be included in this EIS. We are also announcing that APHIS will be hosting a virtual public meeting during the scoping period. The purpose of the scoping meeting will be to allow the public an opportunity to comment on the range of alternatives and environmental impacts and issues discussed in the EIS.

DATES: We will consider all comments that we receive on or before June 17, 2013. We will also consider comments made at the virtual public meeting that will be held during the comment period.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0042-0001.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0042, 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-2013-0042* 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.

Other Information: Details regarding the virtual scoping meeting, including the time, date, and how to participate, will be available at *http://www.aphisvirtualmeetings.com.*

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Branch Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1238; (301) 851–3954. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3882, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (PPA), as amended, (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received three petitions (referred to below as ''the petitions'') from Dow AgroSciences LLC (Dow) seeking determinations of nonregulated status for corn and soybean cultivars genetically engineered to be resistant to herbicides. The first petition, APHIS Petition Number 09–233–01p, seeks a determination of nonregulated status for corn (*Zea mays*) designated as event DAS–40278–9, which has been genetically engineered for increased resistance to certain broadleaf herbicides in the phenoxy auxin group (particularly the herbicide 2,4-D) and resistance to grass herbicides in the aryloxyphenoxypropionate (AOPP) acetyl coenzyme A carboxylase (ACCase) inhibitor group (*i.e.,* ''fop'' herbicides, such as quizalofop-p-ethyl). The second petition, APHIS Petition Number 09–349–01p, seeks a determination of nonregulated status for soybean (*Glycine max*) designated as DAS–68416–4, which has been genetically engineered for resistance to certain broadleaf herbicides in the phenoxy auxin growth regulator group (particularly the herbicide 2,4-D) and the nonselective herbicide glufosinate. The third petition (APHIS Petition Number 11–234–01p) seeks a determination of nonregulated status for soybean designated as event DAS–44406–6, which has been genetically engineered for resistance to certain broadleaf herbicides in the auxin growth regulator group (particularly the herbicide 2,4-D) and the nonselective herbicides glyphosate and glufosinate. The petitions state that these articles are unlikely to pose a plant pest risk and, therefore, should not be regulated articles under APHIS' regulations in 7 CFR part 340. These part 340 regulations are authorized by the PPA to prevent the introduction or dissemination of plant pests, and the decision on whether or not to approve the petitions will be based on this standard.

Notices were published [1] in the **Federal Register** for each petition advising the public that APHIS had

[1] Docket No. APHIS–2010–0103 published on December 27, 2011, 76 FR 80872–80873; Docket No. APHIS–2012–0019 published on July 13, 2012, 77 FR 41367–41368; and Docket No. APHIS–2012–0032 published on July 13, 2012, 77 FR 41361–41362. The **Federal Register** notices for the petitions and supporting and related materials, including public comments, are available at *http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0103; http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0019;* and *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0032.*

received the petition and was seeking public comments on the petition. The notices for the first two petitions also sought comment on our plant pest risk assessment (PPRA) and our draft environmental assessment (EA) for each petition; we have not yet published a PPRA or EA for the third petition, so that notice sought comment on the petition, only.

Under the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA), Federal agencies must examine the potential environmental impacts of proposed major Federal actions significantly affecting the quality of the human environment before those actions can be taken. In accordance with NEPA, regulations of the Council on Environmental Quality 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 considered how to properly examine the potential environmental impacts of decisions for petitions for determinations of nonregulated status. For each petition for a determination of nonregulated status under consideration in the past, APHIS prepared an EA to provide the APHIS decisionmaker with a review and analysis of any potential environmental impacts. In two cases,[2] APHIS prepared an environmental impact statement (EIS).

In reviewing petitions for determinations of nonregulated status of crop cultivars genetically engineered to be resistant to various herbicides, APHIS has identified the potential selection of herbicide resistant weeds as a potential environmental impact. We have concluded for the three Dow petitions that it is appropriate to complete an EIS for the potential determinations of nonregulated status requested by the petitions in order to perform a comprehensive environmental analysis of the potential selection of 2,4-D resistant weeds and other potential environmental impacts that may occur as a result of making determinations of nonregulated status of these events. An EIS can examine the broad and cumulative environmental impacts of making determinations of nonregulated status of the three requested corn and soybean cultivars, including potential impacts of the proposed action on the human environment, alternative courses of action, and possible mitigation measures for reducing potential impacts.

Alternatives

The Federal action being considered is whether to approve the three petitions for nonregulated status. This notice identifies reasonable alternatives and potential issues that may be studied in the EIS. We are requesting public comments to further delineate the range of alternatives and environmental impacts and issues to be evaluated in the EIS for the three petitions. We will be hosting a virtual meeting during the scoping period to discuss the appropriate scope of the EIS (see **ADDRESSES** above). We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments.

The EIS will consider a range of reasonable alternatives. APHIS is currently considering four alternatives: (1) Take no action, *i.e.,* APHIS would not change the regulatory status of the corn and soybean events and they would continue to be regulated articles, (2) approve the three petitions for determinations of nonregulated status of the corn event and both soybean events, (3) approve the petition for determination of nonregulated status of the corn event and deny the two petitions for determination of nonregulated status of the soybean events, or (4) approve the petitions for determination of nonregulated status of the two soybean events and deny the petition for determination of nonregulated status of the corn event.

For the purposes of alternatives 3 and 4, APHIS will consider either approving both soybean petitions and denying the corn petition or denying both soybean petitions and approving the corn petition. Corn and soybean are often grown as rotation crops and these alternatives can compare the potential impacts of approving petitions for one rotation crop without the other. APHIS is grouping the two soybean petitions in alternatives 3 and 4 because the two soybean events share both 2,4-D and glufosinate resistance. One soybean, DAS 44406–6 is also resistant to glyphosate. However, DAS 68416–4 (glufosinate, 2,4-D resistant) could be crossed with any glyphosate resistant soybean for which APHIS has previously made a determination of nonregulated status to create a soybean that is resistant to all three herbicides. Because APHIS does not regulate breeding of events for which APHIS has previously made a determination of nonregulated status, approving the petition for nonregulated status for DAS 68416–4 and not DAS 44406–6 could still result in a soybean resistant to all three herbicides being marketed. Based on the preliminary plant pest risk assessments for each soybean event, APHIS has not identified any plant pest risks associated with either soybean event. Therefore, APHIS plans to consider either approving or denying both soybean petitions together in these alternatives.

Environmental Issues for Consideration

We have also identified the following potential environmental issues for consideration in the EIS. We are requesting that the public provide information on the following questions during the comment period on this Notice of Intent (NOI):

- What are the impacts of weeds, herbicide-resistant weeds, weed management practices, and unmet weed management needs for crop cultivation, and how may these change with the approval of these petitions for nonregulated status of these three herbicide-resistant crops?
- In which weeds would the approval of the three petitions likely contribute to controlling the spread of biotypes that are resistant to more than one herbicide mode of action and how will that control influence weed management strategies in cropland or managed non-cropland?
- What weeds are currently resistant to herbicides in the phenoxyaliphatic acid herbicide class of the auxin growth regulator group (*e.g.,* 2,4-D) and what is their natural frequency and occurrence in corn and soy crops, other crops, and in non-crop ecosystems?
- Would the increased use of 2,4-D associated with the approval of these three petitions cause an acceleration of the selection and spread of 2,4-D-resistant biotypes? Are there weeds that are more likely to be difficult to control if they become resistant to 2,4-D?
- In which crops or non-cropland weeds would the selection and spread of 2,4-D-resistant biotypes be most problematic in terms of available alternate weed management strategies and agronomic production?
- In which weeds would the approval of the three petitions likely contribute to the selection and spread of biotypes that are resistant to more than one herbicide mode of action and which would be most problematic for weed management strategies in cropland or managed non-cropland?

[2] Glyphosate-Tolerant Alfalfa Events J101 and J163: Request for Nonregulated Status, Final Environmental Impact Statement-December 2010; Glyphosate-Tolerant H7–1 Sugar Beet: Request for Nonregulated Status, Final Environmental Impact Statement-May 2012.

• What are the potential changes in agronomic practices, including crop rotation and weed management practices (*e.g.,* herbicide use, tillage), for control of weeds in rotational crops that may occur with the use of these herbicide-resistant crops? What are the current and potentially effective strategies for management of herbicide-resistant weeds in crops? What are the costs associated with these practices and strategies?

Comments that identify other issues or alternatives that chould be considered for examination in the EIS would be especially helpful. All comments received during the scoping period will be carefully considered in developing the final scope of the EIS. Upon completion of the draft EIS, a notice announcing its availability and an opportunity to comment on it will be published in the **Federal Register**.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of May 2013.

Michael Gregoire,

Deputy Administrator, Biotechnology Regulatory Services, Animal and Plant Health Inspection Service.

[FR Doc. 2013–11579 Filed 5–15–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will meet in Hamilton, MT. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to provide information regarding the monitoring of RAC projects.

DATES: The meeting will be held May 28, 2013, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitteroot National Forest Supervisor's Office located at 1801 N. 1st, Hamilton, MT. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Bitteroot National Forest Supervisor's Office. Please call ahead to 406–363–7100 to facilitate entry into the building and to view comments.

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Stevensville District Ranger at 406–777–5461 or Joni Lubke, Executive Assistant at 406–363–7100. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed for further information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Presentations will be given on the montioring of RAC projects. Contact Joni Lubke at 406–363–7100 for a full agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting. Individuals wishing to make an oral statement should request in writing by May 1, 2013 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Joni Lubke at 1801 N. 1st, Hamilton, MT 59840 or by email to *jmlubke@fs.fed.us* or via facsimile to 406–363–7159. A summary of the meeting will be posted at *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/Web_Agendas?OpenView&Count=1000&RestrictToCategory=Ravalli+County* within 21 days of the meeting.

Dated: May 8, 2013.

Julie K. King,

Forest Supervisor.

[FR Doc. 2013–11699 Filed 5–15–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–65–2013]

Foreign-Trade Zone 61—San Juan, Puerto Rico; Application for Subzone; Parapiezas Corporation; San Juan, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Trade & Export Company, grantee of FTZ 61, requesting special-purpose subzone status for the facility of Parapiezas Corporation located in San Juan, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 9, 2013.

The proposed subzone (2.44 acres) is located at Ave. 65th de Infanteria Km. 5.3 Parque Escorial in San Juan. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 61.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

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 25, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 10, 2013.

A copy of the application 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 Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: May 9, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11685 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–6–2013]

Foreign-Trade Zone 22—Chicago, Illinois; Authorization of Production Activity Panasonic Corporation of North America (Kitting of Consumer Electronics) Aurora, Illinois

On January 11, 2013, the Illinois International Port District, grantee of FTZ 22, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Panasonic Corporation of North America, within Site 28, in Aurora, Illinois.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 5773, 1–28–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: May 13, 2013.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2013–11679 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–2–2013]

Foreign-Trade Zone 117—Orange, TX, Authorization of Production Activity, Signal International Texas GP, LLC (Shipbuilding), Orange, TX

On January 10, 2013, the Foreign Trade Zone of Southeast Texas, Inc., grantee of FTZ 117, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Signal International Texas GP, LLC, in Orange, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 4383, 1–22–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14, and the following special conditions:

1. Any foreign steel mill product admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

2. Signal International Texas GP, LLC, shall meet its obligation under 15 CFR 400.13(b) by annually advising the Board's Executive Secretary as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of FTZ procedures and whether the Board should consider requiring customs duties to be paid on such items.

Dated: May 10, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11686 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* May 16, 2013.

SUMMARY: On January 9, 2013, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order [1] on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC).[2] The period of review (POR) is December 1, 2010, through November 30, 2011. We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments and information received, we made changes to the margin calculations for these final results. The final dumping margins are listed below in the ''Final Results of the Review'' section of this notice. In addition, we are rescinding this review with respect to WelCom Products, Inc. (WelCom), Yangjiang Shunhe Industrial Co., Ltd. and Yangjiang Shunhe Industrial & Trade Co., Ltd. (collectively, Shunhe), and Yuhuan Tongsheng Industry Company (Tongsheng) at this time (*see* ''Final Partial Rescission,'' *infra*).

FOR FURTHER INFORMATION CONTACT: Scott Hoefke, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4947 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Comments From Interested Parties

In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.* On January 29, 2013, Gleason Industrial Products, Inc., and Precision Products, Inc. (collectively, petitioners) submitted surrogate value (SV) comments.[3] On February 8, 2013, petitioners submitted SV rebuttal comments. On February 8, 2013, petitioners and Cosco submitted case briefs. On February 19, 2013, the Department rejected Petitioners' February 8, 2013, case brief, because it contained bracketing errors and certain untimely filed new information. Petitioners submitted a revised case brief on February 21, 2013.[4] On February 13, 2013, petitioners, New-Tec Integration (Xiamen) Co., Ltd. (New-Tec), and Cosco submitted rebuttal briefs.

Scope of the Order

The merchandise subject to the order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under

[1] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China,* 69 FR 70122 (December 2, 2004).

[2] *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Preliminary Results of the 2010–2011 Antidumping Duty Administrative Review,* 78 FR 1835 (January 9, 2013) (*Preliminary Results*), and accompanying Decision Memorandum (Preliminary Decision Memorandum).

[3] Cosco Home and Office Products (Cosco) submitted SV comments on January 29, 2013, which were subsequently rejected by the Department on February 7, 2013 because they were found to be not factual information nor new information. *See* Department's letter to Cosco (February 7, 2013).

[4] *See* New-Tec's letter, Re: Hand Trucks from China; Request to Reject New Factual Information Contained in Petitioners' Case Brief (February 13, 2013); *see also* Department's letter to Petitioners (February 19, 2013).

heading 8716.80.50.90 and 8716.90.50.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the accompanying Final Issues and Decision Memorandum.[6] A list of the issues which parties raised is attached to this notice as Appendix I. The Final Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building, as well as 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 CRU. In addition, a complete version of the Final Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed I&D Memo and electronic versions of the Final Issues and Decision Memorandum are identical in content.

Final Partial Rescission

In the *Preliminary Results,* the Department preliminarily rescinded the review with respect to WelCom, Shunhe, and Tongsheng. Subsequent to the *Preliminary Results,* the Department did not receive any comments or information which indicated that these companies should be reviewed. Therefore, pursuant to 19 CFR 351.213 (d)(1) and 19 CFR 351.213 (d)(3), we are rescinding the administrative review with respect to these three companies.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain revisions to the margin calculations for New-Tec.[7]

Separate Rates Determination

In our *Preliminary Results,* we determined that New-Tec met the criteria for separate rate status. We have not received any information since issuance of the *Preliminary Results* that provides a basis for reconsidering this preliminary determination. Therefore, the Department continues to find that New-Tec meets the criteria for a separate rate.

Final Results of the Review

The Department has determined that the following final dumping margins exist for the period December 1, 2010, through November 30, 2011:

Manufacturer/exporter	Weighted-average margin (percent)
New-Tec Integration (Xiamen) Co., Ltd.	9.21

Assessment

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. The Department recently announced a refinement to its assessment practice in non-market economy (NME) cases.[8] 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 NME-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 number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[9]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for New-Tec, which has a separate rate, will be that established in the final results of this review; (2) for any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.,* 383.60 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. 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.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b). We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

[5] *See* Memorandum to Paul Piquado, ''Issues and Decision Memorandum for the Final Results in the Administrative Review of Hand Trucks and Certain Parts Thereof from the People's Republic of China'' (May 9, 2013) (Final Issues and Decision Memorandum), dated concurrent with and adopted by this notice, for a complete description of the Scope of the Order.

[6] *See id.*

[7] *See* Memorandum to the File, ''Analysis for the Final Results of Hand Trucks and Certain Parts Thereof from the People's Republic of China: New-Tec'' (May 9, 2013).

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[9] *See id.*

Dated: May 9, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Comments Discussed in the Accompanying Final Issues and Decision Memorandum

Comment 1: Whether to Value Certain Inputs Using Purchases from Market-Economy Suppliers
Comment 2: Surrogate Country
Comment 3: Exclusion of Imports from FOP Calculations
Comment 4: Whether to use Thai Trolley's Financial Statement
Comment 5: Use of Jenbunjerd's Financial Statement
Comment 6: Wheels
Comment 7: Sodium Gluconate

[FR Doc. 2013–11683 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010–2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') published the preliminary results of the third administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China (''PRC'') on November 8, 2012.[1] We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made no changes to the margin calculations for these final results. The final dumping margins are listed below in the ''Final Results of the Administrative Review'' section of this notice. The period of review (''POR'') is October 1, 2010, through September 30, 2011.

DATES: *Effective Date:* May 16, 2013.

FOR FURTHER INFORMATION CONTACT: Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202)–482–5403.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on November 8, 2012.[2] Between December 5, 2012 and December 17, 2012, interested parties submitted surrogate value data for consideration in the final results. On January 4, 2013, M&B Metal Products Inc. (''Petitioner''), submitted a case brief.[3] On January 9, 2013, Fabriclean Supply Inc. (''Fabriclean''), a U.S. importer and wholesaler, submitted a rebuttal brief.[4] On January 14, 2013, the Department extended the final results to May 7, 2013.[5]

Scope of the Order

The merchandise that is subject to the order is steel wire garment hangers. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule (''HTSUS'') subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise as set forth in the order remains dispositive.[6]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this review are addressed in the Issues and Decision Memorandum.[7] A list of the issues which parties raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), room 7046 of the main Department of Commerce building, as well as 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 CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

There have been no changes since *Preliminary Results*.

Non-Market Economy Country

The PRC has been treated as a non-market economy (''NME'') in every proceeding conducted by the Department. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (''the Act''), any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. The Department has not revoked the PRC's status as an NME and, accordingly, applied the NME methodology.

Separate Rates

In the *Preliminary Results,* the Department determined that the companies that constitute the Shanghai Wells Group[8] were affiliated, would be treated as a single entity, and met the criteria for separate rate status.[9] At that time, the Department also determined that the following companies failed to demonstrate their eligibility for a separate rate: Shangyu Baoxiang Metal Manufactured Co., Ltd. (''Shangyu Baoxiang''); Zhejiang Lucky Cloud Hanger Co., Ltd. (''Lucky Hanger''); Shaoxing Zhongbao Metal Manufactured Co., Ltd. (''Shaoxing

[1] *See Steel Wire Garment Hangers from the People's Republic of China: Antidumping Duty Administrative Review, 2010–2011,* 77 FR 66952 (November 8, 2012) (''*Preliminary Results*''), and accompanying Decision Memorandum.

[2] *See id.*

[3] *See* Letter from Petitioner, Third Administrative Review of Steel Wire Garment Hangers from China—Petitioner's Case Brief, dated January 4, 2013.

[4] *See* Letter from Fabriclean, Steel Wire Garment Hangers from China: Rebuttal Brief, dated January 9, 2013.

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James Doyle, Office Director, from Kabir Archuletta, Case Analyst, ''Steel Wire Garment Hangers from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated January 14, 2013.

[6] *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China,* 73 FR 58111 (October 6, 2008).

[7] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, titled ''Steel Wire Garment Hangers from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Third Administrative Review,'' dated concurrently with this notice (''Issues and Decision Memorandum'') and hereby adopted by this notice.

[8] The Department previously found that Shanghai Wells Hanger Co., Ltd. (''Shanghai Wells''), Hong Kong Wells Ltd. (''HK Wells'') and Hong Kong Wells Ltd. (USA) (''Wells USA'') are affiliated and that Shanghai Wells and HK Wells comprise a single entity (collectively, ''Shanghai Wells Group''). Because there were no changes in this review, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. *See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review,* 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 27994, 27996 (May 13, 2011).

[9] *See* Decision Memorandum at ''Separate Rate Recipients''.

Zhongbao''); Shaoxing Shunji Metal Clotheshorse Co., Ltd. (''Shaoxing Shunji''); Pu Jiang County Command Metal Products Co., Ltd (''Pu Jiang''); and Shaoxing Liangbao Metal Manufactured Co., Ltd. (''Shaoxing Liangbao'').[10] We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of these determinations. Therefore, the Department continues to find that only the Shanghai Wells Group satisfies the criteria for a separate rate and will be treated as a single entity.

PRC-Wide Entity and the PRC-Wide Rate

In the *Preliminary Results,* we determined that those companies which did not demonstrate eligibility for a separate rate are properly considered part of the PRC-Wide Entity.[11] Since the *Preliminary Results,* none of the companies which did not file separate-rate applications or certifications submitted comments regarding this finding. Therefore, we continue to treat these entities as part of the PRC-Wide Entity.

In the *Preliminary Results,* the Department calculated the PRC-Wide Entity Rate using adverse facts available (''AFA'') because (1) the PRC-Wide Entity withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding and (2) the PRC-Wide Entity failed to cooperate to the best of its ability.[12] In so doing, and consistent with our practice, the Department relied upon the highest rate on the record of any segment of the proceeding—187.25 percent.[13] The Department also corroborated that rate, consistent with section 776(c) of the Act.[14] Since the *Preliminary Results,* no interested party has submitted any evidence or comments that challenge the Department's calculation of the PRC-Wide Rate. Therefore, we will continue to apply a rate of 187.25 percent to the PRC-Wide Entity.

Final Results of the Administrative Review

The weighted-average dumping margins for the POR are as follows:

Exporter	Weighted-average dumping margin (percent)
Shanghai Wells Group[15]	0.00
PRC-Wide Entity[16]	187.25

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. In these final results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.[17]

Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[18] Where an importer- (or customer-) specific *ad valorem* is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[19] Where an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[20]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the Shanghai Wells Group, the cash deposit rate will be its respective rates established in the final results of this review, except if the rate is zero or *de minimis* no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 187.25 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations

[10] *Id.,* at ''Separate Rates'' section.

[11] *Id.,* at ''PRC-Wide Entity and Selection of Adverse Facts Available (''AFA'') Rate'' sections.

[12] The companies that did not cooperate were Shaoxing Liangbao; Pu Jiang; Shaoxing Shunji; Shaoxing Zhongbao; Shangyu Baoxiang; and Lucky Hanger.

[13] *Id.*

[14] *Id.,* at ''Corroboration of Information'' section.

[15] The Shanghai Wells Group consists of Shanghai Wells Hanger Co., Ltd., and Hong Kong Wells Ltd.

[16] The PRC-Wide Entity includes, among other companies, Shaoxing Liangbao; Pu Jiang; Shaoxing Shunji; Shaoxing Zhongbao; Shangyu Baoxiang; and Lucky Hanger.

[17] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012) (''*Final Modification for Reviews*'').

[18] *See* 19 CFR 351.212(b)(1).

[19] *See id.*

[20] *See* 19 CFR 351.106(c)(2).

and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 7, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix—Issues and Decision Memorandum

Comment I: Selection of the Surrogate Country
- A. Economic Comparability
- B. Significant Producer of Comparable Merchandise
- C. Data Considerations
- D. Financial Statements

Comment II: If the Department Continues to Select the Philippines as the Primary Surrogate Country, the Department Must Revise the Value of the Wire Rod and Change the Financial Ratios

Comment III: Treatment of Mandatory Respondents That Did Not Participate

[FR Doc. 2013–11682 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC653

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt and request for comment.

SUMMARY: Notice is hereby given that NMFS has received an application for a direct take permit, in the form of a Hatchery and Genetic Management Plan (HGMP), pursuant to the Endangered Species Act of 1973, as amended (ESA). The application is for a hatchery program in Idaho, for the propagation of sockeye salmon. The proposed permit would be issued for a period of 10 years. This document serves to notify the public of the availability of the permit application for public review, comment, and submission of written data, views, arguments, or other relevant information. This document also serves to notify the public of NMFS' intent to adopt an existing environmental assessment that addresses the proposed Snake River sockeye salmon hatchery program. All comments and other information received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA.

DATES: Comments and other submissions must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific time on June 17, 2013.

ADDRESSES: Written responses to the application and the proposed adoption of the associated environmental assessment should be sent to Craig Busack, National Marine Fisheries Services, Salmon Management Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments may also be submitted by email to: *SockeyePlan.nwr@noaa.gov.* Include in the subject line of the email comment the following identifier: Comments on Snake River sockeye salmon hatchery plan. Comments may also be sent via facsimile (fax) to (503) 872–2737. The permit application and associated documents are available on the Internet at *www.nwr.noaa.gov.* Requests for copies of the permit application and associated documents may also be directed to the National Marine Fisheries Services, Salmon Management Division, 1201 NE. Lloyd Boulevard, Suite 1100, Portland, OR 97232. Comments received will also be available for public inspection, by appointment, during normal business hours by calling (503) 230–5418.

FOR FURTHER INFORMATION CONTACT: Craig Busack at (503) 230–5412 or email: *craig.busack@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Sockeye salmon (*Oncorhynchus nerka*): endangered, naturally produced and artificially propagated Snake River.

Background

Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits to take listed species for any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species, under section 10(a)(1)(A) of the ESA. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

On May 15, 2012, NMFS received an application, including an HGMP, from the Idaho Department of Fish and Game, a section 10(a)(1)(A) research/enhancement permit for continued operation of the Redfish Lake Sockeye Salmon Captive Propagation program.

The proposed program would increase the abundance of the listed species through artificial propagation and to serve as a safety net to prevent extinction of the Snake River Sockeye Salmon Evolutionarily Significant Unit (ESU), which is listed as endangered under the ESA. The proposed program would maintain the Snake River sockeye salmon broodstock in captivity in several locations, largely at the Springfield Hatchery in eastern Idaho, collect and spawn adult sockeye salmon returning to the Snake River basin, rear juveniles, and release eggs, juveniles, and adult fish into upper Salmon River basin lakes. The proposed program would include best management practices to minimize adverse effects on the ESU. Best management practices would include the use of prudent fish husbandry practices and standard hatchery protocols to ensure health and survival of the program fish, selection of eggs and juveniles in a manner designed to represent to the greatest extent possible the entire genetic spectrum of the founding population, and the conduct of spawning ground surveys to estimate natural spawning escapement and to determine the effects of captive-reared fish on spawner distribution and behavior. An environmental assessment was prepared pursuant to the National Environmental Policy Act (NEPA) by the Bonneville Power Administration (BPA) for its funding of the Snake River sockeye salmon hatchery program, including modifications to the Springfield Hatchery. Because the BPA action is substantially the same as the actions addressed by the proposed ESA permit, because they are both administrative actions that allow IDFG to operate the Snake River sockeye salmon hatchery program consistent with the submitted HGMP and the Springfield Sockeye Hatchery Master Plan, NMFS proposes to adopt the BPA environmental assessment to comply with the NEPA.

Authority

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a)(1)(A) of the ESA. If it is determined that the requirements are met, a permit will be issued to IDFG for the purpose of carrying out the hatchery program. NMFS will publish a record of its final action in the **Federal Register**.

NEPA requires Federal agencies to conduct an environmental analysis of

their proposed actions to determine if the actions may affect the human environment. NMFS expects to take action on an application for a permit under section 10(a)(1)(A) of the ESA. Because NMFS' proposed action is closely linked to the BPA funding action already considered under NEPA, to reduce the potential for substantial redundancy and duplication of effort in complying with NEPA, NMFS is proposing to adopt the BPA environmental assessment for the proposed issuance of the permit. Therefore, NMFS is also seeking public input on its proposed adoption.

Dated: May 13, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–11702 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC682

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of four scientific research and enhancement permits.

SUMMARY: Notice is hereby given that NMFS has issued Permit 17299 to the NMFS Southwest Fisheries Science Center (SWFSC), Permit 16543–M1 to the California Department of Water Resources (CDWR), Permit 17428 to the United States Fish and Wildlife Service (USFWS), and Permit 17777 to Natural Resource Scientists Incorporated (NRSI).

ADDRESSES: The approved application for each permit is available on the Applications and Permits for Protected Species (APPS), *https://apps.nmfs.noaa.gov* Web site by searching the permit number within the Search Database page. The applications, issued permits and supporting documents are also available upon written request or by appointment: Protected Resources Division, NMFS, 650 Capitol Mall, Room 5–100, Sacramento, CA 95814 (ph: (916) 930–3600, fax: (916) 930–3629).

FOR FURTHER INFORMATION CONTACT: Amanda Cranford at 916–930–3706, or email: *Amanda.Cranford@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River (SR) winter-run Chinook salmon (*Oncorhyncus tshawytscha*), threatened Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), threatened California Central Valley (CCV) steelhead (*O. mykiss*), and threatened southern distinct population segment (SDPS) of North American green sturgeon (*Acipenser medirostris*), henceforth referred to as ESA-listed salmonids and SDPS green sturgeon.

Permits Issued

Permit 17299

A notice of the receipt of an application for a scientific research and enhancement permit (17299) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 17299 was issued to the SWFSC on April 4, 2013, and expires on December 31, 2017.

Permit 17299 is for research to be conducted at various sites and hatcheries within the Central Valley, CA. The main purpose of the research conducted by the SWFSC is to carry out comparative studies on salmonid ecology across all Central Valley habitats (streams, rivers and Delta) to increase knowledge of California's Chinook salmon and steelhead life histories. The overall goal of this project is to provide critical information in support of conservation and management of California's salmon stocks. Studies authorized under Permit 17299 will follow three directions: (1) Telemetry studies to assess river habitat use, behavior, and survival, (2) predator impacts on salmon, and (3) physiological measurements of aerobic scope across stocks.

In situations where the SWFSC are unable to rely on collaborators to capture fish through rotary screw trapping, collection methods will include fyke nets, backpack electrofishing, beach seining, tangle netting, DIDSON observations, tethering and hook and line. Handling will typically involve sedation of juveniles (MS–222), measurements, tissue sampling (fin clips and scales from most, stomach lavage [subset] and tagging [PIT tags, acoustic tags]) followed by release of live fish. Another group of hatchery produced salmonids will be tested to measure aerobic scope under a range of temperature and flow combinations. A small subset of those hatchery produced fish will be sacrificed to collect otoliths for age and growth measurements, organ tissue for isotope analysis, biochemical and genomic expression assays, and tag effects and retention studies.

Permit 17299 authorizes non-lethal take and low levels (not to exceed two percent) of unintentional lethal take. Permit 17299 also authorizes intentional, directed lethal take of smolt and adult adipose fin-clipped, hatchery produced, Chinook salmon for aerobic scope measurements and otolith microchemistry analysis.

Permit 17428

A notice of the receipt of an application for a scientific research and enhancement permit (17428) was published in the **Federal Register** on October 16, 2012 (77 FR 63295). Permit 17428 was issued to the USFWS on January 25, 2013 and expires on December 31, 2017.

Permit 17428 is for research to be conducted in the American River, downstream of the Watt Avenue Bridge, in Sacramento County, CA. Each year, two to four rotary screw traps (RSTs) will be operated 5 to 7 days each week between January 1 and June 30. As traps are operated, data will be collected on fish abundance, trap operational status, and environmental characteristics at the trap site. Trap operations will focus on the collection of juvenile CCV steelhead and non-listed fall-run Chinook salmon. Other fish species will be collected on an incidental basis. If salmon that may be federally listed spring- or winter-run Chinook are captured, fin clips will be taken so those samples can be used in genetic studies to determine which runs are actually present. The lengths of a representative sample of up to 100 individuals of each fish species will be measured each day. Weights from 25 salmon will be quantified each day. Captured fish will be released alive immediately downstream of the RSTs.

The proposed monitoring project does not include activities designed to intentionally result in the death of listed taxa. If juvenile salmonids are found dead or incidentally killed during trapping activities, they will be salvaged for future studies. Permit 17428 authorizes non-lethal and low levels of unintentional lethal take of smolt and juvenile ESA-listed. Permit 17428 does not authorize any intentional lethal take of ESA-listed salmonids.

Permit 16543–M1

A notice of the receipt of an application for modification of a scientific research and enhancement permit (16543–M1) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 16543–M1 was issued to CDWR on March 14, 2013, and expires on December 31, 2014.

Permit 16543–M1 is for research to be conducted in the Sacramento-San Joaquin Delta, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken are to provide information on spatial and environmental patterns of predation; critical information for guiding future restoration projects on conditions likely to support or discourage higher predation rates on ESA-listed and native fishes. Take activities associated with research on adult ESA-listed salmonids and juvenile, subadult, and adult SDPS green sturgeon include the following: capture (by trammel net or gillnet), handling (species identification and enumeration), and release of fish downstream of the capture location.

Permit 16543–M1 authorizes CDWR non-lethal take of adult ESA-listed salmonids and juvenile, subadult, and adult SDPS green sturgeon. Permit 16543–M1 does not authorize any unintentional or intentional lethal take of ESA-listed salmonids and SDPS green sturgeon.

Permit 17777

A notice of the receipt of an application for a scientific research and enhancement permit (17777) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 17777 was issued to NRSI on April 3, 2013 and expires on December 31, 2014.

Permit 17777 is for research activities conducted at the Sycamore Mutual Water Corporation diversion site on the middle Sacramento River, in Colusa County, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken by NRSI are part of an ongoing effort to develop criteria to prioritize fish screening projects on the Sacramento River and experiment with devices to reduce fish entrainment into unscreened diversions. Sampling will involve the use of fyke nets positioned at the diversion outfall in the irrigation canal. The diversion has been screened with two retractable screens. The UC-Davis Hydraulics Laboratory has designed an alternative device to reduce fish entrainment for placement over the two riverine intakes in lieu of the two fish screens. Fish sampling will occur every day with the behavioral devices in place and removed on alternating days throughout the irrigation season. The effectiveness of the behavioral device will be determined by comparing the numbers of fish entrained each day with the devices in place and removed.

Fish captured on the outfall side of the pumped diversions are not expected to be alive or salvageable since fish will be mortally injured by the pumps, lethally stressed in pressurized pipes and warm water, or otherwise lost to the water distribution systems. Dead or moribund fish will be identified to species, enumerated, measured, and the carcasses put back into the canals at the sampling site. To the extent practicable, any captured live ESA-listed species will be immediately returned to the river.

Dated: May 13, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–11703 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC682

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of four scientific research and enhancement permits.

SUMMARY: Notice is hereby given that NMFS has issued Permit 17299 to the NMFS Southwest Fisheries Science Center (SWFSC), Permit 16543–M1 to the California Department of Water Resources (CDWR), Permit 17428 to the United States Fish and Wildlife Service (USFWS), and Permit 17777 to Natural Resource Scientists Incorporated (NRSI).

ADDRESSES: The approved application for each permit is available on the Applications and Permits for Protected Species (APPS), *https://apps.nmfs.noaa.gov* Web site by searching the permit number within the Search Database page. The applications, issued permits and supporting documents are also available upon written request or by appointment: Protected Resources Division, NMFS, 650 Capitol Mall, Room 5–100, Sacramento, CA 95814 (ph: (916) 930–3600, fax: (916) 930–3629).

FOR FURTHER INFORMATION CONTACT: Amanda Cranford at 916–930–3706, or email: *Amanda.Cranford@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Sacramento River (SR) winter-run Chinook salmon (*Oncorhyncus tshawytscha*), threatened Central Valley (CV) spring-run Chinook salmon (*O. tshawytscha*), threatened California Central Valley (CCV) steelhead (*O. mykiss*), and threatened southern distinct population segment (SDPS) of North American green sturgeon (*Acipenser medirostris*), henceforth referred to as ESA-listed salmonids and SDPS green sturgeon.

Permits Issued

Permit 17299

A notice of the receipt of an application for a scientific research and enhancement permit (17299) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 17299 was issued to the SWFSC on April 4, 2013, and expires on December 31, 2017.

Permit 17299 is for research to be conducted at various sites and hatcheries within the Central Valley, CA. The main purpose of the research conducted by the SWFSC is to carry out

comparative studies on salmonid ecology across all Central Valley habitats (streams, rivers and Delta) to increase knowledge of California's Chinook salmon and steelhead life histories. The overall goal of this project is to provide critical information in support of conservation and management of California's salmon stocks. Studies authorized under Permit 17299 will follow three directions: (1) Telemetry studies to assess river habitat use, behavior, and survival, (2) predator impacts on salmon, and (3) physiological measurements of aerobic scope across stocks.

In situations where the SWFSC are unable to rely on collaborators to capture fish through rotary screw trapping, collection methods will include fyke nets, backpack electrofishing, beach seining, tangle netting, DIDSON observations, tethering and hook and line. Handling will typically involve sedation of juveniles (MS–222), measurements, tissue sampling (fin clips and scales from most, stomach lavage [subset] and tagging [PIT tags, acoustic tags]) followed by release of live fish. Another group of hatchery produced salmonids will be tested to measure aerobic scope under a range of temperature and flow combinations. A small subset of those hatchery produced fish will be sacrificed to collect otoliths for age and growth measurements, organ tissue for isotope analysis, biochemical and genomic expression assays, and tag effects and retention studies.

Permit 17299 authorizes non-lethal take and low levels (not to exceed two percent) of unintentional lethal take. Permit 17299 also authorizes intentional, directed lethal take of smolt and adult adipose fin-clipped, hatchery produced, Chinook salmon for aerobic scope measurements and otolith microchemistry analysis.

Permit 17428

A notice of the receipt of an application for a scientific research and enhancement permit (17428) was published in the **Federal Register** on October 16, 2012 (77 FR 63295). Permit 17428 was issued to the USFWS on January 25, 2013 and expires on December 31, 2017.

Permit 17428 is for research to be conducted in the American River, downstream of the Watt Avenue Bridge, in Sacramento County, CA. Each year, two to four rotary screw traps (RSTs) will be operated 5 to 7 days each week between January 1 and June 30. As traps are operated, data will be collected on fish abundance, trap operational status, and environmental characteristics at the trap site. Trap operations will focus on the collection of juvenile CCV steelhead and non-listed fall-run Chinook salmon. Other fish species will be collected on an incidental basis. If salmon that may be federally listed spring- or winter-run Chinook are captured, fin clips will be taken so those samples can be used in genetic studies to determine which runs are actually present. The lengths of a representative sample of up to 100 individuals of each fish species will be measured each day. Weights from 25 salmon will be quantified each day. Captured fish will be released alive immediately downstream of the RSTs.

The proposed monitoring project does not include activities designed to intentionally result in the death of listed taxa. If juvenile salmonids are found dead or incidentally killed during trapping activities, they will be salvaged for future studies. Permit 17428 authorizes non-lethal and low levels of unintentional lethal take of smolt and juvenile ESA-listed. Permit 17428 does not authorize any intentional lethal take of ESA-listed salmonids.

Permit 16543–M1

A notice of the receipt of an application for modification of a scientific research and enhancement permit (16543–M1) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 16543–M1 was issued to CDWR on March 14, 2013, and expires on December 31, 2014.

Permit 16543–M1 is for research to be conducted in the Sacramento-San Joaquin Delta, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken are to provide information on spatial and environmental patterns of predation; critical information for guiding future restoration projects on conditions likely to support or discourage higher predation rates on ESA-listed and native fishes. Take activities associated with research on adult ESA-listed salmonids and juvenile, subadult, and adult SDPS green sturgeon include the following: capture (by trammel net or gillnet), handling (species identification and enumeration), and release of fish downstream of the capture location.

Permit 16543–M1 authorizes CDWR non-lethal take of adult ESA-listed salmonids and juvenile, subadult, and adult SDPS green sturgeon. Permit 16543–M1 does not authorize any unintentional or intentional lethal take of ESA-listed salmonids and SDPS green sturgeon.

Permit 17777

A notice of the receipt of an application for a scientific research and enhancement permit (17777) was published in the **Federal Register** on February 4, 2013 (78 FR 7755). Permit 17777 was issued to NRSI on April 3, 2013 and expires on December 31, 2014.

Permit 17777 is for research activities conducted at the Sycamore Mutual Water Corporation diversion site on the middle Sacramento River, in Colusa County, California. The primary objectives to which ESA-listed salmonids and SDPS green sturgeon may be taken by NRSI are part of an ongoing effort to develop criteria to prioritize fish screening projects on the Sacramento River and experiment with devices to reduce fish entrainment into unscreened diversions. Sampling will involve the use of fyke nets positioned at the diversion outfall in the irrigation canal. The diversion has been screened with two retractable screens. The UC-Davis Hydraulics Laboratory has designed an alternative device to reduce fish entrainment for placement over the two riverine intakes in lieu of the two fish screens. Fish sampling will occur every day with the behavioral devices in place and removed on alternating days throughout the irrigation season. The effectiveness of the behavioral device will be determined by comparing the numbers of fish entrained each day with the devices in place and removed.

Fish captured on the outfall side of the pumped diversions are not expected to be alive or salvageable since fish will be mortally injured by the pumps, lethally stressed in pressurized pipes and warm water, or otherwise lost to the water distribution systems. Dead or moribund fish will be identified to species, enumerated, measured, and the carcasses put back into the canals at the sampling site. To the extent practicable, any captured live ESA-listed species will be immediately returned to the river.

Dated: May 13, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–11692 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC210

Marine Mammals; File No. 17410

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to the Alaska Department of Fish and Game (ADF&G; Responsible Party: Robert Small, Ph.D.), 1255 West 8th Street, Juneau, AK 99811, to collect, receive, import, and export marine mammal parts for scientific research purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On September 10, 2012, notice was published in the **Federal Register** (77 FR 55456) that a request for a permit to conduct research on marine mammal parts had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit authorizes the collection, receipt, import, and export of marine mammal parts from up to 1,000 pinnipeds (excluding walrus) and 500 cetaceans to obtain information on population status and distribution, stock structure, age distribution, mortality rates, productivity, feeding habits, and health status of marine mammals. No takes of live animals are authorized. The permit is valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 13, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–11684 Filed 5–15–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (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 announces the following Federal advisory committee meeting of the Reserve Forces Policy Board will take place.

DATES: Wednesday, June 5, 2013, from 8:25 a.m. to 3:50 p.m.

ADDRESSES: The address is the Pentagon, Room 3E863, Arlington, VA (escort required; see guidance in Meeting Accessibility.

FOR FURTHER INFORMATION CONTACT: CAPT Steven Knight, Designated Federal Officer, (703) 681–0608 (Voice), (703) 681–0002 (Facsimile), *RFPB@osd.mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://ra.defense.gov/rfpb/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The Reserve Forces Policy Board will hold a meeting from 8:25 a.m. until 3:50 p.m. The portion of the meeting from 8:25 a.m. until 2:10 p.m. will be closed and is not open to the public. The closed session of the meeting will consist of remarks from the Deputy Secretary of Defense; the Acting Under Secretary of Defense (Personnel & Readiness); the Commander, U.S. Southern Command; the Director, Cost Assessment and Program Evaluation; the Deputy Commander, U.S. Cyber Command; Dr. Paul Stockton, former Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs: and a representative from the Council of Governors. All of the closed session speakers will discuss the best ways to use the Reserves to support the Department's new strategy; the right balance of Active and Reserve Component Forces; and the cost to maintain a strong Reserve Component. Additionally, the Deputy Commander, U.S. Cyber Command, will discuss his views on the increased emphasis placed on cyber security and the logical mission fit for Reserve Component members. The Director, Cost Assessment and Program Evaluation, will provide her thoughts as the Department completes studies and implements decisions that will have a profound impact on the Reserve Components. The representative from the Council of Governors and Dr. Stockton will discuss the vulnerabilities or capabilities of systems, installation infrastructures, projects, plans, or protection services relating to national security. The Council of Governors representative may also address the following topics: Defense Support of Civilian Authorities, employment of the Reserve Components for related missions and the lessons learned from Hurricane Sandy. The open portion of the meeting, from 2:10 p.m. until 3:50 p.m., will consist of briefs from the RFPB subcommittees on the status of the recommendations previously made to the Secretary of Defense, ''off-ramping'' of Reserve units, Reserve Component Medical Readiness, and an update on the progress of the OASD Reserve Affairs Certificate of Release or Discharge from Active Duty (DD Form 214) working group. The Secretary of Defense Strategic Question Task Group will discuss its findings, present relevant facts, provide for the Board's consideration a report or reports of advice and recommendations for the

Secretary of Defense, and discuss the cost of a strong Reserve Component. The Cyber Task Group presentation will announce its formation and discuss the administrative matters associated with this group.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the open portion of the meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Captain Steven Knight at the number listed in **FOR FURTHER INFORMATION CONTACT** no later than noon on Wednesday, May 29 to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 1:40 p.m. on June 5. To complete security screening, please come prepared to present two forms of identification and one must be a picture identification card. In accordance with section 10(d) of the FACA, 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the portion of this meeting from 8:25 a.m. until 2:10 p.m. will be closed to the public. Specifically, the Acting Under Secretary of Defense (Personnel and Readiness), with the coordination of the DoD FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it will discuss matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, interested persons may submit written statements to the Reserve Forces Policy Board at any time. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer at the address or facsimile number listed in **FOR FURTHER INFORMATION CONTACT.** If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the Reserve Forces Policy Board until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice. Please note that since the Board operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Dated: May 13, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11671 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2013–0027]

Proposed Collection; Comment Request

AGENCY: Air Education and Training Command (AETC/A1R), Department of Defense/Department of the Air Force/ Headquarters.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 15, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to HQ Air Education and Training Command (AETC/A1R), ATTN: C.K. Burnett, 1850 First Street West, Ste 1, JBSA Randolph TX 78150, or call 210–652–6099.

Title; Associated Form; and OMB Number: Victim/Witness Feedback Request; OMB Number 0701–TBD.

Needs And Uses: The information collection is requested, not required. It is necessary to provide this select group the opportunity to comment on their experiences as victims/witnesses in trial proceedings, and to help inform and modify processes and procedures that pertain to others in this same category in the future.

Affected Public: Individuals or households.

Annual Burden Hours: 4.

Number of Respondents: 16.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are former Air Force members, now members of the general public, who are former Basic Military Trainees and later became victims or witnesses in trial proceedings relating to their training experiences. Requesting and receiving direct feedback from this group would be helpful to inform and modify processes and procedures that pertain to others in this same category in the future.

Dated: May 9, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11573 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0020]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing [insert one of the following options; a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 17, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0020 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov*. Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Forms.

OMB Control Number: 1845–0065.

Type of Review: Revision of an existing collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 254,800.

Total Estimated Number of Annual Burden Hours: 127,400.

Abstract: The Discharge Application: Total and Permanent Disability serves as the means by which an individual who is totally and permanently disabled, as defined in section 437(a) of the Higher Education Act of 1965, as amended, applies for discharge of his or her Direct Loan, FFEL, or Perkins loan program loans, or TEACH Grant service obligation. The form collects the information that is needed by the U.S. Department of Education (the Department) to determine the individual's eligibility for discharge based on total and permanent disability. The Total and Permanent Disability Discharge: Post-Discharge Monitoring form serves as the means by which an individual who has received a total and permanent disability discharge provides the Department with information about his or her annual earnings from employment during the 3-year post-discharge monitoring period that begins on the date of discharge. The Total and Permanent Disability Discharge: Applicant Representative Designation form serves as the means by which an applicant for a total and permanent disability discharge may (1) designate a representative to act on his or her behalf in connection with the applicant's discharge request, (2) change a previously designated representative, or (3) revoke a previous designation of a representative.

Dated: May 13, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–11695 Filed 5–15–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences; Meeting

AGENCY: Institute of Education Sciences, U.S. Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences (NBES). The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the meeting.

DATES: June 3, 2013.

TIME: 8:30 a.m. to 4:30 p.m. Eastern Standard Time.

ADDRESSES: 80 F Street NW., Room 100, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ellie Pelaez, 555 New Jersey Avenue NW., Room 600 E, Washington, DC 20208; phone: (202) 219–0644; fax: (202) 219–1402; email: *Ellie.Pelaez@ed.gov*.

SUPPLEMENTARY INFORMATION: The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA), 20 U.S.C. 9516. The Board advises the Director of the Institute of Education Sciences (IES) on, among other things, the establishments of activities to be supported by the Institute, on the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review, and reviews and evaluates the work of the Institute.

On June 3, 2013, starting at 8:30 a.m., the Board will call the meeting to order, approve the agenda and hear remarks from the NBES Chair, Bridget Terry Long. John Easton and the Commissioners of IES's national centers will then give an overview of recent developments at IES. A break will take place from 10:15 to 10:30 a.m.

From 10:30 to 11:30 a.m., Board members will hear from Ruth Neild, Commissioner of the National Center for Education Evaluation, about how IES can improve the use of its research and products. After opening remarks from Dr. Neild, the Board members will participate in roundtable discussion.

From 11:30 a.m. to 12:30 p.m., the Board will consider the topic of dissemination of IES-funded research. Following opening remarks by Thomas Brock, Commissioner of the National Center for Education Research, Board members will engage in roundtable discussion of the issues raised. The meeting will break for lunch from 12:30 to 1:30 p.m.

The Board meeting will resume from 1:30 to 3:00 p.m. for the members to discuss the topic, ''Cognition and New Media: Learning in gaming environments.'' After opening remarks, the Board will engage in roundtable discussion of the topic. An afternoon

break will take place from 3:00 to 3:15 p.m.

From 3:15 to 4:15 p.m., the Board will consider the topic, ''Evaluating the IES Research Portfolio: What is the best approach?'' John Easton will provide the opening remarks and roundtable discussion will take place after.

Between 4:15 and 4:30 p.m., there will be closing remarks and a consideration of next steps from the IES Director and NBES Chair, with adjournment scheduled for 4:30 p.m.

There will not be an opportunity for public comment. However, members of the public are encouraged to submit written comments related to NBES to Ellie Pelaez (see contact information above). A final agenda is available from Ellie Pelaez (see contact information above) and is posted on the Board Web site *http://ies.ed.gov/director/board/agendas/index.asp*. Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistance listening devices, or materials in alternative format) should notify Ellie Pelaez no later than May 20. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Board proceedings and are available for public inspection at 555 New Jersey Avenue NW., Room 602 I, Washington, DC 20208, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

Electronic Access to This Document: You may view this document, as well as other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fed-register/index.html*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1800; or in the Washington, DC area at (202) 512–0000.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to this official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html*.

John Q. Easton,

Director, Institute of Education Science.

[FR Doc. 2013–11691 Filed 5–15–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No. EERE–BT–2013–DET–0017]

Energy Efficiency Program for Industrial Equipment: Petition of UL Verification Services Inc. for Classification as a Nationally Recognized Certification Program for Small Electric Motors

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

ACTION: Notice of petition and request for public comments.

SUMMARY: This notice announces receipt of a petition from UL Verification Services (UL) for classification by the U.S. Department of Energy (DOE) as a nationally recognized certification program under 10 CFR 431.447 and 431.448. In its petition, which appears at the end of this notice, UL provides documentation to help substantiate its position that its certification program for small electric motors satisfies the evaluation criteria for classification as a nationally recognized certification program that are specified in 10 CFR 431.447(b). This notice summarizes the substantive aspects of these documents and requests public comments on the merits of UL's petition.

DATES: DOE will accept comments, data, and information with respect to the UL Petition until June 17, 2013.

ADDRESSES: You may submit comments, identified by docket number ''EERE–BT–2013–DET–0017,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: CertProgSmElecMotors 2013DET0017@ee.doe.gov* Include the docket number EERE–BT–2013–DET–0017 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J/1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW., Washington, DC 20024; (202) 586–2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Part C of Title III of the Energy Policy and Conservation Act contains energy conservation requirements for, among other things, electric motors and small electric motors, including test procedures, energy efficiency standards, and compliance certification requirements. 42 U.S.C. 6311–6316.[1] Section 345(c) of EPCA directs the Secretary of Energy to require manufacturers of electric motors ''to certify through an independent testing or certification program nationally recognized in the United States, that [each electric motor subject to EPCA efficiency standards] meets the applicable standard.'' 42 U.S.C. 6316(c).

Regulations to implement this statutory directive are codified in Title 10 of the Code of Federal Regulations Part 431 (10 CFR part 431) at sections 431.36, Compliance Certification, 431.20, Department of Energy recognition of nationally recognized certification programs, and 431.21, Procedures for recognition and withdrawal of recognition of accreditation bodies and certification programs. Sections 431.20 and 431.21 set forth the criteria and procedures for national recognition of an energy efficiency certification program for electric motors by the DOE. With the support of a variety of interests, including industry and energy efficiency advocacy groups, DOE published a final rule on May 4, 2012, that established requirements for small electric motors that are essentially identical to the criteria and procedures for national recognition of an energy efficiency certification program for

[1] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

electric motors. See 77 FR 26608, 26629 (codifying parallel provisions for small electric motors at 10 CFR 431.447 and 431.448).

For a certification program to be classified by the DOE as being nationally recognized in the United States for the testing and certification of small electric motors, the organization operating the program must submit a petition to the Department requesting such classification, in accordance with sections 431.447 and 431.448. In sum, for the Department to grant such a petition, the certification program must: (1) Have satisfactory standards and procedures for conducting and administering a certification system, and for granting a certificate of conformity; (2) be independent of small electric motor manufacturers, importers, distributors, private labelers or vendors; (3) be qualified to operate a certification system in a highly competent manner; and (4) be expert in the test procedures and methodologies in IEEE Standard 112–2004 Test Methods A and B, IEEE Standard 114–2010, CSA Standard C390–10, and CSA C747 or similar procedures and methodologies for determining the energy efficiency of small electric motors, and have satisfactory criteria and procedures for selecting and sampling small electric motors for energy efficiency testing. 10 CFR 431.447(b).

Each petition requesting classification as a nationally recognized certification program must contain a narrative statement as to why the organization meets the above criteria, be accompanied by documentation that supports the narrative statement, and signed by an authorized representative. 10 CFR 431.447(c).

II. Discussion

Pursuant to sections 431.447 and 431.448, on February 20, 2013, UL submitted to the Department a Petition for ''Classification in Accordance with 10 CFR part 431.447 and 431.448'' (''Petition'' or ''UL Petition''). The Petition was accompanied by a cover letter from UL to the Department, containing five separate sections that included narrative statements for each—(1) Overview, (2) Standards and Procedures, (3) Independent Status, (4) Qualification of UL LCC and UL Verification Services, Inc. to Operate a Certification System, and (5) Expertise in Small Motor Test Procedures. The petition included supporting documentation on these subjects. Through its cover letter, UL initially asserted that certain portions of its petition were confidential—namely, the Overview, Appendices A, B, and C, and UL's discussion of its qualifications (Item (4) noted above). The Department is required to publish in the **Federal Register** such petitions for public notice and solicitation of comments, data and information as to whether the Petition should be granted. 10 CFR 431.448(b). After having reviewed UL's claim for confidential treatment and the materials at issue, DOE has rejected UL's claim and is making the entirety of its submission publicly available to enable the public to comment effectively on UL's petition. A copy of UL's petition and accompanying cover letter have been placed in the docket.

The Department hereby solicits comments, data and information on whether it should grant the UL Petition. 10 CFR 431.448(b). Any person submitting written comments to DOE with respect to the UL Petition must also, at the same time, send a copy of such comments to UL. As provided under section 431.448(c), UL may submit to the Department a written response to any such comments. After receiving any such comments and responses, the Department will issue an interim and then a final determination on the UL Petition, in accordance with sections 431.448(d) and (e) of 10 CFR part 431.

In particular, the Department is interested in obtaining comments, data, and information respecting the following evaluation criteria:

(1) Whether UL has satisfactory standards and procedures for conducting and administering a certification system, including periodic follow up activities to assure that basic models of small electric motors continue to conform to the efficiency levels for which they were certified, and for granting a certificate of conformity.

DOE is also interested in obtaining comments as to how rigorously UL operates its certification system under the guidelines contained in ISO/IEC Guide 65, *General requirements for bodies operating product certification systems.*

(2) Whether UL is independent of small electric motor manufacturers, importers, distributors, private labelers or vendors. To meet this requirement it cannot be affiliated with, have financial ties with, be controlled by, or be under common control with any such entity.

(3) Whether UL is expert in the content and application of the test procedures and methodologies in IEEE Std 112–2004 Test Methods A and B, IEEE Std 114–2010, CSA C390–10, and CSA C747 (incorporated by reference, see § 431.443) or similar procedures and methodologies for determining the energy efficiency of small electric motors. DOE is also interested in receiving comments on whether UL's criteria and procedures for the selection and sampling of electric motors tested for energy efficiency are technically appropriate and statistically rigorous.

Issued in Washington, DC, on May 10, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Petition for Recognition

Energy Efficiency Evaluation of Electric Motors to United States Department of Energy

Requirements as Documented in 10 CFR Part 431—Subpart B and Subpart X

State of TEXAS

SS: County of COLLIN

Before me, the undersigned notary public, this day, personally, appeared Michael Shows to me known, who being duly sworn according to law, deposes the following:

On Behalf of UL Verification Services
Michael Shows

Michael Shows,

Director—Global Technical Research, UL Verification Services.

Subscribed and sworn to before me this 20 day of February, 2013.
Notary Public

My Commission Expires: 2–10–2014

[To view the signed copy of this document, see Docket No. EERE–2013–BT–DET–0017, UL Petition, No. 01, p. 1]

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Overview

UL is a global independent safety science company with more than a century of expertise innovating safety solutions from the public adoption of electricity to new breakthroughs in sustainability, renewable energy and nanotechnology. Dedicated to promoting safe living and working environments, UL helps safeguard people, products and places in important ways, facilitating trade and providing peace of mind.

UL certifies, validates, tests, inspects, audits, and advises and trains. We provide the knowledge and expertise to help customers navigate growing complexities across the supply chain from compliance and regulatory issues to trade challenges and market access. In this way, we facilitate global trade and deliver peace of mind.

In 2011:

- 22.4 Billion UL Marks appeared on products
- 19,909 Different types of products were evaluated by UL
- 563,862 Follow Up inspections were conducted by UL
- 67,798 Manufacturers produced UL certified products
- 104 Countries were home to UL customers
- 3.1 Billion consumers in Europe, Asia and North America were reached with safety messages
- 6,461 Products were certified for Energy Star
- 86.972 Product evaluations were conducted by UL
- 95 Laboratory, testing and certification facilities in the countries within which we operate
- 1,464 Currently published UL Safety Standards
- 46 Countries with UL employees

Today, globally UL is made up of over 11,800 staff of which approximately 2,700 are engineers. UL today is comprised of five businesses, Product Safety, Verification Services, Life & Health, Knowledge Services and Environment.

Energy efficiency testing is a portion of what UL provides as part of its Verification Services business. UL's verification services provides testing and evaluation such as a full range of photometric testing, illuminating engineering research and development, and lighting test equipment, meeting key mandates for ENERGY STAR®, Natural Resources Canada(NRCan), Zhaga, U.S. Department of Energy (DOE) and DesignLights™ Consortium (DLC) criteria.

Our appliance testing capabilities apply to a wide variety of standards, including ENERGY STAR®, NRCan, Zhaga, DOE and Consumer Electronics Control (CEC) requirements to help manufacturers validate performance claims and compliance with government regulations. Specifically, with regard to electric motors, UL provides testing to:

- US Department of Energy (USDOE) requirements
- Natural Resources Canada (NRCan) requirements
- International Electrotechnical Commission (IEC) requirements
- Certification of motor energy efficiency at a manufacturer's request

This work is conducted in the same facilities, using the same equipment and staff as is UL's product safety work.

UL's product safety certification program is an ISO Guide 65 compliant program as corroborated by ANSI accreditation. An ANSI letter of confirmation/accreditation is provided as part of Attachment 3.

The certification of motors under UL's Energy Verification Service is based upon the satisfactory evaluation and testing to the requirements of the applicable standard. Continued certification is judged through continued surveillance of products at the manufacturing location. The following is a description of the major elements of UL's Energy Verification Service used for qualifying manufacturers' motors.

Application Process

The customer requests energy verification certification of their motors. UL will collect information and provide applications to the customer. Upon receipt of applications UL will assign a qualified UL staff member to be responsible for handling the investigation.

Initial Product Evaluation Criteria

General—The following information is obtained prior to and during the initial visit to the manufacturer's facilities:

(a) Identification of the products being submitted by type, brand name, model designations and, if available, rated yearly energy consumption (kWh/yr.) and any other pertinent information specific to these products.

(b) A summary of test data and information on energy consumption, and product capacity for the products being submitted, obtained in accordance with the applicable Standard.

(c) Information on the test facilities used in obtaining the test data and to be used in verifying the test data—a list of instruments used in making the necessary measurements such as temperature, electrical, time and power supply, information on calibration and other applicable information on the test room such as the location, source of supply and environmental controls.

(d) Information on the products' design and construction, including the critical product features which would affect the product performance with respect to energy efficiency which must be controlled by the manufacturer in order to maintain a consistent product performance with respect to energy efficiency.

Note: All motors accepted for evaluation for energy efficiency must also be evaluated and tested for compliance to UL's applicable Motor Safety Standard(s). This is to ensure not only safety but to ensure the integrity of the efficiency performance.

Test Facility Evaluation

Due to the volume of testing, and the need to demonstrate that products manufactured after the initial evaluation remain in compliance with requirements, UL's Energy Verification Service is designed to make use of manufacturers' test facilities whenever possible. A client may utilize the UL Client Test Data Program or the UL Witness Test Data program as detailed in the UL Client Interactive Manual.

The Witness Test data program includes a review of the test facilities, equipment and competence of personnel conducting the testing. All tests are witnessed by UL staff to confirm the results of the tests.

The UL Client Test Data programs require initial and annual assessments of the clients testing capabilities which includes: the laboratory quality system, physical resources, test equipment, personnel, procedures and documentation of data.

Sample Selection

Representative samples from the manufacturer's production are selected by UL's engineering staff. Representative samples are those that, when reviewed as a group, can adequately represent a line of similar models that use the same major energy

consuming components. The objective in selecting representative samples is to obtain sufficient confidence that the series of motors verified meet the applicable energy efficiency standard and regulation while at the same time minimizing the number of tests the manufacturer is required to perform. For a series of motors, samples are selected to represent the entire range of motors. The data collected in the representative samples is reviewed to verify the samples can completely represent the model line. Additional sampling may be necessary to completely represent the model line.

Product Construction Evaluation

The manufacturer's product construction is evaluated to identify the critical construction features that would affect the product capacity and performance with respect to energy efficiency. In addition, the manufacturer's existing quality assurance procedures for controlling critical construction features, as well as the manufacturer's procedures for ongoing production testing, are evaluated to determine that adequate controls are in place to provide consistent energy efficiency.

On-Going Production Testing

Manufacturers test samples of their products as part of their ongoing production procedures to determine continued compliance with the energy efficiency requirements. The number of samples to be tested and the frequency of testing varies for each product type and is dependent on the applicable standard, government regulation, industry practices and number of units manufactured. The manufacturer is required to document the test results, which UL audits as part of each followup visit.

Follow-Up Visits and Testing

UL representatives conduct unannounced inspections at each authorized manufacturing location. Typically, two visits to each manufacturing facility are carried out each year to examine samples of the product and monitor the manufacturers' production and control measures and use of the Energy Verification marking. Whenever possible, the follow-up visits are combined with ongoing safety certification Follow-Up visits. During each visit, samples are selected by the UL representative and tested by the manufacturer at its own or other qualified facility. The test results are compared to the documented test results for the selected products to verify continuing compliance. The number of samples to be tested varies for each product and is dependent on variables similar to those used to determine the number of tests to be performed.

Non-Conformance

For non-conforming test results found during follow-up testing at the manufacturer's own or other qualified test facilities, the manufacturer is required to either remove the UL Energy Verification markings from non-conforming products or determine the cause of non-conformance and implement one of the following:

(a) Cull the lot to segregate non-conforming products;

(b) Rework the lot to correct the nonconformance; or

(c) Determine that no other sample will exhibit non-conformance.

Certification

After determination that the motors meet the applicable standard and regulation, the applicant is formally notified that they are authorized to apply the UL Energy Verification Mark. A Follow-Up Procedure report is issued that contains identification of the motors found in compliance, electrical and efficiency ratings, critical construction features, test results and Follow-Up testing requirements. A directory listing all the products verified for energy efficiency is published and available to the general public.

Follow-Up Service (FUS) Agreement

In compliance with ISO Guide 65 Clause 13.2 and as a means of control of UL's Energy Verification Mark, the applicant and manufacturer must enter into contract ''FUS Agreement'' with UL Inc. This FUS Agreement defines the conditions for maintaining certification such as access to manufacturing sites, records, follow-up inspections and product re-testing. A client may only apply UL's mark to products that comply with the UL Follow-Up Procedure, described above.

Standards and Procedures

Forward

General

All staff involved in the evaluation and determination of compliance for electric motor energy efficiency shall be qualified and authorized by the Primary Designated Engineer for Motor Efficiency.

Purpose

This guide outlines the criteria used to evaluate electric motor energy efficiency in accordance with the energy efficiency regulations in effect in the United States. This guide is to be used in combination with the EVS Manual for conducting evaluations in accordance with UL's energy verification service and the **Federal Register** 10 CFR part 431, subparts B and X.

Links

Link to eCFR Web site: *http://www.ecfr.gov*

Link to 10 CFR page: *http://www.ecfr.gov/cgi-bin/textidx?SID=d4b2930b9ca4e669ea7425942886a1b4&tpl=/ecfrbrowse/Title10/10tab_02.tpl*

Link to 10 CFR part 431 page: *http://www.ecfr.gov/cgi-bin/textidx?c=ecfr&SID=d4b2930b9ca4e669ea7425942886a1b4&rgn=div5&view=text&node=10:3.0.1.4.19&idno=10*

SCOPE

Subtype I

General purpose electric motor that is:

1. Is a single-speed, induction motor;

2. is rated for continuous duty (MG1) operation or for duty type S1 (IEC);

3. contains a squirrel-cage (MG1) or cage (IEC) rotor;

4. has foot-mounting that may include foot-mounting with flanges or detachable feet;

5. is built in accordance with NEMA T-frame dimensions or their IEC metric equivalents, including a frame size that is between two consecutive NEMA frame sizes or their IEC metric equivalents;

6. has performance in accordance with NEMA Design A (MG1) or B (MG1) characteristics or equivalent designs such as IEC Design N (IEC);

7. operates on polyphase alternating current 60-hertz sinusoidal power, and:

a. Is rated at 230 or 460 volts (or both) including motors rated at multiple voltages that include 230 or 460 volts (or both), or

b. Can be operated on 230 or 460 volts (or both); and

8. includes, but is not limited to, explosion-proof construction.

Subtype II

General purpose electric motor that incorporates design elements of a general purpose electric motor (subtype I) but, has one or more of the following characteristics:

1. Is built in accordance with NEMA U-frame dimensions as described in NEMA MG1–1967 (incorporated by reference, see § 431.15) or in accordance with the IEC metric equivalents, including a frame size that is between two consecutive NEMA frame sizes or their IEC metric equivalents;

2. has performance in accordance with NEMA Design C characteristics as described in MG1 or an equivalent IEC design(s) such as IEC Design H;

3. is a close-coupled pump motor;

4. is a footless motor;

5. is a vertical solid shaft normal thrust motor (as tested in a horizontal configuration) built and designed in a manner consistent with MG1;

6. is an eight-pole motor (900 rpm); or

7. is a polyphase motor with a voltage rating of not more than 600 volts, is not rated at 230 or 460 volts (or both), and cannot be operated on 230 or 460 volts (or both).

NEMA Design B

A squirrel-cage motor that is:

1. Designed to withstand full-voltage starting;

2. develops locked-rotor, breakdown, and pull-up torques adequate for general application as specified in sections 12.38, 12.39 and 12.40 of NEMA MG1–2009 (incorporated by reference, see § 431.15);

3. draws locked-rotor current not to exceed the values shown in section 12.35.1 for 60 hertz and 12.35.2 for 50 hertz of NEMA MG1–2009; and

4. has a slip at rated load of less than 5 percent for motors with fewer than 10 poles.

Fire Pump Electric Motor

An electric motor, including any IEC-equivalent, that meets the requirements of section 9.5 of NFPA 20.

Small Electric Motor

A NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987, including IEC metric equivalent motors.

Note: Terms used are as defined in 10 CFR 431.12 and 10 CFR 431.442 in the case of any inadvertent discrepancy, the language of the CFR shall prevail.

Definitions

For a complete list of definitions see *http://www.ecfr.gov,* 10 CFR 431, Subpart B, Sec. 431.12, and Subpart X, Sec. 431.442.

In addition, the following additional terms may be useful:

Core and Iron Losses—The hysteresis and eddy current losses in the iron

Hysteresis—When a core is subjected to a magnetic field, there is a small residual magnetization that remains on the laminations. When the field reverses, energy is required to overcome this residual magnetic alignment, which then leaves the core charged in the opposite polarity. The energy required to overcome the previous field change is the hysteresis losses. Silicon is typically added to the laminations alloy to reduce this effect.

Stator Losses—The losses in the stator winding

Rotor losses—The losses in the rotor winding

Friction and windage losses—The mechanical losses due to bearing friction and windage

Stray load losses—The additional fundamental and high frequency losses in the iron, strand and circulating-current losses in the stator winding, and harmonic losses in the rotor conductors under load. These losses are assumed to be proportional to the rotor current squared.

Total losses—The difference between the input and output

Input—The electrical power measured at the terminals of the motor

Output—The mechanical power measured at the shaft of the motor

Basic Motor Characteristics

Synchronous Speed by number of Poles:

Poles	60 Hz	50 Hz (for reference)
2	3,600	3,000
4	1,800	1,500
6	1,200	1,000
8 (subtype II only)	900	750

Basic formula to calculate: $RPM = \frac{(120 \times Frequency)}{Number\ of\ poles}$

Basic Operating Principles of Electric Motors

Electric motors function on the principle of magnetism. In an induction motor, the magnetic field (created in the windings of the stator) induces a current in the rotor. This rotor current causes a secondary magnetic field to be generated in the rotor and the interaction of those two fields cause the rotor to turn.

The rotor is constructed of layers of sheet steel, stacked upon one another. Metal bars are placed within the end rings in a cylindrical pattern. The end rings connect the metal bars, forming a complete circuit within the rotor.

In a standard AC induction motor, alternating current flows into the stator, causing the polarity to alternate between positive and negative. If the rotor is spinning, the bars break the stator lines of force. This creates current flow within the rotor bars, which, in turn, creates magnetic forces operating in circular motion around the rotor bars. These forces move in the same direction as the stator forces, which add to the magnetic field and cause the rotor to continue turning.

Three Phase Motors

Three phase motors create the rotating field in a manner slightly different than when only a single phase is present. Instead of having one voltage which oscillates, the AC power is comprised of three independent voltages. Each voltage is 120 degrees out of phase from the others (i.e., when the first voltage (V1) is at zero, the second (V2) is near the maximum (in the positive direction) and the third source (V3) is near the maximum (in the negative direction).

The phases change from positive to negative and back again as the AC power cycles. If each phase is connected to an electrically isolated winding of a motor, a rotating magnetic field is generated.

In the United States, AC power oscillates at 60 cycles per second (Hz) between positive and negative (60 Hz). This causes a change in the stator magnetic field, followed by a change in the rotor magnetic field. The change in the rotor lags the change in the stator by 60 degrees. This lag creates a pull on the rotor to move in the direction of the shift, causing rotation.

Internal Factors Affecting Motor Efficiency

Motor efficiency is defined as the ratio between the total usable output power and the total input power, where the input power consists of output power, plus losses.

Heat and friction cause much of the losses in a motor. Motor losses are typically divided into five categories:

1. Core or Iron losses,
2. Stator losses,
3. Rotor losses,
4. Friction and Windage losses, and

5. Stray Load losses (see Fig 1 at UL Petition, No. 01, p. 14).

When all the losses from these five effects are combined, the total power loss of a motor can be calculated.

Power losses are usually observed as heat, which is dissipated from the motor frame. By cooling the motor, a reduction in losses is seen. Motor design modifications that reduce any of the loss in one of the five categories results in a more efficient motor. In other words, minimizing losses equals maximizing efficiency.

Core (or Iron) Losses

Core or iron losses consist of two components: the energy required to magnetize the steel lamination of the core, and the current losses (I2R) from the (magnetically induced) eddy currents within the core. Core losses account for approximately 25% of all losses.

Core losses can be minimized by using higher grades of steel with lower core loss characteristics or using thinner laminations. Reductions in losses will result from minimizing eddy current losses. Designing motors with longer cores reduces the operating flux density, similarly resulting in greater efficiency.

Stator Losses

Stator losses are caused by the heating of the motor from current flow through the windings (I2R). Stator losses vary directly with the square of the current multiplied by the winding resistance in ohms. Thus, the higher the current flow in the stator, the higher the corresponding power losses. Stator losses are the primary source of inefficiency for motors, typically making up over 33% of all losses generated.

Rotor Losses

Rotor losses are caused by the heating of the motor from current flow through rotor bars and end rings (I2R). Rotor losses, like stator losses vary directly with the square of the current multiplied by the winding resistance in ohms.

Rotor losses can be reduced by minimizing the resistance of the rotor bars and end rings. Using copper conductor bars and end rings can significantly increase motor efficiency (10–20% reduction in losses). This is a relatively unused option since it usually requires manufacturing parts by hand and special dies to cast the parts.

Friction and Windage Losses

Friction and windage losses are comprised of bearing friction, wind friction within the motor, load created from the motor's cooling fan load (if provided) and any other sources of friction or wind in the motor. These losses typically account for less than 5% of all losses measured.

Friction and windage losses are not a primary source of loss within a motor. However, use of high quality bearings and long lasting lubricants can help ensure losses from friction are kept to a minimum. Efficient fan designs also reduce loading, thereby reducing losses.

Stray Load Losses

Stray load losses consist of all other losses within a motor. They include leakage created by load currents, manufacturing variations, harmonics, and imperfections in the design of the motor. Stray load losses account for approximately 10% of the total losses generated. Strict quality control (to maintain consistent and reliable construction) and optimized motor design (use of updated motor design software) can minimize the amount of stray load loss.

External Factors Affecting Motor Efficiency

The first sections related to motor and motor design. There are four additional major factors which influence the motor efficiency once the motor is selected: loading and proper sizing, voltage balance, maintenance and electronic variable speed (variable frequency) drives (VSDs).

Loading and Proper Sizing

Motors are usually most efficient at or near their designed rating. By selecting the proper sized motor for the application (75–100% of motor load rating), efficiency can be maximized. You can see in Figure 2 that the efficiency drops off significantly below 50% of rated load and that maximum efficiency does not always occur exactly at 100% of full load. (See FIG. 2 in UL Petition, No. 01, p. 16)

In addition to proper sizing, choosing the proper type of motor can reduce motor losses. The National Associate of Electrical Manufacturers (NEMA) has guides to help users select design types which maximize efficiency.

Voltage Balance

Voltage balance is another consideration when trying to reduce losses. If the voltage supply is unbalanced, all aspects of motor performance are affected (i.e. current, speed, temperature, etc.). By ensuring that voltages are balanced, the effectiveness and thus efficiency of the motor will be maximized.

Maintenance

Performing regular maintenance on the motor can help reduce losses from friction (direct bearings, insufficient lubrication, etc.) and windage (broken or dirty fans).

Variable Speed Drives (VSDs)

Lastly, the use of VSDs can offer significant energy savings over using traditional methods of motor/load coupling/matching such as belts, pulleys, clutches and the like. Since the motor is controlled electronically, no moving parts are required. This all but eliminates any losses caused by friction, which can be significant, especially when using pulleys or belts.

In addition, VSDs can control several motors simultaneously, thereby ensuring each motor is operating at an optimized speed or output.

Energy Efficiency and Motor Size

Typically larger horsepower motors are inherently more efficient; however, it is important to note that the total energy loss can still be significant. In Fig. 3, you see that the total losses for a 300 Hp motor (which is more than 96% efficient) are roughly equal to the total energy input for an 8kW (~10 Hp motor). (See Fig. 3 in UL Petition, No. 01, p. 18)

Testing Procedure

Data obtained shall be entered into the most current datasheets. For integral horsepower motors, when using the CSA C390 test method, the most current datasheets are: C390_calculation_sheet (UL)V1.1.1.XLSM

If using the IEEE 112 test method, use the datasheet included as part of the standard. For fractional horsepower motors, when using the CSA C747 test method, use: C747_calculation_sheet (UL)V1.2.0.XLSM

If using the IEEE 114 test method, use the datasheet included as part of the standard.

Copies of C390_calculation_sheet (UL)V1.1.1.XLSM and C747_calculation_sheet (UL)V1.2.0.XLSM can be obtained from ePublisher or by downloading directly from the UL global documents library. Copies of the datasheets are also included in Appendix A of this document.

If you obtain a correlation factor below 0.90, the test shall repeated. Prior to reconducting the test, the source of error(s) shall be investigated.

Sample Selection

The motor manufacturer shall provide test data that is developed using the

sample requirements contained in 10 CFR part 431, Section 431.17(a)(b).

Based upon the data provided, samples will be randomly selected by UL staff consisting of production units. These samples shall represent the range of motors submitted to verify the initial and ongoing compliance. As part of the data analysis, the following factors shall be utilized in determining the number and range of samples to be selected for the verification testing. A minimum of 20% of the manufacturer's initial product submittal shall be audited at the manufacturer's facility, or, if the manufacturer is employing an AEDM, 5 samples of 5 motors (25 motors total) shall be tested and compared with the AEDM predicted results.

Factors to be considered in the selection of samples include (in order of *general* importance), but are not limited to:

(1) Volume of production*
(2) Margin of compliance (any data that shows nominal efficiency results close to the minimum should be considered)
(3) Electrical Ratings (number of poles, voltage, horsepower,—a cross section of samples, *but not necessarily the maximum and minimum,* shall be considered)
(4) Variations in construction (when both open and enclosed motors are submitted, obtaining samples of both are recommended, especially when employing AEDMs)

*If more than two general types are submitted, a minimum of two of the samples audited shall be the highest unit volumes of production (from the basic types being submitted for review) by the manufacturer in the prior year.

Additional samples for testing may be required if the verification testing shows variations from the manufacturer generated data.

Note: 3 samples of each motor type selected shall be used for verification testing.

Assessment of Client Facility

During the investigation of a client facility, the following aspects of the manufacturer's testing lab will be reviewed:

Quality System—ISO 9001 or 9002 registered or similar quality assurance program in place.

Qualified Personnel—Each technician conducting tests shall be assessed for competency and tests reviewed by an authorized signatory.

Lab Environment—Stable, draft free environment between 10–40° C.

Equipment—Proper equipment ± 0.2% full scale accuracy for voltage, current, power and output torque meters, ± 3% for instrument transformers. Instruments for measuring speed shall be accurate within ± 1 rpm.

Calibration—All equipment must be annually calibrated by a body that can provide traceability to a national standard of measurement.

Standards—In strict accordance with DOE test procedure 10 CFR Part 431, Section 431.16.

Project Completion

Following the testing of the motors, review of test data and assessment of the client facility, the project handler shall complete the additional steps outlined in the Energy Verification Services (EVS) manual, Chapter 3, Project Completion.

In addition, following the completion of the project, a certificate of compliance shall be sent to the manufacturer indicating compliance with the appropriate standards (i.e., IEEE 112 or CSA C390–10).

Appendix A

[Appendix A contains example data recording sheets for UL's Laboratory Data Package for electric motors. See UL Petition, No. XX, pp. 24–37]

Appendix B

[Appendix B contains example data recording sheets for UL's Laboratory Data Package for small electric motors. See UL Petition, No. XX, pp. 38–52]

Independent Status

UL does not have or maintain any relationship, direct or indirect, with an electric motor manufacturer, importer, distributor, private labeler, vendor, trade association or other such entity, that it believes might appear to create a conflict of interest for the certification program in operating a certification system for determining the compliance of small electric motors with the applicable energy efficiency standards of the US Department of Energy.

See Appendix C—Signed and notarized, Statement of Independence.

Appendix C

Statement of Independence

UL's (defined for the purposes of this document as the UL family of companies inclusive) work to test and evaluate electric motors to the requirements of the United States Department of Energy requirements as described in 10 CFR Part 431 is handled by UL Verification Services Inc.

To put that in context:

Prior to 1 January 2012, conformity assessment services in the UL family of companies were the responsibility of and used assets and staff of Underwriters Laboratories Inc. This legal entity was founded in 1894 by William Henry Merrill and has operated for over 118 years as an independent testing and certification laboratory for all types of electrical and mechanical equipment. On 1 January 2012 Underwriters Laboratories Inc. transferred the bulk of its assets, staff and intellectual property related to US conformity assessment services to a newly formed, wholly owned subsidiary, UL LLC. Some staff were also transferred to UL Verification Services Inc., in turn, a wholly owned subsidiary of UL LLC. The employees of UL Verification Services Inc. are responsible for US conformity assessment services related to energy efficiency in general and of energy efficiency services for electric motors specifically and of energy efficiency services for compliance to US DOE requirements most specifically. UL Verification Services utilizes technical staff and laboratories of its own and of its parent (UL LLC) in the delivery of these energy efficiency services.

In the interest of full and complete transparency and disclosure, entities within the UL family of companies and indeed divisions of UL Verification Services do engage in advisory and/or consulting services. However, UL has a very strict and documented policy which governs these engagements and that governance is administered at the highest levels of the UL organization. That policy, SOP 00–TC–S0026, Consulting Project Approval SOP, is attached for reference.

UL operates its motor energy efficiency business in strict compliance with the provisions of ISO/IEC Guide 65, which states, in part:

The Certification Body shall ensure that activities of related bodies do not affect the confidentiality, objectivity and impartiality of its certifications and it shall not:

1. Supply or design products of the type it certifies,

2. Give advice or provide consultancy services to the applicant as to methods of dealing with matters which are barriers to the certification requested,

3. Provide any other products or services, which could compromise the confidentiality, objectivity or impartiality of its certification process and decision.

In addition, though, in the conduct of its business, UL is frequently called upon to write and present technical papers and other presentations to industry and/or trade organizations of the electric motor industry, neither UL nor any of its staff engaged in the work of energy efficiency testing to US Department of Energy requirements is a member of any such organization, receives compensation from any such organization except for that compensation directly related to the test, evaluation and certification of electric motors nor does UL or any of its staff engaged in the work of energy efficiency testing to US Department of Energy requirements have or maintain any relationship, direct or indirect, with an electric motor manufacturer, importer, distributor, private labeler, vendor, trade association or other such entity, or have or maintain any other relationship that it believes might appear to create a conflict of interest for the certification program in operating a certification system for determining the compliance of small electric

motors with the applicable energy efficiency standards.

State of TEXAS

SS: County of COLLIN

Before me, the undersigned notary public, this day, personally, appeared Michael Shows to me known, who being duly sworn according to law, deposes the following: (Affiant's Statement)

/s/ Michael Shows

Michael Shows

Director—Global Technical Research, UL Verification Services

Subscribed and sworn to before me this 20th day of February, 2013.

/s/ Terri T. Thomas, Notary Public

My Commission Expires: 2–10–2014

[To view the signed copy of this document, see UL Petition, No. 01, pp. 54–55]

Qualification of UL LLC and UL Verification Services Inc. To Operate a Certification System

1. Prior to 1 January 2012, conformity assessment services in the UL family of companies were the responsibility of and used assets and staff of Underwriters Laboratories Inc. This legal entity was founded in 1894 by William Henry Merrill and has operated for over 119 years as an independent testing and certification laboratory for all types of electrical and mechanical equipment. On 1 January 2012 Underwriters Laboratories Inc. transferred the bulk of its assets, staff and intellectual property related to US conformity assessment services to a newly formed, wholly owned subsidiary UL LLC. Some staff were also transferred to UL Verification Services Inc., a wholly owned subsidiary of UL LLC. The employees of UL Verification Services Inc. are responsible for US conformity assessment services related to energy efficiency in general and of energy efficiency service for electric motors specifically.

UL Verification Services utilizes technical staff and laboratories of its own and of its parent (UL LLC) in the delivery of energy efficiency services.

2. The UL family of companies maintain over 100 different accreditations as a product certification body (ISO/IEC Guide 65) or testing laboratory (ISO/IEC 17025) in a wide range of technical and service areas. The following accreditations and other recognitions demonstrate the qualification of UL Verification Services Inc. (along with its parent company UL LLC) to operate a certification system in a highly competent manner, particularly in the field of energy efficiency.

3. Underwriters Laboratories Inc. has been a Recognized product safety certification organization by the U.S. Occupational Safety and Health Administration (OSHA) under the Nationally Recognized Testing Laboratory program (29 CFR 1910.7) since 1988. (Efforts are underway to transfer this Recognition to UL LLC). The current Certificate of Recognition from OSHA is included as Appendix D. Underwriters Laboratories Inc.'s scope of OSHA NRTL Recognition includes standards for the electrical safety of small electric motors (UL 1004–1—Rotating Electrical Machines—General Requirements, UL 1004–2—Impedance Protected Motors, UL 1004–3—Thermally Protected Motors, UL 1004–4—Electric Generators, UL 1004–5—Fire Pump Motors, UL 1004–6—Servo and Stepper Motors, UL 1004–7—Electronically Protected Motors, UL 1004–8—Inverter Duty Motors).

4. UL LLC and UL Verification Services Inc. are both accredited product certification organizations to ISO/IEC Guide 65, ''General requirements for bodies operating product certification systems,'' by the American National Standards Institute (ANSI). Both these accreditations are based on previous ANSI accreditation of Underwriters Laboratories Inc. which has been in place for 15 years. The scope of ANSI accreditation of UL Verification Services includes energy efficiency certification services including the EPA EnergyStar program. Based on this ANSI accreditation UL Verification Services Inc. is an EPARecognized Certification Body for EnergyStar as shown at *http://corporate.ul.com/depts/accreditation/index.htm*. The scope of ANSI accreditation of UL LLC includes the UL product safety certification of small electric motors (same coverage as OSHA NRTL Recognition). The current ANSI accreditation certificates for UL LLC and for UL Verification Services Inc. are included as Appendix E—ANSI Accreditations.

5. The U.S. Department of Energy recognized the Energy Verification Services Program of Underwriters Laboratories Inc. as a Nationally Recognized Certification Program in a **Federal Register** Notice dated 27 December 2002 (67 FR 79490). This Energy Verification Services Program has also been under the scope of the above ANSI accreditation for more than 10 years and today is the responsibility of UL Verification Services Inc. While improvements in the program have been made on an ongoing basis the general principles of the program remain the same and this program is the basis for this new petition for U.S. DOE Recognition as a Nationally Recognized Certification Program for small electric motors. UL Verification Services Inc. is responsible for the Energy Verification Services Program and also offers the Energy Efficiency Certification Program. The Energy Efficiency Certification Program utilizes the EPA Energy Star certification process for products not within the scope of the EPA EnergyStar program.

6. ISO/IEC Guide 65 requires all testing laboratories utilized in the certification process to meet applicable requirements in ISO/IEC 17025:2005. As a result, assessment to ISO/IEC Guide 65 for the above accreditations includes assessment of the process used to meet ISO/IEC 17025 by the involved testing laboratories. UL LLC and UL Verification Services Inc. utilize primarily internal resources (including internal audit and management review) to demonstrate fulfillment of ISO/IEC 17025 by internal testing laboratories. Those internal resources and processes are assessed by ANSI and OSHA as part of their ISO/IEC Guide 65 assessments.

7. In addition to internal mechanisms to fulfill ISO/IEC 17025, the internal laboratories involved in UL LLC and UL Verification Service Inc. product certification are accredited to ISO/IEC 17025. Numerous laboratory accreditations are in place for many laboratories. Included with this petition are Certificates of Laboratory Accreditation for the laboratories at Northbrook IL (from the Standards Council of Canada and International Accreditation Service) and Plano TX (from the International Accreditation Service). These are included as Appendix F—Certificates of Laboratory Accreditations. Many other laboratory accreditation certificates can be provided to show the extensive experience with fulfillment of ISO/IEC 17025.

Appendix D

OSHA NRTL Certificate of Recognition

[To view the Certificates of Recognition issued to UL by OSHA, see UL Petition, No. 01, pp. 58–59]

Appendix E

ANSI Accreditations

[To view the Certificates of Accreditation issued to UL by ANSI, see UL Petition, No. 01, pp. 60–68]

Appendix F

Standards Counsel of Canada and IAS Accreditations

[To view the Certificates of Laboratory Accreditation issued to UL by the Standards Council of Canada and the International Accreditation Service, see UL Petition, No. 01, pp. 69–73]

Expertise in Motor Test Procedures

General

UL has been in the business of certifying electric motors since just a few years after the first alternating current electric motor was patented in August of 1890. At present, we maintain well over 10,000 motor certification reports with, on average, 15 models in each report.

UL has been providing Energy Verification certification services since 1995. UL has evaluated motors in sizes ranging from ¼ Hp to 500 Hp using the standards IEEE 112 Test Methods A and B, CSA C390, CSA C747 and IEEE 114 and was one of the first certification organizations to be classified by the U.S. Department of Energy as a nationally recognized certification program for electric motor efficiency (see **Federal Register** Vol. 67, No. 249 Friday, December 27, 2002 Notices). As of the date of this Petition, UL has certified 518 motors to U.S. DOE requirements and an approximately equal number to NRCan requirements.

Review of the attached Products Verified to Energy Efficient Standards will reveal the number of manufacturers and models that UL currently maintains Listings for in each category. UL Energy Verification Certifications can also be accessed on-line by using the following address: *http://www.ul.com/database/index.htm*.

Personnel

UL's technical organizational structure is characterized by a hierarchical and robust system of checks and balances.

L1—Laboratory technicians are assessed and certified to conduct testing and are bound by Laboratory Procedural Guides (LPGs). The guide for energy efficiency work for electric motors is included in pages 8–22 of this document. The guide serves as an adjunct or practical application guide to the actual technical requirements which are contained in the Standard. The work of L1's is reviewed by L2's.

L2—Project Handlers are assessed and certified to conduct engineering evaluations to specific product categories and to review the lab results and work of the L1's. In turn, the work of L2's is reviewed by L3's.

L3—Reviewers are each assessed by The Principal Engineer (PDE) for the product category, in this case, electric motor energy efficiency. Reviewers provide the final review of the evaluation and test and make the final certification decision.

Regional Lead Reviewer (RLR or L4)—UL has one senior engineer in each of its 3 Regions (Europe/Latin America, Asia, North America). It is the responsibility of the RLR to oversee the quality and consistency of work within their Region and to serve as the focus of technical questions or issues arising within the Region. These individuals, from a technical standpoint, report up to the PDE or Principal Engineer for the product category.

Principal Engineer or Primary Designated Engineer (PDE—The PDE for the product category has global responsibility for Standards, guidelines, datasheets, technical training, etc. and serves as the final word on technical questions/decisions arising in the product category. PDEs are further responsible for writing/presenting technical white papers and representing UL in industry organizations and international standards making committees. PDEs are selected by UL's Global Chief Engineer for technical knowledge and experience in their respective product categories. Out of an organization of almost 12,000 staff, UL has 82 PDEs.

[FR Doc. 2013–11698 Filed 5–15–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–14–000]

Commission Information Collection Activities (FERC Form 80); Comment Request; Revision

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of revised information collection and request for comments.[1]

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC Form 80, Licensed Hydropower Development Recreation Report.

DATES: Comments on the collection of information are due July 15, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–14–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp*.
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp*. For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp*.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC Form 80, Licensed Hydropower Development Recreation Report.

OMB Control No.: 1902–0106.

Type of Request: Minor revisions to the FERC Form 80 information collection. requirements with no change to the current reporting burden.

Abstract: FERC uses the information on the FERC Form 80 to implement the statutory provisions of sections 4(a), 10(a), 301(a), 304 and 309 of the Federal Power Act (FPA), 16 U.S.C. sections 797, 803, 825c & 8254. FERC's authority to collect this information comes from section 10(a) of the FPA which requires the Commission to be responsible for ensuring that hydro projects subject to FERC jurisdiction are consistent with the comprehensive development of the nation's waterway for recreation and other beneficial public uses. In the interest of fulfilling these objectives, FERC expects licensees subject to its jurisdiction to recognize the resources that are affected by their activities and to play a role in protecting such resources.

FERC Form 80 is a report on the use and development of recreational facilities at hydropower projects licensed by the Commission. Applications for licenses, amendments to licenses, and/or changes in land rights frequently involve changes in resources available for recreation. FERC utilizes the FERC Form 80 data when analyzing the adequacy of existing public recreational facilities and when processing and reviewing proposed

[1] This notice supersedes the notice issued on 4/18/2013 in this same docket, which was subsequently published in the **Federal Register** on 4/25/2013 (78 FR 24402).

amendments to help determine the impact of such changes. In addition, the FERC regional office staff uses the FERC Form 80 data when conducting inspections of licensed projects. FERC inspectors use the data in evaluating compliance with various license conditions and in identifying recreational facilities at hydropower projects.

The FERC Form 80 requires data specified by Title 18 of the Code of Federal Regulations (CFR) under §§ 8.11 and 141.14 (and discussed at *http://www.ferc.gov/docs-filing/forms.asp#80*).

FERC collects the FERC Form 80 once every six years. The last collection was due on April 1, 2009, for data compiled during the 2008 calendar year. The next collection of the FERC Form 80 is due on April 1, 2015, with subsequent collections due every sixth year, for data compiled during the previous calendar year.

The Commission made minor revisions throughout the form. Specifically, FERC clarified and simplified instructions, removed redundancy in certain questions, clarified questions and terms, and generally improved the readability of the form.

FERC has attached the revised form to this notice.

Type of Respondents: Hydropower project licensees.

Estimate of Annual Burden: [2] For each reporting period, FERC estimates the total Public Reporting Burden for this information collection as: (a) 1,000 respondents, (b) 0.167 response/respondent, and (c) 3 hours per response, giving a total of 501 burden hours. The Commission has increased its total number of respondents to reflect the actual numbers we received during the last two reporting periods. In addition, FERC spreads the burden hours and costs over the six-year collection cycle in the table below to reflect how the information is collected. The average burden hours per response remains unchanged. These are the figures FERC will submit to OMB.

FERC–80—LICENSED HYDROPOWER DEVELOPMENT RECREATION REPORT

Number of respondents	Number of responses per respondent [3]	Total number of responses	Average burden hours per response	Estimated total annual burden
(A)	(B)	(A) × (B) = (C)	(D)	(C) × (D)
1,000	0.167	167	3	501

The total estimated annual cost burden to respondents is $35,070 [501 hours * $70/hour [4] = $35,070].

Comments: The Commission invites comments on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

Revised Form Attached.

BILLING CODE 6717–01–P

[2] FERC defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[3] FERC divides the responses per respondent by six because this collection occurs once every six years.

[4] FY2013 Estimated Average Hourly Cost per FTE, including salary + benefits.

Federal Energy Regulatory Commission (FERC)
FERC Form 80

Licensed Hydropower Development Recreation Report

Form Approved
OMB No. 1902-0106
Expires: MM/DD/YYYY
Burden 3.0 hours

General Information:
This form collects data on recreation amenities at projects licensed by FERC under the Federal Power Act (16 USC 791a-825r). This form must be submitted by licensees of all projects except those specifically exempted under 18 CFR 8.11 (c). For regular, periodic filings, submit this form on or before April 1, 2015. Submit subsequent filings of this form on or before April 1, every 6th year thereafter (for example, 2021, 2027, etc.). For initial Form No. 80 filings (18CFR 8.11(b)), each licensee of an unconstructed project shall file an initial Form No. 80 after such project has been in operation for a full calendar year prior to the filing deadline. Each licensee of an existing (constructed) project shall file an initial Form No. 80 after such project has been licensed for a full calendar year prior to the filing deadline. Filing electronically is preferred. (See http://www.ferc.gov for more information.) If you cannot file electronically, submit an original and two copies of the form to the: Federal Energy Regulatory Commission, Office of the Secretary, 888 First St., NE, Washington, DC 20426.

The public burden estimated for this form is three hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information. Send comments regarding the burden estimate or any aspect of this collection of information, including suggestions for reducing burden, to: FERC via e-mail DataClearance@ferc.gov; or mail to 888 First Street NE, Washington, DC 20426 (Attention: Information Clearance Officer) and Office of Management and Budget (OMB), via e-mail to oira_submission@omb.eop.gov; or mail to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer for FERC, Washington, DC 20503. Include OMB Control Number 1902-0106 as a point of reference. No person shall be subject to any penalty for failing to comply with a collection of information if the collection of information does not display a valid control number (44 U.S.C. § 3512 (a)).

Instructions:
a. All data reported on this form must represent publicly available recreation amenities and services located within the project boundary.
b. To ensure a common understanding of terms, please refer to the Glossary on page 3.
c. Report actual data for each item. If actual data are unavailable, then please estimate.
d. Submit a completed form for each development at your project.

Schedule 1. General Data

1. Licensee Name: _____ 2. Project Name: _____ 3. Project Number: _____ 4. Development Name: _____	**Complete the following for each development if more than one.** 8. Reservoir Surface Area at Normal Pool (acres): _____ 9. Shoreline Miles at Normal Pool: _____ 10. Percent of Shoreline Available for Public Use: _____
States Development/Project Traverses (List state with largest area within the development/project boundary first): 5. State #1: _____ 6. State #2: _____ 7. Type of Project License: (check one) Major _____ Minor _____	11. Data Collection Methods (enter percent for each method used; total must equal 100%): _____ traffic count/trail count _____ attendance records _____ staff observation _____ visitor counts or surveys _____ estimate (explain)

For 2014, enter only the licensee's annual recreational construction, operation, and maintenance costs for the development (project). Also, enter the annual recreational revenues for that year.

Item	Licensee's Annual Recreation Costs and Revenues (In Whole Dollars)	
	Construction, Operation and Maintenance Costs	Recreation Revenues for Calendar Year
12. Dollar Values		

13. Length of Recreation Season: Summer: From (MM/DD) _____ To _____ Winter: From (MM/DD) _____ To _____

Period	Number of visits to all recreational areas at development/project (in Recreation Days)	
	Annual Total	Peak Weekend Average (see Glossary)
14. Daytime		
15. Nighttime		

Respondent Certification: The undersigned certifies that he/she examined this report; and to the best of his/her knowledge, all data provided herein are true, complete, and accurate.

_____ Legal Name	_____ Title	_____ Area Code/Phone No.
_____ Signature	_____ Date Signed	_____ Reporting Year Ending

Title 18 U.S.C.1001 makes it a crime for any person knowingly and willingly to make to any Agency or department of the United States any false, fictitious or fraudulent statement or misrepresentation as to any matter within its jurisdiction.

Licensed Hydropower Development Recreation Report

Schedule 2. Inventory of Publicly Available Recreation Amenities Within the Project Boundary

16. Enter data for each Recreation Amenity Type (a). For User Free (b) and User Fee (c) enter the number of publicly available recreation amenities, located within the project boundary, regardless of provider. For FERC Approved (d) enter the number of amenities identified under User Free (b) and User Fee (c) for which the licensee has an ongoing responsibility for funding or maintenance (see Glossary for further detail). For Capacity Utilization(f), of the total publicly available amenities (b) + (c), compare the average non-peak weekend use (see Glossary) for each recreation amenity type (during the recreation season, with the highest use, reported on Schedule 1, Item 13) with the total combined capacity of each amenity type and enter a percentage that indicates their overall level of use. For example, if all public boat launches are used to half capacity during the non-peak weekend days, enter 50% (should use exceed capacity for an amenity type, enter the appropriate percentage above 100).

Recreation Amenity Type (a)	Number of Recreation Amenities			Total Units (e)	Capacity Utilization (%) (f)
	User Free (b)	User Fee (c)	FERC Approved (d)		
Boat Launch Areas. Improved areas having one or more boat launch lanes (enter number in column e) and are usually marked with signs, have hardened surfaces, and typically have adjacent parking.				Lanes	
Marinas. Facilities with more than 10 slips on project waters, which include one or more of the following: docking, fueling, repair and storage of boats; boat/equipment rental; or sell bait/food (see Glossary FERC approved).				N/A	
Whitewater Boating. Put-ins/Take-outs specifically designated for whitewater access.				N/A	
Portages. Sites designed for launching and taking out canoes/kayaks and the improved, designated, and maintained trails connecting such sites (enter length of trail in column e).				Feet	
Tailwater Fishing. Platforms, walkways, or similar structures to facilitate below dam fishing.				N/A	
Reservoir Fishing. Platforms, walkways, or similar structures to facilitate fishing in the reservoir pool or feeder streams.				N/A	
Swim Areas. Sites providing swimming facilities (bath houses, designated swim areas, parking and sanitation facilities).				Acres	
Trails. Narrow tracks used for non-automobile recreation travel which are mapped and designated for specific use(s) such as hiking, biking, horseback riding, snowmobiling, or XC skiing (excludes portages, paths or accessible routes; See Glossary).				Miles	
Active Recreation Areas. Playground equipment, game courts/fields, golf/disc golf courses, jogging tracks, etc.				Acres	
Picnic Areas. Locations containing one or more picnic sites (each of which may include tables, grills, trash cans, and parking).				Sites	
Overlooks/Vistas. Sites established to view scenery, wildlife, cultural resources, project features, or landscapes.				Acres	
Visitor Centers. Buildings where the public can gather information about the development/project, its operation, nearby historic, natural, cultural, recreational resources, and other items of interest.				N/A	
Interpretive Displays. Signage/Kiosks/Billboards which provide information about the development/project, its operation, nearby historic, natural, cultural, recreational resources, and other items of interest.				N/A	N/A
Hunting Areas. Lands open to the general public for hunting.				Acres	
Winter Areas. Locations providing opportunities for skiing, sledding, curling, ice skating, or other winter activities.				Acres	
Campgrounds. Hardened areas developed to cluster campers (may include sites for tents, trailers, recreational vehicles [RV], yurts, cabins, or a combination, but excludes group camps).				Acres	
Campsites. Sites for tents, trailers, recreational vehicles [RV], yurts, cabins, or a combination of temporary uses.				N/A	
Cottage Sites. Permanent, all-weather, buildings rented for short-term use, by the public, for recreational purposes.				N/A	
Group Camps. Areas equipped to accommodate large groups of campers that are open to the general public (may be operated by public, private, or non-profit organizations).				Sites	
Dispersed Camping Areas. Places visitors are allowed to camp outside of a developed campground (enter number of sites in clmn. e).				Sites	
Informal Use Areas. Well used locations which typically do not include amenities, but require operation and maintenance and/or public safety responsibilities					
Access Points. Well-used sites (not accounted for elsewhere on this form) for visitors entering project lands or waters, without trespassing, for recreational purposes (may have limited development such as parking, restrooms, signage).				N/A	
Other. Amenities that do not fit in the categories identified above. Please specify (if more than one, separate by commas):					

Glossary of FERC Form 80 Terms

Data Collection Methods. (Schedule 1, Item 11) – If a percentage is entered for the estimate alternative, please provide an explanation of the methods used (if submitted on a separate piece of paper, please include licensee name, project number, and development name)

Development. The portion of a project which includes:
(a) a reservoir; or
(b) a generating station and its specifically-related waterways.

Exemption from Filing. Exemption from the filing of this form granted upon Commission approval of an application by a licensee pursuant to the provisions of 18 CFR 8.11(c).

General Public. Those persons who do not have special privileges to use the shoreline for recreational purposes, such as waterfront property ownership, water-privileged community rights, or renters with such privileges.

Licensee. Any person, state, or municipality licensed under the provisions of Section 4 of the Federal Power Act, and any assignee or successor in interest. For the purposes of this form, the terms licensee, owner, and respondent are interchangeable *except where:*
(a) the *owner* or licensee is a subsidiary of a parent company which has been or is required to file this form; or
(b) there is more than one owner or licensee, of whom only one is responsible for filing this form. Enter the name of the entity that is responsible for filing this report in Schedule 1, Item 2.1.

Major License. A license for a project of more than 1,500 kilowatts installed capacity.

Minor License. A license for a project of 1,500 kilowatts or less installed capacity.

Non-Peak Weekend. Any weekend that is not a holiday and thus reflects more typical use during the recreation season.

Number of Recreation Amenities. Quantifies the availability of natural or man-made property or facilities for a given recreation amenity type. This includes all recreation resources available to the public within the development/project boundary. The resources are broken into the following categories:

User Free (Schedule 2, column b) - Those amenities within the development/project that are free to the public;

User Fee (Schedule 2, column c) - Those amenities within the development/project where the licensee/facility operator charges a fee;

FERC Approved (Schedule 2, column d) – Those amenities within the development/project required by the Commission in a license or license amendment document, including an approved recreation plan or report. Recreation amenities that are within the project boundary, but were approved by the licensee through the standard land use article or by the Commission through an application for non-project use of project lands and waters, are typically not counted as FERC approved, unless they are available to the public, but may be counted as either user free or user fee resources. The total FERC approved amenities column does not necessarily have to equal the sum of user free and user fee amenities.

Peak Use Weekend. Weekends when recreational use is at its peak for the season (typically Memorial Day, July 4th & Labor Day). On these weekends, recreational use may exceed the capacity of the area to handle such use. Include use for all three days in the holiday weekends when calculating Peak Weekend Average for items 14 & 15 on Schedule 1.

Recreation Day. Each visit by a person to a development (as defined above) for recreational purposes during any portion of a 24-hour period.

Revenues. Income generated from recreation amenities at a given project/development during the previous calendar year. Includes fees for access or use of area.

Total Units (Schedule 2, column e) – Provide the total length, or area, or number that is appropriate for each amenity type using the metric provided.

Trails. Narrow tracks used for non-automobile recreation travel which are mapped and designated for specific use(s) such as hiking, biking, horseback riding, snowmobiling, or XC skiing. Trails are recreation amenities which provide the opportunity to engage in recreational pursuits, unlike paths (means of egress whose primary purpose is linking recreation amenities at a facility) or accessible routes (means of egress which meets the needs of persons with disability and links accessible recreation amenities and infrastructure at a facility).

[FR Doc. 2013–11641 Filed 5–15–13; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–12–000]

Commission Information Collection Activities (FERC–577); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 USC 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–577, Natural Gas Facilities: Environmental Review and Compliance, to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (78 FR 13657, 2/28/2013) requesting public comments. FERC received no comments on the FERC–577 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by June 17, 2013.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0128, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC13–12–000, by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Natural Gas Facilities: Environmental Review and Compliance.

OMB Control No.: 1902–0128.

Type of Request: Three-year extension of the FERC–577 information collection requirements with no changes to the reporting requirements.

Abstract: Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA)[1] requires that all Federal agencies must include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement on: the environmental impact on the proposed actions; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short-term uses of man's environment and the maintenance and enhancement of long term productivity; and any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

In order to comply with NEPA, the Commission requires applicants seeking authorization for the construction and abandonment of facilities to provide specific environmental information during the pre-filing process (18 CFR 157.21) and to provide a detailed environmental report with their application (18 CFR 380.12) that describes the impact the project is likely to have and the measures the applicant will implement to mitigate those impacts.

Type of Respondents: The respondents include all jurisdictional natural gas companies seeking authorization from the Commission to construct or abandon facilities.

Estimate of Annual Burden:[2] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–577: NATURAL GAS FACILITIES: ENVIRONMENTAL REVIEW AND COMPLIANCE

	Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours per response	Estimated total annual burden
	(A)	(B)	(A)×(B)=(C)	(D)	(C) × (D)
Natural Gas Pipelines	92	16	1,472	193	284, 096

The total estimated annual cost burden to respondents is $19,886,720 [284,096 hours $70/hour[3] = $19,886,720]

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

[1] Public Law 91–190.

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[3] Average salary (per hour) plus benefits per full-time equivalent employee

Dated: May 9, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11663 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6440–008]

Lakeport Hydroelectric Associates, Lakeport Hydroelectric Corporation, Lakeport Hydroelectric One, LLC; Notice of Application for Transfer of License, and Soliciting Comments and Motions To Intervene

On April 4, 2013, Lakeport Hydroelectric Associates and Lakeport Hydroelectric Corporation (transferors) and Lakeport Hydroelectric One, LLC (transferee) filed an application for the transfer of license for the Lakeport Project, FERC No. 6440, located on the Winnipesaukee River in Belknap County, New Hampshire.

Applicants seek Commission approval to transfer the license for the Lakeport Project from the transferors to the transferee.

Applicants' Contact: Shannon P. Coleman, Director, Legal Regulatory Strategy, Algonquin-Liberty Business Services, 2865 Bristol Circle, Oakville, ON, Canada L6H 6X5, telephone (905) 465–4462.

FERC Contact: Patricia W. Gillis (202) 502–8735, *patricia.gillis@ferc.gov*.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice by the Commission. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1) and the instructions on the Commission's Web site under *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. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original plus seven copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. More information about this project 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–6440) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11658 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 2629–014]

Village of Morrisville, Vermont; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2629–014.

c. *Date Filed:* April 25, 2013.

d. *Applicant:* Village of Morrisville, Vermont (Morrisville).

e. *Name of Project:* Morrisville Hydroelectric Project.

f. *Location:* On the Green River, Elmore Pond Brook, and Lamoille River, in Lamoille County, Vermont. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Craig Myotte, Village of Morrisville, Water & Light Department, P.O. Box 460—857 Elmore Street, Morrisville, Vermont, 05661–0460; (802) 888–6521 or *cmyotte@mwlvt.com.*

i. *FERC Contact:* Steve Kartalia, (202) 502–6131 or *stephen.kartalia@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Project Description:* The existing Morrisville Hydroelectric Project consists of four developments with a total installed capacity of 4,990 kilowatts (kW). The project's average annual generation is 9,032,221 kilowatt-hours. The power generated by the Morrisville Project is used by Morrisville to meet the power needs of its regional retail customers within the Village of Morrisville and surrounding communities.

Green River Development

The existing Green River Development is located on the Green River and consists of: (1) A 360-foot-long, 105-foot-high concrete arch dam that includes, near its center, a 60-foot-long ungated spillway with a crest elevation of 1,220 feet above mean sea level (msl); (2) a 45-foot-long, 15-foot-high concrete gravity weir that creates a 180-foot-long, 11-foot-deep stilling pool downstream of the concrete arch dam; (3) a 200-foot-long, 16-foot-high earthen embankment with 2-foot-high wooden wave barriers approximately 1.25 miles southeast of the concrete arch dam; (4) a 690-acre impoundment with a storage capacity of 17,400-acre-feet and a normal maximum elevation of 1,220 feet msl; (5) a 16-foot-long, 12-foot-high gated intake structure; (6) a 22-foot-long, 16-foot-wide intake-valve house and a 14-foot-long, 13-foot-wide outlet-valve house; (7) a 116-foot-long penstock, that includes a 6-foot-diameter, 94.5-foot-long buried, steel section that bifurcates into two 3-foot-diameter, 21.5-foot-long steel sections; (8) a 32-foot-long, 37-foot-wide concrete powerhouse containing two 945-kW turbine-generator units for a total installed capacity of 1,890 kW; (9) a 14.5-foot-long, concrete tailrace; (10) a 5-mile-long, 34.5-kilovolt (kV) transmission line connecting the powerhouse to the regional grid; and (11) appurtenant facilities.

The Green River Development bypasses approximately 180 feet of the Green River, including the stilling pool.

Lake Elmore Development

The existing Lake Elmore Development is located on Elmore Pond Brook and consists of: (1) A 26-foot-long, 10-foot-high concrete gravity dam and spillway with a crest elevation of 1,139 feet msl; (2) a 300-acre impoundment (Lake Elmore) with a 1,000-acre-foot storage capacity and a normal maximum water surface elevation of 1,139 feet msl; (3) a 8.5-foot-long, 7.5-foot-wide gatehouse; (4) a 8.3-foot-long, 3.5-foot-high gated intake structure; (5) a 2.5-foot-long concrete-lined tailrace; and (6) appurtenant facilities.

Morrisville Development

The existing Morrisville Development is located on the Lamoille River and consists of: (1) A 384-foot-long, 37-foot-high concrete gravity dam comprised of a 138-foot-long concrete retaining wall, a 30-foot-long intake and gatehouse section, and a 216-foot-long spillway with two 108-foot-long, 4-foot-high Obermeyer inflatable crest gates and a crest elevation of 627.79 feet msl; (2) a 141-foot-long, 8-foot-high concrete wall approximately 260 feet northwest of the dam that includes a 60-foot-long overflow section (back spillway) with 2-foot-high wooden flashboards ; (3) a 15-

acre impoundment with a 72-acre-foot storage capacity and a normal maximum water surface elevation of 631.79 feet msl; (4) a 28-foot-long, 36-foot-wide gatehouse; (5) a 30-foot-long, 16-foot-high gated intake structure; (6) one 7-foot-diameter, 150-foot-long buried steel penstock and one 10-foot-diameter, 150-foot-long buried, steel penstock; (7) a 54.5-foot-long, 30.5-foot-wide concrete-brick powerhouse containing a 600-kW turbine-generator unit and a 1,200-kW turbine-generator unit for a total installed capacity of 1,800 kW; (8) one 17.5-foot-long concrete-lined tailrace and one 14.0-foot-long concrete-lined tailrace; (9) a 435-foot-long, 34.5-kV transmission line connecting the powerhouse to the regional grid; and (10) appurtenant facilities.

The Morrisville Development bypasses approximately 380 feet of the Lamoille River.

Cadys Falls Development

The existing Cadys Falls Development is located on the Lamoille River approximately 1 mile downstream of the Morrisville Development and consists of: (1) A 364-foot-long, 41-foot-high concrete gravity dam comprised of a 23-foot-long embankment section, a 186-foot-long spillway section with 3.5-foot-high wooden flashboards and a crest elevation of 576.89 feet msl, a 60-foot-long intake and gatehouse section, and a 95-foot-long non-overflow section; (2) a 150-acre impoundment (Lake Lamoille) with a 72-acre-foot storage capacity and a normal maximum water surface elevation of 580.39 feet msl; (3) a 29-foot-long, 40-foot-wide gatehouse; (4) an 18.0-foot-long, 9.2-foot-high gated intake structure; (5) a buried, steel penstock that includes a 7-foot-diameter, 1,110-foot-long section leading to a 35.6-foot-high, 29.7-foot-diameter concrete surge tank and bifurcating into a 90-foot-long, 8-foot-diameter section and a 30-foot-long, 9-foot-diameter section; (6) a 96-foot-long, 46-foot-wide concrete-brick powerhouse containing a 600-kW turbine-generator unit and a 700-kW turbine-generator unit for a total installed capacity of 1,300 kW; (7) a 12-foot-long concrete-lined tailrace; (8) a 150-foot-long, 34.5-kV transmission line connecting the powerhouse to the regional grid; and (9) appurtenant facilities.

The Cadys Falls Development bypasses approximately 1,690 feet of the Lamoille River.

The Green River and Lake Elmore developments are operated in seasonal store and release mode and the Morrisville and Cadys Falls developments are operated in run-of-river mode. The existing license requires instantaneous minimum flows of 5.5 cubic feet per second (cfs) in the tailrace of the Green River Development; 135 cfs and 12 cfs in the tailrace and bypassed reach of the Morrisville Development, respectively; and 150 cfs in the tailrace of the Cadys Falls Development. Morrisville proposes to maintain existing project operations and provide additional minimum flows of 4 cfs over the back spillway at the Morrisville Development and 12 cfs in the bypassed reach at the Cadys Falls Development. Morrisville also proposes to remove the Lake Elmore Development from the project and remove a 0.4-acre parcel of property at the Morrisville Development from the project boundary.

l. *Locations of the Application:* A copy of the application is 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. 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, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis.	June 2013.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	August 2013.
Commission issues Non-Draft EA.	December 2013.
Comments on EA	January 2014.
Modified terms and conditions.	March 2014.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11640 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

	Project Nos.
Clean River Power MR–1, LLC	P–13404–002
Clean River Power MR–2, LLC	P–13405–002
Clean River Power MR–3, LLC	P–13406–002
Clean River Power MR–5, LLC	P–13407–002
Clean River Power MR–6, LLC	P–13408–002
Clean River Power MR–7, LLC	P–13411–002
Clean River Power MR–8, LLC	P–13412–002

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* Original Major Licenses.

b. *Project Nos.:* 13404–002, 13405–002, 13406–002, 13407–002, 13408–002, 13411–002, and 13412–002.

c. *Date filed:* October 31, 2012.

d. *Applicants:* Clean River Power MR–1, LLC; Clean River Power MR–2, LLC; Clean River Power MR–3, LLC; Clean River Power MR–5, LLC; Clean River Power MR–6, LLC; Clean River Power MR–7, LLC; and Clean River Power MR–8, LLC (Clean River Power), subsidiaries of Free Flow Power Corporation.

e. *Name of Projects:* Beverly Lock and Dam Water Power Project, P–13404–002; Devola Lock and Dam Water Power Project, P–13405–002; Malta/McConnelsville Lock and Dam Water Power Project, P–13406–002; Lowell Lock and Dam Water Power Project, P–13407–002; Philo Lock and Dam Water Power Project, P–13408–002; Rokeby Lock and Dam Water Power Project, P–13411–002; and Zanesville Lock and Dam Water Power Project, P–13412–002.

f. *Locations:* At existing locks and dams on the Muskingum River in Washington, Morgan, and Muskingum counties, Ohio (see table below for specific project locations). The locks and dams were formally owned and

operated by the U.S. Army Corps of Engineers, but are now owned and operated by the Ohio Department of Natural Resources, Division of Parks and Recreation.

Project No.	Projects	County(s)	City/town
P–13404–002	Beverly Lock and Dam	Washington and Morgan	Upstream of the City of Beverly, OH.
P–13405–002	Devola Lock and Dam	Washington	Near the City of Devola, OH.
P–13406–002	Malta/McConnelsville Lock and Dam	Morgan	On the southern shore of the Town of McConnelsville, OH.
P–13407–002	Lowell Lock and Dam	Washington	West of the City of Lowell, OH.
P–13408–002	Philo Lock and Dam	Muskingum	North of the City of Philo, OH.
P–13411–002	Rokeby Lock and Dam	Morgan and Muskingum	Near the City of Rokeby, OH.
P–13412–002	Zanesville Lock and Dam	Muskingum	Near the center of the City of Zanesville, OH.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contacts:* Ramya Swaminathan, Chief Operating Officer, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 283–2822.

Daniel Lissner, General Counsel, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 283–2822.

Alan Topalian, Regulatory Attorney, Free Flow Power Corporation, 239 Causeway Street, Suite 300, Boston, MA 02114; or at (978) 283–2822.

i. *FERC Contact:* Aaron Liberty at (202) 502–6862; or email at *aaron.liberty@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 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 *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 filings, 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.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor 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.

k. These applications have been accepted for filing, but are not ready for environmental analysis at this time.

l. The proposed Zanesville Lock and Dam Project would be located at the existing Zanesville dam on the Muskingum River at RM 77.4. The Zanesville dam is a 513-foot-long, 18.8-foot-high dam that impounds a 470-acre reservoir at a normal pool elevation of 686.27 NAVD 88. The project would also consist of approximately 0.6 miles of the existing 59-foot-wide canal from the dam downstream to the proposed powerhouse and the following new facilities: (1) A 135-foot-long, 10-foot-high, 30-foot-wide intake structure with trash racks that contain 2-inch clear bar spacing; (2) two 10-foot diameter, 62-foot-long buried steel penstocks; (3) a 45-foot by 37-foot powerhouse located approximately 2,750 feet downstream of the dam on the bank of the canal; (4) two turbine-generator units providing a combined installed capacity of 2 MW; (5) a 31-foot-long, 37-foot-wide draft tube; (6) a 10-foot-long, 50-foot-wide tailrace; (7) a 40-foot by 40-foot substation; (8) a 400-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (9) appurtenant facilities. The average annual generation would be about 12,295 MWh.

The proposed Philo Lock and Dam Project would be located at the existing Philo dam on the Muskingum River at RM 68.6. The Philo dam is a 730-foot-long, 17-foot-high dam that impounds a 533-acre reservoir at a normal pool elevation of 671.39 NAVD 88. The applicant proposes to remove 128 feet of the existing dam to construct a 40-foot-long flap gate. The project would also consist of the following new facilities: (1) A 37-foot-long, 52-foot-high, 80-foot-wide intake structure with trash racks that contain 2-inch clear bar spacing; (2) a 75-foot by 160-foot powerhouse located on the bank of the Muskingum River opposite the existing lock; (3) two turbine-generator units providing a combined installed capacity of 3 MW; (4) a 65-foot-long, 80-foot-wide draft tube; (5) a 140-foot-long, 180-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 1,600-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 15,957 MWh.

The proposed Rokeby Lock and Dam Project would be located at the existing Rokeby dam on the Muskingum River at RM 57.4. The Rokeby dam is a 525-foot-long, 20-foot-high dam that impounds a 615-acre reservoir at a normal pool elevation of 660.3 NAVD 88. The project would also consist of the following new facilities: (1) A 37-foot-long, 52-foot-high, 80-foot-wide intake structure with trash racks that contain 2-inch clear bar spacing; (2) a 75-foot by 160-foot powerhouse located on the bank of the Muskingum River opposite the existing lock; (3) two turbine-generator units providing a combined installed capacity of 4 MW; (4) a 65-foot-long, 75-foot-wide draft tube; (5) a 160-foot-long, 200-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 490-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 17,182 MWh.

The proposed Malta/McConnelsville Lock and Dam Project would be located at the existing Malta/McConnelsville dam on the Muskingum River at RM 49.4. The Malta/McConnelsville dam is a 605.5-foot-long, 15.2-foot-high dam that impounds a 442-acre reservoir at a normal pool elevation of 649.48 NAVD 88. The applicant proposes to remove 187.5 feet of the existing dam to

construct a 100-foot-long overflow weir. The project would also consist of the following new facilities: (1) a 37-foot-long, 52-foot-high, 80-foot-wide intake structure with trash racks containing 2-inch clear bar spacing; (2) a 80-foot by 160-foot powerhouse located adjacent to the right bank of the dam; (3) two turbine-generator units providing a combined installed capacity of 4.0 MW; (4) a 65-foot-long, 80-footwide draft tube; (5) a 100-foot-long, 130-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 1,500-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 21,895 MWh.

The proposed Beverly Lock and Dam Project would be located at the existing Beverly Lock and Dam on the Muskingum River at river mile (RM) 24.6. The Beverly dam is a 535-foot-long, 17-foot-high dam that impounds a 490-acre reservoir at a normal pool elevation of 616.36 North American Vertical Datum of 1988 (NAVD 88). The project would also consist of the following new facilities: (1) a 37-foot-long, 52-foot-high, 88-foot-wide intake structure with trash racks containing 2-inch clear bar spacing; (2) a 75-foot by 160-foot powerhouse located downstream of the dam on the left bank of the Muskingum River; (3) two turbine-generator units providing a combined installed capacity of 3.0 megawatts (MW); (4) a 65-foot-long, 75-foot-wide draft tube; (5) a 90-foot-long, 150-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 970-foot-long, three-phase, overhead 69-kilovolt (kV) transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 17,853 megawatt-hours (MWh).

The proposed Lowell Lock and Dam Project would be located at the existing Lowell dam on the Muskingum River at RM 13.6. The Lowell dam is a 840-foot-long, 18-foot-high dam that impounds a 628-acre reservoir at a normal pool elevation of 607.06 NAVD 88. The applicant proposes to remove 204 feet of the existing dam to construct a 143.5-foot-long overflow weir. The project would also consist of the following new facilities: (1) A 37-foot-long, 23-foot-high, 80-foot-wide intake structure with trash racks that contain 2-inch clear bar spacing; (2) a 75-foot by 160-foot powerhouse located adjacent to the left bank of the dam; (3) two turbine-generator units providing a combined installed capacity of 5 MW; (4) a 65-foot-long, 75-foot-wide draft tube; (5) a 100-foot-long, 125-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 1,200-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 30,996 MWh.

The proposed Devola Lock and Dam Project would be located at the existing Devola Lock and Dam on the Muskingum River at RM 5.8. The Devola dam is a 587-foot-long, 17-foot-high dam that impounds a 301-acre reservoir at a normal pool elevation of 592.87 NAVD 88. The applicant proposes to remove 187 feet of the existing dam to construct a 154-foot-long overflow weir. The project would also consist of the following new facilities: (1) A 37-foot-long, 52-foot-high, 80-foot-wide intake structure with trash racks containing 2-inch clear bar spacing; (2) a 80-foot by 160-foot powerhouse located on the bank of the Muskingum River opposite the existing lock; (3) two turbine-generator units providing a combined installed capacity of 4.0 MW; (4) a 65-foot-long, 80-foot-wide draft tube; (5) a 125-foot-long, 140-foot-wide tailrace; (6) a 40-foot by 40-foot substation; (7) a 3,600-foot-long, three-phase, overhead 69-kV transmission line to connect the project substation to the local utility distribution lines; and (8) appurtenant facilities. The average annual generation would be about 20,760 MWh.

The applicant proposes to operate all seven projects in a run-of-river mode, such that the water surface elevations within each project impoundment would be maintained at the crest of each respective dam spillway.

m. A copy of the applications 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, contact FERC Online Support. Copies are also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. 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 protests or motions to intervene must be received on or before the specified deadline for the particular application.

When the applications are ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the applications directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11667 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009–154]

Virginia Electric and Power Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project Use of Project Lands and Waters.

b. *Project No:* 2009–154.

c. *Date Filed:* February 28, 2013.

d. *Applicant:* Virginia Electric and Power Company d/b/a Dominion North Carolina Power.

e. *Name of Project:* Roanoke Rapids and Gaston Hydroelectric Project.

f. *Location:* The Roanoke Rapids and Gaston Hydroelectric Project is located on the Roanoke River, on the Virginia-North Carolina border, in Brunswick and Mecklenburg counties, Virginia, and in Halifax, Northampton, and Warren counties, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C .791a–825r.

h. *Applicant Contact:* James Thornton, Virginia Electric and Power Company, 5000 Dominion Boulevard, Glen Allen, Virginia 23060; Phone: (804) 273–3257.

i. *FERC Contact:* Patricia A. Grant at (312) 596–4435, or email: *patricia.grant@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* June 10, 2013.

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*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2009–154) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor 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.

k. *Description of Request:* Virginia Electric and Power Company requests permission to authorize Dockside Associates LLC to construct 45 new boat slips on four new pile-supported docks along approximately 1,850 linear feet of lake shoreline owned by the licensee. This docking facility, on licensee land, will support a new commercial development to be known as Dockside Landing at Pea Hill, to be constructed on the adjacent 7.7-acre commercial property in Northampton County, North Carolina.

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* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–2009). 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 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the licensee's offices. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. 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 comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' 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 commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor 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 385.2010.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11657 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12613–004]

Tygart, LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12613–004.

c. *Date Filed:* April 30, 2013.

d. *Applicant:* Tygart, LLC.

e. *Name of Project:* Tygart Hydroelectric Project.

f. *Location:* The proposed project would be located at the U.S. Army Corps of Engineers' (Corps) Tygart Dam on the Tygart River in Taylor County, West Virginia. The project would occupy 1 acre of federal land managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* David Sinclair, President, Advanced Hydro Solutions, 3000 Auburn Drive, Suite 430, Beachwood, OH 44122–4340 or by email at *David.Sinclair@advancedhydrosolutions.com*.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*.

j. The application is not ready for environmental analysis at this time.

k. The proposed project would utilize the Corps' existing Tygart Dam, and would consist of the following new facilities: (1) A 15-foot-wide by 21-foot-high steel intake structure; (2) a 270-foot-long penstock which would bifurcate into a 110-foot-long and a 150-foot-long penstock; (3) a 121-foot-long by 99-foot-wide concrete powerhouse; (4) two unequal-sized turbines with a combined capacity of 30 megawatts; (5) an excavated 60-foot-wide by 160-foot-long tailrace; (6) a 1.54-mile-long transmission line; and (7) a switchyard with appurtenant facilities. The average annual generation is estimated to be 108,600 megawatt-hours.

The proposed project would operate in a run-of-release mode using flows made available by the Corps.

The proposed project boundary would enclose all of the generating facilities located on 1 acre of Corps' land as well as the transmission line located on 7 acres of privately owned land.

l. *Locations of the Application:* A copy of the application is 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. 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, contact FERC Online Support.

n. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Milestone	Date
Notice of Acceptance/Notice of Ready for Environmental Analysis	June 29, 2013.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	August 28, 2013.
Commission issues Non-Draft EA	December 26, 2013.
Comments on EA	January 25, 2014.
Modified Terms and Conditions	March 26, 2014.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11659 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–49–000]

Mountaineer Gas Company v. Washington Gas Light Company; Notice of Complaint

Take notice that on April 30, 2013, Mountaineer Gas Company (Mountaineer or Complainant) filed a complaint against Washington Gas Light Company (WGL or Respondent), pursuant to the Natural Gas Act (NGA), 15 U.S.C. 717–717z, and Rule 206, 18 CFR 385.206, of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, alleging that the WGL is charging Mountaineer increased rates for lost and unaccounted for (LAUF) gas that have not been approved or otherwise ruled upon by the Commission in Docket Nos. PR13–6 and PR13–7. Complainant alleges that WGL's unauthorized LAUF percentage increase violates the procedural requirements of section 4 of the NGA, is inconsistent with the Commission's established processing for WGL's LAUF applications, and is inconsistent with the terms of the parties' transportation agreement and WGL's tariff.

Mountaineer Gas Company certifies that copies of the complaint were served on the contacts of Washington Gas Light Company as listed on the Commission's list of Corporate Officials.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 20, 2013

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11662 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR13–48–000]

CenterPoint Energy—Illinois Gas Transmission Company; Notice of Filing

Take notice that on May 6, 2013, CenterPoint Energy—Illinois Gas Transmission Company (IGTC) submitted a revise Statement of Operating Conditions (SOC) to reflect the redesignation of IGTC's name from CenterPoint Energy-Illinois Gas Transmission Company to CenterPoint Energy-Illinois Gas Transmission Company LLC.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 20, 2013.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11661 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1270–000]

Fish Lake Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Fish Lake Power LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11652 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1266–000]

CalEnergy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CalEnergy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the

Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11648 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1428–000]

Lighthouse Energy Group, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Lighthouse Energy Group, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11644 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1267–000]

CE Leathers Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CE Leathers Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11649 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1422–000]

Ebensburg Power Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Ebensburg Power Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11643 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1269–000]

Elmore Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Elmore Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11651 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1272–000]

Salton Sea Power L.L.C.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Salton Sea Power L.L.C.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the

above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11654 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1268–000]

Del Ranch Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Del Ranch Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11650 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1271–000]

Salton Sea Power Generation Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Salton Sea Power Generation Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11653 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1248–000]

Patua Project LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Patua Project LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11655 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1273–000]

Vulcan/BN Geothermal Power Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Vulcan/BN Geothermal Power Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11642 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1430–000]

Arlington Valley Solar Energy II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Arlington Valley Solar Energy II, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11645 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1249–000]

Myotis Power Marketing LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Myotis Power Marketing LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11646 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1258–000]

Land O'Lakes, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Land O'Lakes, Inc.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is May 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11647 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–129–001]

Acadian Gas Pipeline System; Notice of Petition

Take notice that on May 6, 2013, Acadian Gas Pipeline System (Acadian) filed to revise the Statement of Operating Conditions (''SOC'') applicable to its transportation services filed on September 26, 2011 in Docket No. PR11–129–000. Acadian states that the SOC addresses the concerns filed in the September 26, 2011 filing, as more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest

on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 20, 2013.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11660 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14518–000]

New England Hydropower Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 29, 2013, the New England Hydropower Company, LLC 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 Lensdale Pond Dam Hydroelectric Project (Lensdale Dam Project or project) to be located on Quinebaug River, near Southbridge, Worcester County, Massachusetts. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing 21-foot-high, 433-foot-long earth embankment dam with a 154-foot-long stone masonry spillway and 3.5-foot-high wooden flashboards; (2) an existing 10.9-acre impoundment (Lensdale Pond) with an operating elevation of about 416.7 feet above mean sea level; (3) an existing 31-foot-long, 12.9-foot-wide, and 10-foot-deep head box and intake channel; (4) a new 12-foot-high, 11-foot-wide hydraulically-powered sluice gate equipped with a new 12-foot-high, 12-foot-wide trashrack with 6-inch bar spacing; (5) a new 41-foot-long, 11.55-foot wide Archimedes screw generator unit with an installed capacity of 185 kilowatts in a new 65-foot-long, 14.75-foot-wide concrete housing structure; (6) a new 10-foot-high, 24-foot-long, 30-foot-wide concrete powerhouse containing a new gearbox and electrical controls; (7) an existing 850-foot-long, 30-foot-wide, and 4-foot-deep tailrace; (8) a new above-ground 365-foot-long, 35-kilovolt transmission line connecting the powerhouse to the Southbridge Power & Thermal's distribution system; and (9) appurtenant facilities. The estimated annual generation of the proposed Lensdale Dam Project would be about 870 megawatt-hours. The existing Lensdale Pond Dam is equipped with a 12-foot-high, 11-foot-wide flood gate that is controlled by the U.S. Army Corps of Engineers. The existing Lensdale Pond Dam and appurtenant works, including an existing powerhouse foundation and intake structures, are owned by Southbridge Associates Limited Partnership.

Applicant Contact: Mr. Michael C. Kerr, New England Hydropower Company, LLC, P.O. Box 5524, Beverly Farms, Massachusetts 01915; phone: (978) 360–2547.

FERC Contact: John Ramer; phone: (202) 502–8969 or email: *john.ramer@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–14518) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11670 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14507–000]

Hamilton Street Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 26, 2013, Hamilton Street Hydro, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to restore an existing hydropower facility at the existing Oakland Dam located on the Susquehanna River in Susquehanna County, Pennsylvania. 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 Oakland Dam Hydroelectric Project would consist of the following: (1) An existing 10.5-foot-high rock fill gravity dam with a 655-foot-long spillway and a fish ladder; (2) an existing impoundment having a surface area of 75 acres and a storage

capacity of 825 acre-feet at an elevation of 888.6 feet mean sea level (msl); (3) an existing 22-foot-long by 50-foot-wide by 30-foot-high powerhouse with three turbine-generator units having a combined capacity of 1,500 kilowatts and three identical 20-foot-wide, 10-foot-high, 5-foot-long direct intakes; (4) an existing 50-foot-long, 50-foot-wide canal to direct flows to the intakes; (5) an existing 50-foot-wide, 180-foot-long concrete lined tailrace; (6) an existing 150-foot-long, 33-kilovolt transmission line; and (7) appurtenant facilities. The proposed project would have an annual generation of 7,000 megawatt-hours.

Applicant Contact: Mark Boumansour, Hamilton Street Hydro, LLC, 1401 Walnut Street, Suite 301, Boulder, CO 80302; phone: (303) 440–3378.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14507–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11669 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14502–000]

ECOsponsible, Incorporated; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 25, 2013, ECOsponsible, Incorporated filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower at the Rochester Gas and Electric Company's (RG&E) Mount Morris Power Dam located on the Genesee River, near the town of Mount Morris, Livingston County, New York. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing 30-foot-high, 334-foot-long stone and concrete gravity dam; (2) a single, proposed, low-head, horizontal bulb turbine having a total installed capacity of 1,100 kilowatts; (3) a proposed automatic trash rack cleaner; (4) an existing operation and maintenance building that will be used to house the supervisory control and data acquisition system; (5) a proposed overhead 200-foot-long, 2,400-volt transmission line connecting with RG&E's system; and (6) appurtenant facilities. The proposed project would have an average annual generation of 4,105 megawatt-hours, which would be sold to RG&E.

Applicant Contact: Mr. Dennis Ryan, Executive Director, ECOsponsible, Incorporated, 120 Mitchell Road, East Aurora, NY 14052; phone: (716) 203–1508.

FERC Contact: Tim Looney; phone: (202) 502–6096.

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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14502) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 8, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11668 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following joint stakeholder meeting related to the transmission planning activities of PJM Interconnection, L.L.C., ISO New England, Inc., and New York Independent System Operator, Inc.:

Inter-Regional Planning Stakeholder Advisory Committee—New York/New England

May 13, 2013, 1:00 p.m.–3:00 p.m., Local Time

The above-referenced meeting will be held over conference call.

The above-referenced meeting is open to stakeholders.

Further information may be found at *www.pjm.com/committees-and-groups/stakeholder-meetings/stakeholder-groups/ipsac-ny-ne.aspx*.

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER08–1281, *New York Independent System Operator, Inc.*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. EL10–52, *Central Transmission, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket No. EL12–69, *Primary Power LLC* v. *PJM Interconnection, L.L.C.*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER13–90, *Public Service Electric and Gas Company and PJM Interconnection, L.L.C.*
Docket No. ER13–102, *New York Independent System Operator, Inc.*
Docket No. ER13–193, *ISO New England Inc.*
Docket No. ER13–195, *Indicated PJM Transmission Owners*
Docket No. ER13–196, *ISO New England Inc.*
Docket No. ER13–198, *PJM Interconnection, L.L.C*
Docket No. ER13–397, *PJM Interconnection, L.L.C.*
Docket No. ER13–673, *PJM Interconnection, L.L.C*
Docket No. ER13–703, *PJM Interconnection, L.L.C.*
Docket No. ER13–887, *PJM Interconnection, L.L.C.*
Docket No. ER13–1052, *PJM Interconnection, L.L.C. and the Midwest Independent Transmission System Operator, Inc.*
Docket No. ER13–1054, *PJM Interconnection, L.L.C. and the Midwest Independent Transmission System Operator, Inc.*

For more information, contact Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6604 or *jonathan.fernandez@ferc.gov*.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11664 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at the Entergy Regional State Committee Meeting

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meeting noted below. Their attendance is part of the Commission's ongoing outreach efforts.

Entergy Regional State Committee

May 29, 2013 (9:00 a.m.–3:00 p.m.).

This meeting will be held at the Windsor Court Hotel, 300 Gravier Street, New Orleans, LA 70130.

The discussions may address matters at issue in the following proceedings:

Docket No. EL01–88, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–50, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–61, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–55, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–65, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL11–63, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL11–65, Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL13–41, Occidental Chemical Company v. Midwest Independent System Transmission Operator, Inc.
Docket No. EL13–43, Council of the City of New Orleans, Mississippi Public Service Commission, Arkansas Public Service Commission, Public Utility Commission of Texas, Louisiana Public Service Commission
Docket No. ER05–1065, Entergy Services, Inc.
Docket No. ER07–682, Entergy Services, Inc.
Docket No. ER07–956, Entergy Services, Inc.
Docket No. ER08–1056, Entergy Services, Inc.
Docket No. ER09–1224, Entergy Services, Inc.
Docket No. ER10–794, Entergy Services, Inc.
Docket No. ER10–1350, Entergy Services, Inc.
Docket No. ER10–2001, Entergy Arkansas, Inc.
Docket No. ER10–3357, Entergy Arkansas, Inc.
Docket No. ER11–2161, Entergy Texas, Inc.
Docket No. ER11–3657, Entergy Arkansas, Inc.
Docket No. ER12–480, Midwest Independent Transmission System Operator, Inc.
Docket No. ER12–1428, Entergy Arkansas, Inc.
Docket No. ER12–1881, Entergy Arkansas, Inc.
Docket No. ER12–1882, Entergy Gulf States, Louisiana L.L.C.
Docket No. ER12–1883, Entergy Louisiana LLC
Docket No. ER12–1884, Entergy Mississippi, Inc.
Docket No. ER12–1885, Entergy New Orleans, Inc.
Docket No. ER12–1886, Entergy Texas, Inc.
Docket Nos. ER12–2681, et al. Entergy Corp., Midwest Independent Transmission System Operator, Inc. and ITC Holdings Corp.
Docket No. ER12–2682, Midwest Independent Transmission System Operator, Inc.
Docket No. ER12–2683, Entergy Services, Inc.
Docket No. ER12–2693, Entergy Services, Inc.
Docket No. ER13–288, Entergy Services, Inc.
Docket No. ER13–432, Entergy Services, Inc.
Docket No. ER13–665, Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–708, Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–769, Entergy Arkansas, Inc. and Entergy Mississippi, Inc.
Docket No. ER13–770, Entergy Arkansas, Inc. and Entergy Louisiana, LLC.
Docket No. ER13–782, ITC Arkansas LLC, et al.
Docket No. ER13–868, Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–945, Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–948, Entergy Services, Inc.
Docket No. ER13–1184, Entergy Power, LLC.
Docket No. ER13–1194, Entergy Services, Inc.
Docket No. ER13–1195, Entergy Services, Inc.

Docket No. ER13–1227, Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–1317, Entergy Services, Inc.

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov*.

Dated: May 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–11656 Filed 5–15–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Quartzsite Solar Energy Project Record of Decision (DOE/EIS–0440)

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of Decision.

SUMMARY: Western Area Power Administration (Western), an agency within the U.S. Department of Energy (DOE), received a request from Quartzsite Solar Energy, LLC (QSE) to interconnect its proposed Quartzsite Solar Energy Project (Project) to Western's Bouse-Kofa 161-kilovolt (kV) transmission line. The proposed Project site is in an undeveloped area in La Paz County, Arizona, east of State Route (SR) 95, approximately 10 miles north of Quartzsite, Arizona, on lands administered by the U.S. Department of Interior, Bureau of Land Management (BLM).

On December 21, 2012, the Notice of Availability of the Final Environmental Impact Statement (EIS) and Yuma Field Office (Yuma) Proposed Resource Management Plan Amendment (PRMPA) for Quartzsite Solar Energy Project was published in the **Federal Register** (77 FR 75632). After considering the environmental impacts, Western has decided to allow QSE's request for interconnection to Western's transmission system on the Bouse-Kofa 161-kV transmission line and to construct, own, and operate a new switchyard and its associated communication pathway.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Ms. Liana Reilly, Environmental Project Manager, Corporate Services Office, Western Area Power Administration, A7400, P.O. Box 281213, Lakewood, CO 80228, telephone (720) 962–7253, fax (720) 962–7263, or email: *reilly@wapa.gov.* For general information on DOE's National Environmental Policy Act of 1969 (NEPA) review process, please contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Western is a Federal agency under the DOE that markets and transmits wholesale electrical power through an integrated 17,000-circuit mile, high-voltage transmission system across 15 western states. Western's Open Access Transmission Service Tariff (Tariff) provides open access to its electric transmission system. In reviewing interconnection requests, Western must ensure that existing reliability and service is not degraded. Western's Large Generator Interconnection Procedures provide for transmission and system studies to ensure that system reliability and service to existing customers are not adversely affected by new interconnections.

In compliance with the NEPA, as amended, and the Federal Land Policy and Management Act of 1976, as amended, Western as lead agency, with the BLM as a cooperating agency, prepared and released the Draft EIS/PRMPA on November 10, 2011, and subsequently held public hearings on the document in Yuma, Arizona, on December 13, 2011, and in Quartzsite, Arizona, on December 14, 2011. Following the release of the Draft EIS/PRMPA, Western and the BLM prepared a Final EIS/PRMPA which was released on December 21, 2012 (77 FR 76477).[1] The U.S. Army Corps of Engineers, the U.S. Army Garrison-Yuma Proving Ground, the Arizona Department of Environmental Quality and the Arizona Game and Fish Department (AZGFD) were also cooperating agencies.

Proposed Federal Action

Western's proposed Federal action is to interconnect the proposed Project to Western's transmission system at the existing Bouse-Kofa 161-kV transmission line and construct, own, and operate a new switchyard on BLM-administered land adjacent to the transmission line as well as an associated communications pathway. Western has submitted a right-of-way (ROW) application to the BLM for its switchyard and communication pathway.

QSE Proposed Project

The proposed Project is a 100-megawatt solar electric power plant that would use concentrating solar power technology to capture the sun's heat to make steam, which would power a traditional steam turbine generator. The proposed Project would contain the central receiver or tower, a solar field consisting of mirrors or heliostats to reflect the sun's energy to the central tower, a conventional steam turbine generator, insulated storage tanks for hot and cold liquid salt, ancillary tanks, evaporation ponds, a temporary construction laydown area, technical and non-technical buildings, transformers and a 161/230-kV electrical switchyard, roads, and water wells. All components of the proposed Project would be located on BLM-administered land. A new 1.5-mile long 161/230-kV generation tie line would extend from the southern boundary of the solar facility boundary to a new switchyard to be constructed adjacent to Western's existing Bouse-Kofa 161-kV transmission line.

QSE has submitted a ROW application to the BLM for the proposed Project. The ROW application is for a total of 26,273 acres, of which 1,675 acres would be utilized for the final Project ROW if approved. The proposed Project site is in an undeveloped area in La Paz County, Arizona, east of SR 95, approximately 10 miles north of Quartzsite, Arizona.

Description of Alternatives

Three alternatives were analyzed in the EIS/PRMPA including the QSE's proposed Project with dry-cooling technology, Alternative 1 with hybrid cooling technology, and the No Action alternative. Also analyzed were three alternatives related to the Yuma PRMPA including approving the PRMPA to change approximately 6,800 acres of Visual Resource Management (VRM) Class III to VRM Class IV along with Project approval, approving the PRMPA to change approximately 6,800 acres of VRM Class III to VRM Class IV without Project approval, and the No Action alternative of not approving the PRMPA and leaving the current VRM Class III designation in place.

Western's preferred alternative is to grant the interconnection request for the proposed Project to Western's existing Bouse-Kofa 161-kV transmission line and to construct, operate, and maintain a new switchyard and communication pathway.

[1] The Final EIS can be found on Western's Web site at: *http://ww2.wapa.gov/sites/Western/transmission/interconn/Pages/QuartzsiteSolar.aspx.*

Western has identified the No Project/No Action Alternative as its environmentally-preferred alternative. Under this alternative, Western would deny the interconnection request and not modify its transmission system to interconnect the proposed Project. Under this alternative, there would be no modifications to Western's transmission system, and thus no new environmental impacts.

Mitigation Measures

QSE has incorporated best management practices and has incorporated built-in mitigation to the proposed Project. The mitigation includes regular weed monitoring and management during construction to prevent noxious weed introductions and conducting nest clearance surveys prior to construction and protecting the nests until chicks have fledged or have been relocated into suitable habitat. QSE has committed to these and the other mitigation measures that are noted in the Draft EIS/PRMPA in section 2.7: Best Management Practices and Built-In Mitigation. The measures were designed to avoid and minimize harm to the environment from the proposed Project. For Western's proposed switching station, Western requires its construction contractors to implement standard environmental protection provisions. These provisions are provided in Western's Construction Standard 13 (included as an appendix in the Draft EIS) and will be applied to the proposed switchyard. In addition, Western will comply with the stipulations in the special use permit that the BLM would issue, including desert tortoise fencing and the use of flat tone colors for the switchyard intended to blend with the surrounding environment.

With this decision, Western is not adopting any additional mitigation measures that apply to its action outside of the measures addressed in the Final EIS/PRMPA. The measures in the Final EIS/PRMPA reflect all practicable means to avoid or minimize environmental harm from the proposed Project and Western's proposed action.

Comments on Final EIS/PRMPA

Western received several comments on the Final EIS/PRMPA. Western received comments from the U.S. Environmental Protection Agency (EPA), from the Defenders of Wildlife and one from a collection of organizations including: The Wilderness Society/Arizona Wilderness Coalition/Sierra Club-Grand Canyon (Arizona) and Sonoran Institute. Based on a review of these comments, Western has determined that the comments do not present any significant new circumstances or information relevant to environmental concerns and bearing on the proposed Project or its impacts, and a Supplemental EIS is not required. The basis for this determination is summarized below.

EPA acknowledged that some of their previously expressed concerns were addressed. Additionally, EPA expressed concern regarding the lack of specificity regarding mitigation measures and the lack of consideration of numerous reasonably foreseeable projects in the limited analysis of cumulative impacts. As noted in the Final EIS/PRMPA, reasonably forseeable projects and their impacts were addressed in the Draft and Final EIS/PRMPA. Western references pages 4–3 through 4–10 of the Draft EIS/PRMPA and page 22 of the Final EIS/PRMPA for more information on the rationale for which projects were included in and excluded from the cumulative impacts analysis. EPA also expressed an interest in the implementation of recommendations that it feels could reduce the proposed Project's environmental impacts. Western's role in the proposed Project is to make a decision regarding the interconnection request. Western does not have authority over the generation facility to require the QSE to implement EPA's recommendations for improvements to the facility.

The Defenders of Wildlife expressed concern about the lack of compensatory habitat for the Mohave fringe-toed lizard. As noted on page 4–65 of the Draft EIS/PRMPA, current data shows there is no optimal habitat for the Mohave fringe-toed lizard in the proposed Project area and no compensatory habitat plan is in place for this species. Should impacts to the Mohave fringe-toed lizard occur, as noted on page 4–69 of the Draft EIS/PRMPA, ''adaptive-management strategies to mitigate unforeseeable impacts as they occur,'' will be incorporated. Furthermore, as noted on page 47 of the Final EIS/PRMPA, the BLM in cooperation with the AZGFD, proposes to authorize a monitor and study plan to address impacts to habitat functions and values to increase the scientific community's information on the Mohave fringe-toed lizard and its habitat.

Finally, The Wilderness Society/Arizona Wilderness Coalition/Sierra Club-Grand Canyon (Arizona) and Sonoran Institute expressed concern about the BLM management of lands with wilderness characteristics in and around the proposed Project area. Western does not have authority over BLM-administered lands and cannot dictate how lands with wilderness characteristics are managed. Land with wilderness characteristics were addressed on pages 42–43 of the Final EIS/PRMPA.

Decision

Western's decision is to allow QSE's request for interconnection to Western's transmission system at its Bouse-Kofa 161-kV transmission line and to construct, own and operate a new switchyard.[2] Western's decision to grant this interconnection request satisfies the agency's statutory mission and QSE's objectives while minimizing harm to the environment. Full implementation of this decision is contingent upon QSE obtaining all other applicable permits and approvals as well as executing an interconnection agreement in accordance with Western's Tariff.

This decision is based on the information contained in the Project Draft and Final EIS/PRMPA. This ROD was prepared pursuant to the requirements of the Council on Environmental Quality Regulations for Implementing NEPA (40 CFR parts 1500–1508) and DOE's Procedures for Implementing NEPA (10 CFR part 1021).

Dated: May 6, 2013.

Mark A. Gabriel,

Administrator.

[FR Doc. 2013–11696 Filed 5–15–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Searchlight Wind Energy Project Record of Decision (DOE/EIS–0413)

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of Decision.

SUMMARY: Western Area Power Administration (Western), an agency within the U.S. Department of Energy (DOE), received a request from Searchlight Wind Energy, LLC (Searchlight) to interconnect its proposed Searchlight Wind Energy Project (Project) to Western's Davis-Mead 230-kilovolt (kV) transmission line. The Project would be located in southern Clark County, Nevada, near the town of Searchlight. On December 14, 2012, the Notice of Availability of the Final Environmental Impact Statement

[2] On November 16, 2011, DOE's Acting General Counsel restated the delegations to Western's Administrator of all the authorities of the General Counsel respecting environmental impact statements.

(EIS) for Searchlight Wind Energy Project was published in the **Federal Register** (77 FR 74479). The U.S. Department of Interior, Bureau of Land Management (BLM) was the lead Federal agency for the EIS. Western was a cooperating agency in preparation of the EIS. After considering the environmental impacts, Western has decided to allow Searchlight's request for interconnection to Western's transmission system on its Davis-Mead transmission line and to construct, own, and operate a new switching station to accommodate the interconnection.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Mr. Matt Blevins, Corporate Services Office, Western Area Power Administration, A7400, P.O. Box 281213, Lakewood, CO 80228–8213, telephone (720) 962–7261, fax (720) 962–7263, or email: *blevins@wapa.gov.* For general information on DOE's National Environmental Policy Act of 1969 (NEPA) review process, please contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Western is a Federal agency under the DOE that markets and transmits wholesale electrical power through an integrated 17,000-circuit mile, high-voltage transmission system across 15 western states. Western's Open Access Transmission Service Tariff (Tariff) provides open access to its electric transmission system. In reviewing interconnection requests, Western must ensure that existing reliability and service is not degraded. Western's Large Generator Interconnection Procedures provide for transmission and system studies to ensure that system reliability and service to existing customers are not adversely affected by new interconnections.

Interested parties were notified of the proposed Project and the public scoping comment opportunity through a Notice of Intent published in the **Federal Register** on December 16, 2008 (73 FR 76377). The BLM published a Notice of Availability (NOA) of the Draft EIS in the **Federal Register** on January 12, 2012 (77 FR 2999). The NOA also announced a 90-day public comment period for receipt of comments on the Draft EIS. On December 14, 2012, the U.S. Environmental Protection Agency (EPA) published an NOA of the Final EIS for the Project in the **Federal Register** (77 FR 74479).[1] The BLM published its NOA for its Record of Decision (ROD) on March 22, 2013, in the **Federal Register** (78 FR 17718). With the issuance of its ROD, BLM included errata to the Final EIS, and its right-of-way authorization for Western's switching station.

The BLM was the lead Federal agency for the EIS. Western and the U.S. Department of the Interior, National Park Service participated as cooperating agencies on the EIS. After an independent review of the Final EIS, Western has concluded that its needs are satisfied and has adopted the Final EIS, including the errata sheet issued in BLM's ROD.

Proposed Federal Action

Western's proposed Federal action is to construct, own, and operate a new switching station to interconnect the Project with Western's transmission system. The new switching station would be on BLM-administered land located just west of Western's existing Davis-Mead 230-kV transmission line, approximately 7.5 miles east of the town of Searchlight, and approximately 150 feet north of a National Park Service fee station on Cottonwood Cove Road.

Searchlight Proposed Project

Searchlight proposes to construct and operate a utility-scale wind energy facility in an area encompassing approximately 18,949 acres on BLM-administered lands. The wind energy generating facility would generate up to 220 megawatts (MW) of electricity from wind turbine generators (WTGs). The proposed Project includes a wind energy facility and a 230-kV transmission tie-line. The proposed wind energy facility would include 37.6 miles of improved and new access and service roads, up to 96 WTGs, electrical collection lines, two step-up substations, communications system, operations and maintenance building, and meteorological monitoring towers. A new 230-kV single-circuit electrical transmission tie-line would be constructed between the Project and Western's proposed switching station at its existing Davis-Mead transmission line. Facilities associated with the proposed Project would permanently occupy approximately 160 acres.

Description of Alternatives

With issuance of its ROD, the BLM authorized Searchlight to construct, operate and maintain, and decommission an approximately 200–MW wind energy facility on BLM-administered lands within the same location as described under the proposed Project. This alternative was BLM's preferred alternative and would involve the construction of up to 87 WTGs that would provide up to 200 MW of electricity. Under this alternative, 8.6 miles of road widening and improvement would be required, and 16.3 miles of new roads would be constructed. Facilities associated with this alternative would permanently occupy approximately 152 acres. Western would construct the new switching station; the same as Western proposed Federal action, and Searchlight would construct the transmission tie-line as described under the proposed Project.

Initially, the BLM considered two additional alternatives: A 161 WTG Layout Alternative and a 140 WTG Layout Alternative. The 161 WTG Alternative was Searchlight's original proposal developed to maximize the power generation potential of the site. The 140 WTG Alternative was developed to reduce impacts on visual resources and air traffic safety in the area. However, based on public scoping meeting input, agency discussions, and further analyses both of these alternatives were rejected based on the potential for environmental impacts and technical and economic considerations and eliminated from further analysis.

Western considered three additional alternatives for siting the proposed switching station, but eliminated these sites from further analysis for technical reasons. Western's primary selection criteria was to locate the switching station close to the Davis-Mead transmission line and meet the BLM resource planning requirements, including siting the switching station outside of special management designation lands, except for a 0.5-mile area adjacent to a federally-designated highway.

Western has identified the No Action Alternative as its environmentally preferred alternative. Under this alternative, Western would deny the interconnection request and not modify its transmission system to interconnect the proposed Project with its transmission system. Under this alternative, there would be no modifications to Western's transmission system, and thus no new environmental impacts.

Mitigation Measures

For the wind facility component of the proposed Project, Searchlight has committed to best management practices and design features addressed as Applicant's Proposed Measures in the

[1] The Final EIS can be found on the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/searchlight_wind_energy.html.*

EIS. In addition, the wind energy portion of the project would adhere to BLM wind energy development program policies and best management practices. Searchlight will abide by the Biological Opinion issued by the U.S. Fish and Wildlife Service and as conditioned by BLM in its right-of-way authorization for the proposed Project. Western will abide by the Biological Opinion as it pertains to Western's switching station and as conditioned by BLM in its right-of-way authorization to Western.

In compliance with the National Historic Preservation Act, BLM has executed a Programmatic Agreement with the Nevada State Historic Preservation Office and Searchlight (as an invited signatory). Western is a concurring party to the Programmatic Agreement.

For Western's proposed switching station, Western requires its construction contractors to implement standard environmental protection provisions. These provisions are provided in Western's Construction Standard 13 (included as an appendix in the Final EIS) and will be applied to the proposed switching station. In addition, specific mitigation measures for the switching station are addressed in the Final EIS and BLM's Record of Decision (ROD), and include requirements for site environmental clearances prior to construction, desert tortoise fencing around the switching station and preparation of a worker environmental awareness program per the Biological Opinion issued for the proposed Project, use of flat tone colors for the switching station intended to blend with the surrounding environment, developing a Memorandum of Understanding to address mitigation for the switching station, and surveying the boundaries of the switching station.

With this decision, Western is adopting the specific mitigation measures that apply to its action and will issue a Mitigation Action Plan before any construction takes place. The plan will address the adopted mitigation measures. When completed, the Mitigation Action Plan will be made available to the public. The mitigation measures in the Final EIS and the BLM ROD reflect all practicable means to avoid or minimize environmental harm from the proposed Project and Western's proposed action.

Comments on the Final EIS

The National Park Service provided comments on the Final EIS to the BLM in a letter dated January 10, 2013, requesting the inclusion of additional mitigation addressing the visual impacts of Western's proposed switching station. In response, the BLM has added mitigation in its ROD that includes developing a Memorandum of Understanding to address mitigation of the switching station. This mitigation will be incorporated into BLM's right-of-way authorization for the switching station. Western has adopted this mitigation and will abide by mitigation stipulations provided by BLM in its right-of-way authorization for the switching station.

The National Parks Conservation Association (Association) submitted comments on the Final EIS to the BLM in a letter dated January 14, 2013. The Association noted that its comments on the Draft EIS were omitted from the Final EIS. Its comments on the Draft EIS noted that the proposed switching station, an industrial facility with chain link fence, would be built next to Lake Mead National Recreation Area's newly constructed Cottonwood Cove Visitor Entrance Station, negatively impacting visitor experience to the National Recreation Area. The Association also questioned the location of the proposed switching station in relation to the Piute-Eldorado Valley Area of Critical Environmental Concern and a 100-year floodplain. Western has adopted BLM's Final EIS errata addressing the Association's comments on the Draft EIS.

In its January 14, 2013, letter, the Association also requested that the siting of the switching station along with the station's construction methods and materials be addressed by convening a meeting that includes high-level representatives from Duke Energy, Western, the National Park Service, BLM, and the Association. BLM has added mitigation to its ROD to address the visual impacts of the switching station. Western has adopted this mitigation and will abide by mitigation stipulation provided by BLM in its right-of-way authorization.

The U.S. Environmental Protection Agency, the Nevada Department of Wildlife, the Desert Conversation Program, an individual, and an official of Save the Eagles International also provided comments on the Final EIS. However, none of these comments involved Western's participation or its proposed switching station.

Based on a review of the comments provided on the Final EIS related to Western's switching station, Western has determined that the comments do not present any significant new circumstances or information relevant to environmental concerns and bearing on the Project or its impacts, and a Supplemental EIS is not required.

Decision

Western's decision is to allow Searchlight's request for interconnection to Western's transmission system at its Davis-Mead transmission line, and to construct, own, and operate a new switching station.[2] Western's decision to grant this interconnection request satisfies the agency's statutory mission and Searchlight's objectives while minimizing harm to the environment. Full implementation of this decision is contingent upon Searchlight obtaining all other applicable permits and approvals as well as executing an interconnection agreement in accordance with Western's Tariff.

This decision is based on the information contained in the Searchlight Wind Energy Project Final EIS, comments received on Draft EIS but not specifically addressed in the Final EIS, and comments received on the Final EIS. This ROD was prepared pursuant to the requirements of the Council on Environmental Quality Regulations for Implementing NEPA (40 CFR parts 1500–1508) and DOE's Procedures for Implementing NEPA (10 CFR part 1021).

Dated: May 6, 2013.

Mark A. Gabriel,

Administrator.

[FR Doc. 2013–11704 Filed 5–15–13; 8:45 am]

BILLING CODE 6450–01–P

[2] On November 16, 2011, DOE's Acting General Counsel restated the delegation to Western's Administrator all the authorities of the General Counsel respecting environmental impact statements.

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: *Tuesday, May 21, 2013 at 10:00 a.m.*

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2013–11865 Filed 5–14–13; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

Adrian's Export Services Corp. (OFF), 15294 SW 21st Street, Miramar, FL 33027, Officers: Elsie Delossantos, Secretary (QI), Adriano Acevedo, President, Application Type: New OFF License

AZ Freight International Inc. (NVO & OFF), 18311 Railroad Street, City of Industry, CA 91748, Officer:, Lang Zhang, President (QI), Application Type: Add Trade Name RDD Freight Int'l (LAX) Inc.

CAP Worldwide, Inc. (NVO & OFF), 3226 Lodestar Road, Building 7, Suite 200, Houston, TX 77032, Officers: Brian Tibbetts, Treasurer (QI), Rebecca Kersting, President, Application Type: QI Change

Contract Logistics, LLC (NVO), 4911 North Portland Avenue, Suite 200, Oklahoma City, OK 73112, Officers: Thomas W. Young, Vice President (QI), Gregory P. Roush, Manager/Member, Application Type: Add Trade Name Smart Lines Worldwide

Feiliks Global Logistics Corporation (NVO), 176–20 S. Conduit Avenue, Suite 103, Jamaica, NY 11434, Officers: Ami K. Wey, President (QI), Regina Tay, Vice President, Application Type: New NVO License

G Max Distributors Inc. (NVO & OFF), 6979 NW 84th Avenue, Miami, FL 33166, Officers: Hugo D. Carmona, Secretary (QI), Victor Lopez, President, Application Type: Add OFF Service

Hye Mi Express U.S.A., Inc. (NVO), 22926 Pennsylvania Avenue, Torrance, CA 90501, Officer:, Kil Soo (AKA Ben) Hur, President (QI), Application Type: New NVO License

Innerpoint, Corp. (NVO), 19401 S. Vermont Avenue, D–200B, Torrance, CA 90502, Officers: Keun Bae Ko, President (QI), Sung Ho Lee, Director, Application Type: QI Change

Intermodal Tank Transport (USA), Inc. (NVO), 2537 S. Gessner, Suite 108, Houston, TX 77063, Officers: William M. Caldwell, Vice President (QI), Jon E. Hulsey, Director/CEO, Application Type: QI Change

Right Link Freight Forwarding Corp. (NVO & OFF), 717 Ponce de Leon Blvd., Suite 316, Coral Gables, FL 33134, Officers: Jesus Chinea, Vice President (QI), Hilario M. Prieto Herrera, Director, Application Type: New NVO & OFF License

Sea Marine Transport S.A. DE C.V. (NVO), Parque de Granada No. 71, P.H. 504, Huixquilucan, Estado de Mexico 52785 Mexico, Officers: Moises L. Sarabia, President (QI), Moises A. Sarabia, Secretary, Application Type: New NVO License

Sumikin International Transport (U.S.A.), Inc. dba Sitra (NVO & OFF), 1822 Brummel Avenue, Elk Grove Village, IL 60007, Officers: Masatomo Morita, Assistant Vice President (QI), Kenji Takayanagi, President, Application Type: Name Change to Nippon Steel & Sumikin Logistics (U.S.A.), Inc.

T.V.L. Global Logistics (N.Y.) Corp. (NVO), 39–15 Main Street, Suite 406, Flushing, NY 11354, Officers: Chun Yat Chang, Vice President (QI), Chuang-Hsing Chueh, President, Application Type: QI Change

By the Commission.

Dated: May 10, 2013.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–11608 Filed 5–15–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 013266F.

Name: Trans-Aero-Mar, Inc.

Address: 8620 NW 70th Street, Miami, FL 33166.

Date Reissued: April 9, 2013.

James A. Nussbaumer,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 2013–11610 Filed 5–15–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocation

The Commission gives notice that it has rescinded its Order revoking the following licenses pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 16338N.

Name: Brisk International Express, Inc.

Address: 8473 NW 74th Street, Miami, FL 33166.

Order Published: May 2, 2013 (Volume 78, No. 85, Pg. 25741).

License No.: 020500N.

Name: Ben-New Shipping, Inc.

Address: 1383 Kala Drive, Lithonia, GA 30058.

Order Published: May 2, 2013 (Volume 78, No. 85, Pg. 25741).

James A. Nussbaumer,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 2013–11611 Filed 5–15–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 1382NF.

Name: E.H. Harms U.S.A., Inc.

Address: 2809 Boston Street, Baltimore, MD 21224.

Date Revoked: April 27, 2013.

Reason: Failed to maintain valid bonds.

License No.: 015187N.

Name: Gage Shipping Lines, Ltd.

Address: 23 South Street, Baltimore, MD 21202.

Date Revoked: April 26, 2013.

Reason: Failed to maintain a valid bond.

License No.: 018442NF.

Name: AAC Perishables Logistics, Inc.

Address: 6300 NW 97th Avenue, Miami, FL 33178.

Date Revoked: April 22, 2013.

Reason: Voluntary Surrender of License.

License No.: 018640N.

Name: Welley Shipping USA, Inc.

Address: 17700 Castleton Street, Suite 469, City of Industry, CA 91748.

Date Revoked: April 19, 2013.

Reason: Failed to maintain a valid bond.

License No.: 019771F.

Name: InterStar Global Logistics, L.P.

Address: 5839 Bender Road, Humble, TX 77396.

Date Revoked: April 29, 2013.

Reason: Voluntary Surrender of License.

License No.: 021544NF.

Name: Dacon Logistics LLC dba Coda Forwarding.

Address: 31–U Mountain Blvd., Warren, NJ 07059.

Date Revoked: April 25, 2013.

Reason: Failed to maintain valid bonds.

License No.: 023274N.

Name: Nunez Shipping Inc.

Address: 1388 NW 29th Street, Miami, FL 33142.

Date Revoked: April 10, 2013.

Reason: Failed to maintain a valid bond.

James A. Nussbaumer,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 2013–11607 Filed 5–15–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 15, 2013.

ADDRESSES: You may submit comments, identified by FR 2046 or FR 3067, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Minor Revision, of the Following Report

Report title: Report of Selected Balance Sheet Items for Discount Window Borrowers.

Agency form number: FR 2046.

OMB control number: 7100–0289.

Frequency: On occasion.

Reporters: Depository institutions.

Estimated annual reporting hours: Primary and Secondary Credit, 1 hour; Seasonal Credit, 228 hours.

Estimated average hours per response: Primary and Secondary Credit, 0.75 hours; Seasonal Credit, 0.25 hours.

Number of respondents: Primary and Secondary Credit, 1; Seasonal Credit, 70.

General description of report: This information collection is required to obtain a benefit pursuant to section 10B and 19(b)(7) of the Federal Reserve Act

(12 U.S.C. 347b and 461(b)(7)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The Federal Reserve's Regulation A, Extensions of Credit by Federal Reserve Banks, requires that Reserve Banks review balance sheet data in determining whether to extend credit and to help ascertain whether undue use is made of such credit. Depository institutions that borrow from the discount window report on the FR 2046 certain balance sheet data for a period that encompasses the dates of borrowing.

Current Action: The Federal Reserve proposes to update data element definitions to account for the discontinuance of the Thrift Financial Report (OTS Form 1313). Also, the Federal Reserve proposes that institutions that file the *Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks* (FR 2644; OMB No. 7100–0075) need not report the Wednesday-only data item for total loans on the FR 2046.

Proposal To Approve Under OMB Delegated Authority, the Implementation of the Following Report

Report title: Payments Research Survey.

Agency form number: FR 3067.

OMB control number: 7100-new.

Frequency: On occasion.

Reporters: Depository institutions; financial and nonfinancial businesses and related entities; individual consumers; or households.

Estimated annual reporting hours: 60,000 hours.

Estimated average hours per response: 3 hours.

Number of respondents: 5,000.

General description of report: The Federal Reserve has determined that this survey is generally authorized by sections 2A and 12A of the Federal Reserve Act (FRA). Section 2A of the FRA requires that the Federal Reserve maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of the maximum employment, stable prices, and moderate long-term interest rates. *See* 12 U.S.C. 225a. In addition, under section 12A of the FRA, the Federal Reserve is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to the regulations' bearing upon the general credit situation of the country. *See* 12 U.S.C. 263. The authority of the Federal Reserve to collect economic data to carry out the requirements of these provisions is implicit. Accordingly, the Federal Reserve is authorized to use the FR 3067 by sections 2A and 12A of the FRA.

Additionally, depending on the survey respondent, the information collection may be authorized under a more specific statute. These statutes are:

- Expedited Funds Availability Act § 609 (12 U.S.C. 4008)
- Electronic Fund Transfer Act § 920 (15 U.S.C. 1693o–2)
- The Check Clearing for the 21st Century Act § 15 (12 U.S.C. 5014)
- Federal Reserve Act § 11 (Examinations and reports, Supervision over Reserve Banks, and Federal Reserve Note provisions, 12 U.S.C. 248); § 11A (Pricing of Services, 12 U.S.C. 248a); § 13 (FRB deposits and collections, 12 U.S.C. 342); and § 16 (Issuance of Federal Reserve notes, par clearance, and FRB clearinghouse, 12 U.S.C. 248–1, 360, and 411).

Under the appropriate authority, the Federal Reserve may make submission of survey information mandatory for entities such as financial institutions or payment card networks; submissions would otherwise be voluntary.

The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3067 surveys will be determined on a case-by-case basis depending on the type of information provided for a particular survey. For instance, in some circumstance, no issue of confidentiality will arise as the surveys may be conducted by private firms under contract with the Federal Reserve and names or other directly identifying information would not be provided to the Federal Reserve. In circumstances where identifying information is provided to the Federal Reserve, such information could possibly be protected under the Freedom of Information Act (FOIA), exemptions 4 and 6. Exemption 4 protects information from disclosure of trade secrets and commercial or financial information, while exemption 6 protects information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.'' *See* 5 U.S.C. 552(b)(4) and (6). If the survey is mandatory and is undertaken as part of the supervisory process, information could be protected under FOIA exemption 8, which protects information relating to the examination reports. *See* 5 U.S.C. 552(b)(8).

Abstract: The bank operations and payment systems functions of the Federal Reserve have occasional need to gather data on an ad-hoc basis from the public on their payment habits, economic condition, and financial relationships, as well as their attitudes, perceptions, and expectations. These data may be particularly needed in times of critical economic or regulatory change or when issues of immediate concern arise from Federal Reserve System committee initiatives and working groups or requests from the Congress. The Federal Reserve would use this event-driven survey to obtain information specifically tailored to the Federal Reserve's supervisory, regulatory, fiscal, and operational responsibilities. The Federal Reserve may conduct various versions of the survey during the year and, as needed, survey respondents up to four times per year. The frequency and content of the questions will depend on changing economic, regulatory, supervisory, or legislative developments.

Board of Governors of the Federal Reserve System, May 10, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–11583 Filed 5–15–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meetings

AGENCY: Board of Governors of the Federal Reserve System.

TIME AND DATE: 9:30 a.m., Tuesday, May 21, 2013.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets NW., Washington, DC 20551.

STATUS: Closed.

Matters To Be Considered

1. Reserve Bank Personnel Compensation Matters.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 14, 2013.

Margaret M. Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–11772 Filed 5–14–13; 11:15 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood and Tissue Safety and Availability

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood and Tissue Safety and Availability (ACBTSA) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will take place Wednesday, June 5 from 8:00 a.m. to 5:00 p.m. and Thursday, June 6, 2013, from 8:00 a.m. to 4:00 p.m.

ADDRESSES: Fishers Lane Conference Center, Terrace Level, 5635 Fishers Lane, Rockville, MD, 20852.

FOR FURTHER INFORMATION CONTACT: Mr. James Berger, Designated Federal Officer, ACBTSA, and Senior Advisor for Blood and Tissue Safety Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, 1101 Wootton Parkway, Suite 250, Rockville, MD, 20852. Phone: (240) 453–8803; Fax (240) 453–8456; Email *ACBTSA@hhs.gov*.

SUPPLEMENTARY INFORMATION: The ACBTSA shall provide advice to the Secretary through the Assistant Secretary for Health. The Committee advises on a range of policy issues to include: (1) Identification of public health issues through surveillance of blood, and tissue safety issues with national biovigilance data tools; (2) identification of public health issues that effect availability of blood, blood products, and tissues; (3) broad public health, ethical and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (e.g., product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues. The Advisory Committee has met regularly since its establishment in 1997.

At the June 2013 meeting, the ACBTSA will hear updates on recent activities of the Department and its agencies in support of previous Committee recommendations.

In the past, the Committee has heard and made recommendations regarding policy implications related to emerging research developments involving blood and tissue products available for use during public health emergencies. The Committee noted that a nationally coordinated system to manage tissue supplies and distributions during a disaster does not exist. Past recommendations made by the ACBTSA may be viewed at *www.hhs.gov/bloodsafety*.

The focus of the meeting will be to address whether the current blood center system in the United States is designed for optimal service delivery in the era of health care reform. In particular, the Committee hopes to address the services currently performed by blood centers that are essential to the U.S. health care system, how anticipated changes in health care may affect blood centers and the provision of services, as well as how the field of transfusion medicine will be defined in the next decade.

The public will have the opportunity to present their views to the Committee during a public comment session scheduled for June 6, 2013. Comments will be limited to five minutes per speaker and must be pertinent to the discussion. Pre-registration is required for participation in the public comment session. Any member of the public who would like to participate in this session is encouraged to contact the Designated Federal Officer at his/her earliest convenience to register for time (limited to 5 minutes) and registration must be prior to close of business on June 3, 2013. If it is not possible to provide 30 copies of the material to be distributed, then individuals are requested to provide a minimum of one (1) copy of the document(s) to be distributed prior to the close of business on June 3, 2013. It is also requested that any member of the public who wishes to provide comments to the Committee utilizing electronic data projection to submit the necessary material to the Designated Federal Officer prior to the close of business on June 3, 2013.

Dated: May 9, 2013.

James J. Berger,

Designated Federal Official, ACBTSA and Senior Advisor for Blood and Tissue Safety Policy.

[FR Doc. 2013–11582 Filed 5–15–13; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency

Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Collection of Information for Agency for Healthcare Research and Quality's (AHRQ) Hospital Survey on Patient Safety Culture Comparative Database.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by July 15, 2013.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Collection of Information for Agency for Healthcare Research and Quality's (AHRQ) Hospital Survey on Patient Safety Culture Comparative Database.

Request for information collection approval. The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) reapprove, under the Paperwork Reduction Act of 1995, AHRQ's collection of information for the AHRQ Hospital Survey on Patient Safety Culture (Hospital SOPS) Comparative Database; OMB NO. 0935–

0162, last approved on May 5th, 2010. The Hospital SOPS Comparative Database consists of data from the AHRQ Hospital Survey on Patient Safety Culture. Hospitals in the U.S. are asked to voluntarily submit data from the survey to AHRQ. The database was developed by AHRQ in 2006 in response to requests from hospitals interested in knowing how their patient safety culture survey results compare to those of other hospitals in their efforts to improve patient safety.

Background on the Hospital SOPS. In 1999, the Institute of Medicine called for health care organizations to develop a ''culture of safety'' such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; To Err is Human: Building a Safer Health System). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Hospital Survey on Patient Safety Culture with OMB approval (OMB NO. 0935–0115; Approved 2/4/2003). The survey was designed to enable hospitals to assess staff opinions about patient safety issues, medical error, and error reporting and includes 42 items that measure 12 dimensions of patient safety culture. AHRQ released the survey to the public along with a Survey User's Guide and other toolkit materials in November 2004 on the AHRQ Web site. Since its release, the survey has been voluntarily used by hundreds of hospitals in the U.S.

Rationale for the information collection. The Hospital SOPS survey and the Hospital SOPS Comparative Database are supported by AHRQ to meet its goals of promoting improvements in the quality and safety of health care in hospital settings. The surveys, toolkit materials, and comparative database results are all made publicly available along with technical assistance, provided by AHRQ through its contractor at no charge to hospitals, to facilitate the use of these materials for hospital patient safety and quality improvement.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to: the quality, effectiveness, efficiency, appropriateness and value of healthcare services; quality measurement and improvement; and database development. 42 U.S.C. 299a(a)(1), (2), and (a)(8).

Method of Collection

All information collection for the Hospital SOPS Comparative Database is done electronically, except the Data Use Agreement (DUA) that hospitals sign in hard copy and fax or mail back. Registration, submission of hospital information, and data upload is handled online through a secure Web site. Delivery of confidential hospital survey feedback reports is also done electronically by having submitters enter a username and password and downloading their reports from a secure Web site.

Survey data from the AHRQ Hospital Survey on Patient Safety Culture is used to produce three types of products: (1) An annual Hospital SOPS Comparative Database Report that is made publicly available in the public domain; (2) Individual Hospital Survey Feedback Reports that are confidential, customized reports produced for each hospital that submits data to the database; and (3) Research data sets of individual-level and hospital-level de-identified data to enable researchers to conduct analyses.

Estimated Annual Respondent Burden

Hospitals administer the AHRQ Hospital Survey on Patient Safety Culture every 20 months on average. Therefore, the number of hospital submissions to the database varies because hospitals do not submit data every year. Data submission is typically handled by one point-of-contact (POC) who is either a hospital patient safety manager or a survey vendor. The POC completes a number of data submission steps and forms, beginning with completion of an online Eligibility and Registration Form. The POCs typically submit data on behalf of 3 hospitals, on average, because many hospitals are part of a multi-hospital system that is submitting data, or the POC is a vendor that is submitting data for multiple hospitals. Exhibits 1 and 2 are based on an estimated 304 individual POCs who will complete the database submission steps and forms in the coming years, not based on the number of ''hospitals.'' The Hospital Information Form is completed by all POCs for each of their hospitals. The total annual burden hours are estimated to be 1,793.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $91,297 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility/Registration Form and Data Submission	304	1	5.6	1,702
Data Use Agreement	304	1	3/60	15
Hospital Information Form	304	3	5/60	76
Total	912	NA	NA	1,793

*The Eligibility and Registration Form requires 3 minutes to complete; however about 5.5 hours is required to prepare/plan for the data submission. This includes the amount of time POCs and other hospital staff (CEO, lawyer, database administrator) typically spend deciding whether to participate in the database and preparing their materials and data set for submission to the database, and performing the submission.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Eligibility/Registration Form and Data Submission	304	1,702	$50.95	$86,717
Data Use Agreement	304	15	50.33	755
Hospital Information Form	304	76	50.33	3,825

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN—Continued

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate*	Total cost burden
Total	912	1,793	NA	91,297

*Wage rates were calculated using the mean hourly wage based on occupational employment and wage estimates from the Dept of Labor, Bureau of Labor Statistics' May 2012 National Industry-Specific Occupational Employment and Wage Estimates NAICS 622000—Hospitals, located at *http://www.bls.gov/oes/current/naics3_622000.htm.* Wage rate of $50.33 is based on the mean hourly wages for Medical and Health Services Managers (11–9111). Wage rate of $50.95 is the weighted mean hourly wage for: Medical and Health Services Managers (11–9111; $50.33 × 2.6 hours = $130.86), Lawyers (23–1011; $72.71 × 0.5 hours 436.36), Chief Executives (11–1011($95.36 (0.5 hours = $47.68), and Database Administrators (15–1141; $35.20 × 2 hours = $70.40) [Weighted mean = ($130.86 + 36.36 + 47.68 + 70.40)/5.6 hours = $285.3015.6 hours = $50.95/hour].

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 7, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–11340 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–13SL]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

CDC Work@Health Program: Phase 1 Needs Assessment and Pilot Training Evaluation—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In the United States, chronic diseases such as heart disease, obesity and diabetes are among the leading causes of death and disability. Although chronic diseases are among the most common and costly health problems, they are also among the most preventable. Adopting healthy behaviors—such as eating nutritious foods, being physically active and avoiding tobacco use—can prevent the devastating effects and reduce the rates of these diseases.

Employers are recognizing the role they can play in creating healthy work environments and providing employees with opportunities to make healthy lifestyle choices. To support these efforts, the Centers for Disease Control and Prevention (CDC) plans to offer a comprehensive workplace health training program called Work@Health. The Work@Health Program is authorized by the Public Health Service Act and funded through the Prevention and Public Health Fund of the Patient Protection and Affordable Care Act (ACA). The Work@Health curriculum will be based on a problem-solving approach to improving employer knowledge and skills related to effective, science-based workplace health programs, and supporting the adoption of these programs in the workplace. Topics to be covered in the Work@Health curriculum include principles, strategies, and tools for leadership engagement; how to make a business case for workplace health programs; how to assess the needs of organizations and individual employees; how to plan, implement, and evaluate sustainable workplace health programs; and how to partner with community organizations for additional support.

The Work@Health Program will be implemented in two phases. In Phase 1, CDC will conduct an employer needs assessment, develop training models, and conduct pilot training and evaluation with approximately 72 employers and other organizations. In Phase 2, CDC will transition to full-scale program implementation and evaluation involving approximately 600 employers and other organizations.

CDC is requesting OMB approval to initiate Phase 1 information collection in summer 2013. A one-time Training Needs Assessment Survey will be administered electronically to 200 employers representing small, mid-size, and large businesses from various industry sectors and geographic locales. The needs assessment survey will allow CDC to assess employer preferences with respect to curriculum content, the types of support materials needed by employers and the appropriate level of detail for these materials, and the best approaches for providing technical assistance to employers. The estimated

burden per response for the needs assessment survey is 20 minutes.

The results of the needs assessment will inform the development of the Work@Health training curriculum and delivery methods. CDC anticipates that training will be offered in four models (formats): (1) A ''Hands-on'' instructor-led workshop model (T1), (2) a self-paced ''Online'' model (T2), (3) a combination or ''Blended'' model (T3), and (4) a ''Train-the-Trainer'' model (T4) designed to prepare qualified individuals to train employers through the Hands-on, Online, or Blended models.

Employers who are interested in participating in Work@Health training will be asked to complete a Pilot Employer Application Form. To be eligible for the T1–T3 pilot trainings, employers must have a minimum of 30 employees, a valid business license, and have been in business for at least one year. In addition, they must offer health insurance to their employees and have minimal workplace health program knowledge and experience. To be eligible for the T4 training model, applicants may be employers, health departments, business coalitions, trade associations, or other organizations. Participants in the T4 training must have previous knowledge, training and experience with workplace health programs, and an interest in becoming facilitators for the Work@Health program.

CDC anticipates the receipt of approximately 400 applications. CDC will use the application information to select 72 respondents for Phase 1 pilot training and evaluation activities (18 respondents per model). Three-fourths of these individuals will represent small and mid-size employers. Upon completion of the pilot training, each participant will be asked to complete a 15–20 minute evaluation survey. The customized survey questions will allow CDC to assess respondent satisfaction with the procedures, methods, content and strategies employed in each workplace health training model. The information collected in the pilot training evaluation surveys will inform future modifications and improvements to the training based on employers' experiences, needs, and recommendations. Only the evaluation survey for the Online model pilot will be the administered electronically, all others will be paper/pencil surveys.

Participation is voluntary and there are no costs to participants other than their time. A separate information collection request will be submitted to obtain OMB approval for Phase 2 information collection.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Employers	Training Needs Assessment Survey	200	1	20/60	67
Employers Participating in the Work@Health Pilot Training Program.	Pilot Employer Application Form	400	1	5/60	33
	Hands-On Pilot Training Evaluation Survey.	18	1	15/60	5
	Hands-On Pilot Training Evaluation Survey.	18	1	15/60	5
	Blended Model Pilot Training Evaluation Survey.	18	1	20/60	6
	Pilot Training Train-the-Trainer Evaluation Survey.	18	1	15/60	5
Total					121

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–11672 Filed 5–15–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0519]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on How To Submit Information in Electronic Format to Center for Veterinary Medicine Using the Food and Drug Administration's Electronic Submission Gateway

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the existing reporting requests in CVM Guidance #108, ''How to Register with the CVM Electronic Submission System to Submit Information in Electronic Format using the FDA Electronic Submissions Gateway.''

DATES: Submit either electronic or written comments on the collection of information by July 15, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of

information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: 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: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry #108 on How To Submit Information in Electronic Format to CVM Using the FDA Electronic Submission Gateway—21 CFR 11.2 (OMB Control Number 0910–0454)—Extension

CVM accepts certain types of submissions electronically with no requirement for a paper copy. These types of documents are listed in public docket 97S–0251 as required by 21 CFR 11.2. CVM's ability to receive and process information submitted electronically is limited by its current information technology capabilities and the requirements of the Electronic Records; Electronic Signatures final regulation. CVM's guidance entitled ''Guidance for Industry 108: How to Submit Information in Electronic Format to CVM Using the FDA Electronic Submission Gateway'' outlines general standards to be used for the submission of any information by email. The likely respondents are sponsors for new animal drug applications.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Part and form FDA	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 11.2; Form FDA 3538	65	2.4	156	0.08 (5 minutes)	13 (Rounded from 12.5)

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11632 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0520]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed; Extension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on extending OMB approval on the existing recordkeeping requirements for this information collection, regarding animal proteins prohibited in ruminant feed.

DATES: Submit either electronic or written comments on the collection of information by July 15, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: 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: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Substances Prohibited From Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed-21 CFR 589.2000(e)(1)(iv)—(OMB Control Number 0910–0339)—Extension

This information collection was established because epidemiological evidence gathered in the United Kingdom suggested that bovine spongiform encephalopathy (BSE), a progressively degenerative central nervous system disease, is spread to ruminant animals by feeding protein derived from ruminants infected with BSE. This regulation places general requirements on persons that manufacture, blend, process, and distribute products that contain or may contain protein derived from mammalian tissue, and feeds made from such products.

Specifically, this regulation requires renderers, feed manufacturers, and others involved in feed and feed ingredient manufacturing and distribution to maintain written procedures specifying the cleanout procedures or other means, and specifying the procedures for separating products that contain or may contain protein derived from mammalian tissue from all other protein products from the time of receipt until the time of shipment. These written procedures are intended to help the firm formalize their processes, and then to help inspection personnel confirm that the firm is operating in compliance with the regulation. Inspection personnel will evaluate the written procedure, and confirm it is being followed when they are conducting an inspection.

These written procedures must be maintained as long as the facility is operating in a manner that necessitates the record, and if the facility makes changes to an applicable procedure or process the record must be updated. Written procedures required by this section shall be made available for inspection and copying by the Food and Drug Administration.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Maintaining written procedures (§ 589.2000 (e)(1)(iv))	400	1	400	14	5600

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11633 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0557]

Agency Information Collection Activities; Proposed Collection; Comment Request; Postmarket Surveillance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for postmarket surveillance of medical devices.

DATES: Submit either electronic or written comments on the collection of information by July 15, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical

utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Postmarket Surveillance—21 CFR Part 822 (OMB Control Number 0910–0449)—Extension

Section 522 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360*l*) authorizes the FDA to require a manufacturers to conduct postmarket surveillance (PS) of any device that meets the criteria set forth in the statute. The PS regulation establishes procedures that FDA uses to approve and disapprove PS plans. The regulation provides instructions to manufacturers so they know what information is required in a PS plan submission. FDA reviews PS plan submissions in accordance with part 822 (21 CFR part 822) in §§ 822.15 through 822.19 of the regulation, which describe the grounds for approving or disapproving a PS plan. In addition, the PS regulation provides instructions to manufacturers to submit interim and final reports in accordance with § 822.38. Respondents to this collection of information are those manufacturers who require postmarket surveillance of their products.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Postmarket surveillance submission (§§ 822.9 and 822.10)	131	1	131	120	15,720
Changes to PS plan after approval (§ 822.21)	15	1	15	40	600
Changes to PS plan for a device that is no longer marketed (§ 822.28)	80	1	80	8	640
Waiver (§ 822.29)	1	1	1	40	40
Exemption request (§ 822.30)	16	1	16	40	640
Periodic reports (§ 822.38)	131	3	393	40	15,720
Total					33,360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Reporting Burden Estimate: The burden captured in table 1 of this document is based on the data available in FDA's internal tracking system. Sections 822.26, 822.27, and 822.34 do not constitute information collection subject to review under the PRA because it entails ''no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument'' (5 CFR 1320.3(h)(1)).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Manufacturer records (§ 822.31)	131	1	131	20	2,620
Investigator records (§ 822.32)	393	1	393	5	1,965
Total					4,585

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation of Recordkeeping Burden Estimate: FDA expects that at least some of the manufacturers will be able to satisfy the PS requirement using information or data they already have. For purposes of calculating burden, however, FDA has assumed that each PS order can only be satisfied by a 3-year clinically-based surveillance plan, using three investigators. These estimates are based on FDA's knowledge and experience with postmarket surveillance.

Dated: May 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11697 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0545]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on the information collection provisions of our infant formula regulations, including infant formula labeling, quality control procedures, notification requirements, and recordkeeping.

DATES: Submit either electronic or written comments on the collection of information by July 15, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, *domini.bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Requirements—21 CFR Parts 106 and 107 (OMB Control Number 0910–0256)—Extension

Statutory requirements for infant formula under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) are intended to protect the health of infants and include a number of reporting and recordkeeping requirements. Among other things, section 412 of the FD&C Act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and adhere to quality control procedures, notify us when a batch of infant formula that has left the manufacturers' control may be adulterated or misbranded, and keep records of distribution. We have issued regulations to implement the FD&C Act's requirements for infant formula in parts 106 and 107. We also regulate the labeling of infant formula under the authority of section 403 of the FD&C Act (21 U.S.C. 343). Under our labeling regulations for infant formula in part 107, the label of an infant formula must include nutrient information and directions for use. The purpose of these labeling requirements is to ensure that consumers have the information they need to prepare and use infant formula appropriately.

In a notice of proposed rulemaking published in the **Federal Register** of July 9, 1996 (61 FR 36154), we proposed changes in our infant formula regulations, including some of those listed in tables 1, 2, and 3 of this document. The document included revised burden estimates for the proposed changes and solicited public comment. In the **Federal Register** of April 28, 2003 (68 FR 22341) (the 2003 reopening), FDA reopened the comment period for the proposed rule. Interested persons were originally given until June 27, 2003, to comment on these issues and the 1996 proposal. However, in response to a request, the comment period was extended to August 26, 2003 (68 FR 38247, June 27, 2003). FDA again reopened the comment period on August 1, 2006 (71 FR 43392) (the 2006 reopening) for 45 days to accept comment on a limited set of issues. In a notice of proposed rulemaking published in the **Federal Register** of April 16, 2013 (78 FR 22442), we proposed to amend our regulations on nutrient specifications and labeling for infant formula to add the mineral selenium to the list of required nutrients and to establish minimum and maximum levels of selenium in infant formula. The document also included revised burden estimates for the proposed changes and solicited public comment. In the interim, FDA is seeking an extension of OMB approval for the current regulations so that we can continue to collect information while the proposals are pending.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Federal food, drug, and cosmetic act or 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Section 412(d) of the FD&C Act	5	13	65	10	650
§ 106.120(b)	1	1	1	4	4
§ 107.50(b)(3) and (b)(4)	3	2	6	4	24
§ 107.50(e)(2)	1	1	1	4	4
Total					682

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
§ 106.100	5	10	50	400	20,000
§ 107.50(c)(3)	3	10	30	300	9,000

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Total	.....	.....	.....	.....	29,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

21 CFR Section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§§ 107.10(a) and 107.20	5	13	65	8	520

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In compiling these estimates, we consulted our records of the number of infant formula submissions received in the past. All infant formula submissions may be provided to us in electronic format. The hours per response reporting estimates are based on our experience with similar programs and information received from industry.

We estimate that we will receive 13 reports from 5 manufacturers annually under section 412(d) of the FD&C Act, for a total annual response of 65 reports. Each report is estimated to take 10 hours per response for a total of 650 hours. We also estimate that we will receive one notification under § 106.120(b). The notification is expected to take 4 hours per response, for a total of 4 hours.

For exempt infant formula, we estimate that we will receive two reports from three manufacturers annually under §§ 107.50(b)(3) and (b)(4), for a total annual response of six reports. Each report is estimated to take 4 hours per response for a total of 24 hours. We also estimate that we will receive one notification annually under § 107.50(e)(2) and that the notification will take 4 hours to prepare.

We estimate that 5 firms will expend approximately 20,000 hours per year to fully satisfy the recordkeeping requirements in § 106.100 and that 3 firms will expend approximately 9,000 hours per year to fully satisfy the recordkeeping requirements in § 107.50(c)(3).

We estimate compliance with our labeling requirements in §§ 107.10(a) and 107.20 requires 520 hours annually by 5 manufacturers.

Dated: May 9, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11631 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0873]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Bar Code Label Requirement for Human Drug and Biological Products

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 17, 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 0910–0537. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@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.

Bar Code Label Requirement for Human Drug and Biological Products—(OMB Control Number 0910–0537)—Extension

In the **Federal Register** of February 26, 2004 (69 FR 9120), we issued regulations that required human drug product and biological product labels to have bar codes. The rule required bar codes on most human prescription drug products and on over-the-counter (OTC) drug products that are dispensed under an order and commonly used in health care facilities. The rule also required machine-readable information on blood and blood components. For human prescription drug products and OTC drug products that are dispensed under an order and commonly used in health care facilities, the bar code must contain the National Drug Code number for the product. For blood and blood components, the rule specifies the minimum contents of the machine-readable information in a format approved by the Center for Biologics Evaluation and Research Director as blood centers have generally agreed upon the information to be encoded on the label. The rule is intended to help reduce the number of medication errors in hospitals and other health care settings by allowing health care professionals to use bar code scanning equipment to verify that the right drug (in the right dose and right route of administration) is being given to the right patient at the right time.

Most of the information collection burden resulting from the final rule, as calculated in table 1 of the final rule (69 FR 9120 at 9149), was a one-time burden that does not occur after the rule's compliance date of April 26, 2006. In addition, some of the information collection burden estimated

in the final rule is now covered in other OMB-approved information collection packages for FDA. However, parties may continue to seek an exemption from the bar code requirement under certain, limited circumstances. Section 201.25(d) (21 CFR 201.25(d)) requires submission of a written request for an exemption and describes the contents of such requests. Based on the number of exemption requests we have received, we estimate that approximately 2 exemption requests may be submitted annually, and that each exemption request will require 24 hours to complete. This would result in an annual reporting burden of 48 hours.

In the **Federal Register** of August 17, 2012 (77 FR 49818), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden for this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 201.25(d)	2	1	2	24	48

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–11630 Filed 5–15–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Diagnostic Kit for Assessing Exposure or Infection by the Koala Family of Retroviruses

Description of Technology: Inventors at the NIH have discovered a new family of infectious koala retroviruses that are correlated with the development of malignant neoplasias, including lymphomas and leukemias. This invention relates to a diagnostic kit for assessing exposure or infection by a koala retrovirus. The kit consists of specific primers and probes for the detection of three distinct subtypes of infectious koala retrovirus and may be useful in various species, including humans, primates, and koalas. Infectious koala retroviruses have been shown to infect human cells in culture, though the health implications in humans have not yet been fully determined.

Potential Commercial Applications:

- A diagnostic kit for assessing exposure or infection by the koala family of retroviruses
- May be useful in monitoring effectiveness of antiretroviral treatment

Competitive Advantages: Detection of newly discovered subtypes of infectious koala retroviruses.

Development Stage:

- Early-stage
- In vitro data available

Inventors: Maribeth V. Eiden (NIMH), Wenqin Xu (NIMH), William M. Switzer (CDC), HaoQiang Zheng (CDC)

Intellectual Property: HHS Reference No. E–053–2013/0—US Application No. 61/784,763 filed 14 Mar 2013

Licensing Contact: Charlene Sydnor, Ph.D.; 301–435–4689; *sydnorc@mail.nih.gov*

Collaborative Research Opportunity: The National Institute of Mental Health is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize A Diagnostic Kit for Assessing Exposure or Infection by the Koala Family of Retroviruses. For collaboration opportunities, please contact Suzanne L. Winfield, Ph.D. at *winfiels@mail.nih.gov* or 301–402–4324.

Retroviral Vector Packaging Cell Lines and Purification Methods for Gene Therapy

Description of Technology: This invention relates to a novel gammaretroviral vector packaging cell line and method of producing gammaretroviral vectors suitable for gene therapy. The described vectors may contain the gibbon ape leukemia virus (GALV) envelope with a CD11D8 epitope tag enabling their purification on a monoclonal antibody conjugated column. These vectors have several advantages over existing systems, including a broader host range, higher infectivity, and lower potential for replication. Further, purification of retroviral vector particles via an epitope tag may remove cellular components and debris toxic to target cells and tissues, providing a safer method of delivery for patients receiving gene therapy.

Potential Commercial Applications: Retroviral vector particles for gene therapy.

Competitive Advantages:

- Broader host range
- Higher infectivity
- Lower potential for replication
- Decreased toxicity after purification

Development Stage:

- Early-stage
- In vitro data available

Inventors: Maribeth V. Eiden and Wenqin Xu (NIMH)

Intellectual Property: HHS Reference No. E–036–2013/0—US Application No. 61/759,516 filed 01 Feb 2013

Licensing Contact: Charlene Sydnor, Ph.D.; 301–435–4689; *sydnorc@mail.nih.gov*

Collaborative Research Opportunity: The National Institute of Mental Health is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize

Retroviral Vector Packaging Cell Lines and Purification Methods for Gene Therapy. For collaboration opportunities, please contact Suzanne L. Winfield, Ph.D. at *winfiels@mail.nih.gov* or 301–402–4324.

Enhanced Cancer Immunotherapy Using microRNA–155

Description of Technology: Tumor immunotherapy is a promising approach for the treatment of cancer. However, current T cell-based immunotherapies are limited by the poor engraftment and functionality of the transferred T cells. Moreover, lymphodepleting regimens used to enhance engraftment and function of transferred tumor-reactive T cells are plagued by life-threatening side effects.

The scientist at the NIH recently discovered that the overexpression of microRNA–155 (miR–155) in tumor-reactive murine CD8+ T cells can enhance T cell proliferation and anti-tumor efficacy without lymphodepletion and exogenous cytokine administration. Consequently, using the miR155 overexpressing human CD8+ T cells could provide a safer, more effective T cell-based immunotherapy. This invention describes miR155 CD8+ T cell compositions and methods of using the miR155 CD8+ T cells to treat cancer through adoptive immunotherapy.

Potential Commercial Applications: Use in enhanced adoptive immunotherapy to treat cancer.

Competitive Advantages:

- T cells with enhanced proliferation, survival, and function.
- Robust tumor response without the need of lymphodepletion and exogenous cytokine support.

Development Stage:

- Pre-clinical
- In vitro data available
- In vivo data available (animal)

Inventors: Yun Ji, Luca Gattinoni, Nicholas Restifo (NCI)

Publication: Dudda JC, et al. MicroRNA–155 Is Required for Effector CD8(+) T Cell Responses to Virus Infection and Cancer. Immunity. 2013 Apr 18;38(4):742–53. [PMID 23601686]

Intellectual Property: HHS Reference No. E–272–2012/0—US Provisional Application No. 61/716,653 filed 22 Oct 2012

Licensing Contact: Whitney Hastings; 301–451–7337; *hastingw@mail.nih.gov*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize the use of microRNA–155 to enhance T cell-based immunotherapies. For collaboration opportunities, please contact Luca Gattinoni at *gattinol@mail.nih.gov* or 301–451–6914, or Nicholas Restifo at *restifo@nih.gov* or 301–496–4904.

Pyruvate Kinase M2 Activators for the Treatment of Cancer

Description of Technology: This technology describes a series of small-molecule activators of the pyruvate kinase M2 isoform (PK–M2).

Pyruvate kinase (PK) is a critical metabolic enzyme that catalyzes the last step of the glycolytic pathway. It exists in several isoforms with different patterns of tissue expression. One isoform, PK–M2, is expressed in cells with a high rate of nucleic acid synthesis, including most tumors, which makes this enzyme an attractive target for cancer therapy. PK–M2 can occur in either a tetrameric form or a dimeric form in proliferating cells; a high tetramer to dimer ratio leads to energy production, while a low ratio channels metabolites into synthetic processes. In tumor cells, oncoproteins induce dimerization of PK–M2, resulting in the inactive form of the protein and allowing synthesis of building blocks for cell proliferation. Activation of PK–M2 in these cells may prevent the buildup of metabolic intermediates and thereby stall tumor cell proliferation. Further, after embryonic development PK–M2 expression is primarily restricted to tumor cells, so specific activators of PK–M2 would be expected to affect only tumor cells, and would be less likely to be toxic in normal tissues.

Investigators at the National Center for Advancing Translational Sciences have discovered a series of small molecules that specifically activate the PK–M2 isoform and that may be useful for the treatment of cancer. These compounds are based upon a substituted thieno[3,2-b]pyrrole[3,2-d]pyridazinone scaffold.

Potential Commercial Applications: Targeted therapeutic agent for cancer and other cell proliferation disorders.

Competitive Advantages:

- Compounds are specific to one isoform of pyruvate kinase.
- Compounds target tumor cells and not normal cells, so side effects may be reduced.
- Compounds are small molecules which may be further optimized.

Development Stage:

- Early-stage
- In vitro data available

Inventors: Craig J. Thomas, Jian-Kang Jiang, Matthew B. Boxer, Min Shen, Douglas S. Auld (NCATS)

Publications:

1. Anastasiou D, et al. Pyruvate kinase M2 activators promote tetramer formation and suppress tumorigenesis. Nat Chem Biol. 2012 Oct;8(10):839–47. [PMID 22922757]

2. Anastasiou D, et al. Inhibition of pyruvate kinase M2 by reactive oxygen species contributes to cellular antioxidant responses. Science. 2011 Dec 2;334(6060):1278–83. [PMID 22052977]

3. Jiang J, et al. Evaluation of thieno[3,2-b]pyrrole[3,2-d]pyridazinones as activators of the tumor cell specific M2 isoform of pyruvate kinase. Bioorg Med Chem Lett. 2010 Jun 1;20(11):3387–93. [PMID 20451379]

Intellectual Property: HHS Reference No. E–298–2011/1—US Provisional Application No. 61/752,698 filed 15 Jan 2013

Related Technologies:

HHS Reference No. E–326–2008/0—

- US Patent Application No. 13/123,297 filed 25 Apr 2011
- US Patent Application No. 13/433,656 filed 29 Mar 2012
- Various international patent applications filed

HHS Reference No. E–120–2010/0—

- US Patent Application No. 13/643,594 filed 26 Oct 2012
- Various international patent applications filed

Licensing Contact: Tara Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov*

Collaborative Research Opportunity: The National Center for Advancing Translational Sciences (NCATS) is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Pyruvate Kinase M2 Activators for the Treatment of Cancer. For collaboration opportunities, please contact the Office of Strategic Alliances at *NCATSPartnerships@mail.nih.gov.*

Dated: May 10, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–11602 Filed 5–15–13; 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; Clinical Trials Units for NIAID Network.

Date: June 10, 2013.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–7042, *sundstromj@niaid.nih.gov.*

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee.

Date: June 11, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC/Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Michelle M. Timmerman, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–4573, *timmermanm@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Networks.

Date: June 11, 2013.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–7042, *sundstromj@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Clinical Trials Units for NIAID Networks.

Date: June 12, 2013.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–7042, *sundstromj@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11598 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DCC MAPP Network.

Date: June 12, 2013.

Time: 4:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Bioengineering Interdisciplinary Training for Diabetes Research (T32).

Date: July 16, 2013.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Xiaodu Guo, Md, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11600 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: June 12–13, 2013.

Open: June 12, 2013, 8:30 a.m. to 9:00 a.m.

Agenda: To review policy and procedures.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Closed: June 12, 2013, 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Closed: June 13, 2013, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 19–20, 2013.

Open: June 19, 2013, 8:00 a.m. to 8:30 a.m.

Agenda: To review policy and procedures.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 19, 2013, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 20, 2013, 8:00 a.m. to 12:00 p.m.

*Agenda:*To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee.

Date: June 26–27, 2013.

Open: June 26, 2013, 6:30 p.m. to 7:00 p.m.

Agenda: To review policy and procedures.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 26, 2013, 7:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 27, 2013, 8:30 a.m. to 5:00 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: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11599 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Announcement of Requirements and Registration for: ''Data Rx: Prescription Drug Abuse Infographic Challenge''

Authority: 15 U.S.C. 3719.

SUMMARY: The *''Data Rx: Prescription Drug Abuse Infographic Challenge Concept''* challenges the general public to create an infographic that presents information, rooted in the current research, concerning the growing trend of prescription drug abuse. The infographic should be designed to inform and educate the general public in interesting, novel, and creative ways about the dangers involved with the abuse of prescription drugs.

DATES: (1) Submission Period begins May 13, 2013, 12:01 a.m., EDT.

(2) Submission Period ends June 14, 2013, 11:59 p.m., EDT.

(3) Judging will take place between June 11–July 15, 2013.

(4) Winners will be notified and prizes awarded July 30, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Bethany Deeds, Deputy Branch Chief, Epidemiology Research Branch, Division of Epidemiology, Services and Prevention Research, National Institute on Drug Abuse, Phone: 301–402–1935, email *deedsb@nida.nih.gov*.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

Prescription drug abuse is a growing drug problem for America. Rates of death by drug overdose have more than tripled since 1990. Most of these deaths are caused by prescription drugs. Infographics are frequently used to communicate complex information in a clear, concise and visually appealing manner to the public. Compared to other topical areas (e.g., politics, economics) the usage of infographics in health science is extremely limited, and infographics relevant to substance use and abuse rarely utilize primary data sources.

The infographic submissions in response to ''*Data Rx: Prescription Drug Abuse Infographic Challenge Concept''* (the ''Challenge'') are intended to increase awareness about the dangers of prescription drug abuse based on latest research.

This Challenge is in accordance with the National Institute on Drug Abuse (NIDA) statutory authority, described in 42 U.S.C. 285o. The general purpose of NIDA is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the prevention of drug abuse and the treatment of drug abusers. Consistent with this authority, one of NIDA's strategic goals is to prevent the initiation of drug use and the escalation to addiction in those who have already initiated use. Infographics that achieve the goals underlying this Challenge will utilize the latest research to identify the characteristics and patterns of prescription drug abuse and, accordingly, will support this strategic goal.

Entry Materials

Applications for this Challenge will include the following components:

(1) An infographic (in .jpeg format with at least a 300 dots- per-inch [dpi] resolution) that increases awareness and clearly outlines the associated dangers of prescription drug abuse.

(2) A 1-page summary to accompany the infographic (4,000-character maximum). Develop a summary that explains your main points, selected approach and what conclusions the data visualization helps make. References are required and do not count towards the character limit.

(3) Written consent to the eligibility rules upon or before submitting an application.

All Entry Materials must be in English. All requested information must be provided for your application to be valid.

All Entry Materials, including items 1 through 3, must be submitted to Challenge.gov which is an online challenge platform administered by the

U.S. General Services Administration (GSA) that empowers the U.S. Government and the public to bring the best ideas and top talent to bear on our nation's most pressing challenges. Access the *www.challenge.gov* Web site and search for ''Data Rx: Prescription Drug Abuse Infographic Challenge.''

Rules for Participating in the Challenge Competition

To be eligible to win a prize under this Challenge, an individual or entity:

(1) Shall have registered to participate in the Challenge under the rules promulgated by the National Institute on Drug Abuse (NIDA);

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States;

(4) In the case of an individual, must be at least 18 years old at the time of entry;

(5) May not be a Federal entity or Federal employee acting within the scope of their employment;

(6) Shall not be an HHS employee working on their applications during assigned duty hours;

(7) Shall not be an employee of the National Institutes of Health (NIH); however, employees of other Operating Divisions within the Department of Health and Human Services (HHS) (e.g., Centers for Disease Control and Prevention (CDC), Substance Abuse and Mental Services Administration (SAMHSA)) are eligible to participate;

(8) In the case of Federal grantees, may not use Federal funds to develop a Challenge application unless it is consistent with the purpose of their grant award;

(9) In the case of Federal contractors, may not use Federal funds from a contract to develop a Challenge application or to fund efforts in support of a Challenge application.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during the Challenge if the facilities and employees are made available to all individuals and entities participating in the Challenge on an equitable basis.

Process for Registration and Submitting an Entry

To register for this Challenge, participants must access the *www.challenge.gov* Web site and search for ''Data Rx: Prescription Drug Abuse Infographic Challenge Concept.'' A registration link for the challenge can be found on the landing page under this Challenge description.

Amount of the Prize

Up to three monetary prizes will be awarded: $3,000 for 1st place, $2,000 for 2nd place, and $1,000 for 3rd place. First, second, and third place winners will also have their infographic featured on *visualizing.org,* the creative community for infographic data and design. Depending on the number of applications, NIDA may also choose to post and recognize additional infographics on its Web site.

Payment of the Prize

Prizes awarded under this Challenge will be paid by electronic funds transfer and may be subject to Federal income taxes. HHS will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected

The judging panel will make recommendations based upon the following three criteria:

1. Creativity and aesthetics of the infographic. (5 points) Like artwork, an infographic should be designed to capture the attention of the viewer and tell a story through creative use of visuals and layout. How original and attractive is the infographic?

2. Clarity in articulating the prescription drug abuse problem. (5 points) At its core, the potential value of data visualization lies in the ability to synthesize and convey complex data clearly and succinctly. How distinctly does the product illuminate the problem of prescription drug abuse?

3. Success in translating multiple data sets into relevant visual information. (5 points) Synthesizing multiple, large datasets to deliver relevant information to the public in a visually compelling is an important feature of an infographic. The inclusion of more data sets does not necessarily translate to a better infographic if it does not effectively convey complex information. How well does the data visualization product accomplish this?

The application must not use HHS's logo or official seal or the logo of NIDA in the application, and must not claim federal government endorsement.

Scores from each criterion will be weighted equally for a maximum score of 15. All applications will be held until after the deadline is reached for a simultaneous judging process.

NIDA reserves the right to disqualify and remove any application which is deemed, in the judging panel's discretion, inappropriate, offensive, defamatory, or demeaning.

The evaluation process will begin by de-identifying the applications and removing those that are not responsive to this Challenge or not in compliance with all rules of eligibility. Judges will examine all applications in accordance with the judging criteria outlined above and meet to discuss the most meritorious entries. Final recommendations will be determined by a vote.

Additional Information

Possible data sources include (but are not limited to):

- Arrestee Drug Abuse Monitoring Data (ADAM; *http://www.whitehouse.gov/ondcp/arrestee-drug-abuse-monitoring-program*)
- Behaviors Risk Factor Surveillance Survey (BRFSS: *http://www.cdc.gov/brfss/*)
- Drug Abuse Warning Network (DAWN; *http://www.samhsa.gov/data/DAWN.aspx*)
- Monitoring the Future (MTF; *http://www.monitoringthefuture.org/*)
- National Epidemiologic Survey on Alcohol and Related Conditions (NESARC; *http://www.sgim.org/communities/research/dataset-compendium/national-epidemiologic-survey-on-alcohol-and-related-conditions-nesarc*)
- National Health Interview Survey (NHIS; *http://www.cdc.gov/nchs/nhis.htm*)
- National Longitudinal Study of Adolescent Health (Add Health; *http://www.cpc.unc.edu/projects/addhealth*)
- National Longitudinal Surveys (NLS; *http://www.bls.gov/nls/*)
- National Survey on Drug Use & Health (NSDUH; *http://www.samhsa.gov/data/NSDUH/2011SummNatFindDetTables/Index.aspx*)
- Treatment Episode Data Set (TEDS; *http://wwwdasis.samhsa.gov/webt/newmapv1.htm*)
- Youth Risk Behavior Surveillance System (YRBSS; *http://www.cdc.gov/HealthyYouth/yrbs/index.htm*)
- National Addiction & HIV Data Archive Program (NAHDAP; *http://www.icpsr.umich.edu/icpsrweb/NAHDAP/*)
- Health Data Community at data.gov (Health Data; *http://www.healthdata.gov/*)

We also encourage combining or ''mashing up'' of multiple data sources. See ''Basis upon Which Winner Will Be Selected'' criteria 3.

Submission Rights

Upon submission, each participant warrants that he or she is the sole author and owner of the work, and that the work is wholly original and does not infringe on any copyright or any other rights of any third party of which the participant is aware. Participants retain title and full ownership in and to their application. Participants expressly reserve all intellectual property rights (e.g., copyright). However, each participant may be asked to grant to NIDA and others acting on behalf of NIDA, a royalty-free non-exclusive worldwide license to use, copy for use, and display publicly all parts of the application for the purposes of the Challenge. This license includes posting or linking to the application on the official NIDA Web site and making it available for use by the public.

Liability

By participating in this Challenge, participants agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in the Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise.

Indemnification

By participating in this Challenge, participants agree to indemnify the Federal Government against third party claims for damages arising from or related to Challenge activities.

Insurance

Based on the subject matter of the contest, the type of work that it will possibly require, as well as an analysis of the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from Challenge participation, participants are not required to obtain liability insurance or demonstrate financial responsibility in order to participate in this Challenge.

Privacy, Data Security, Ethics, and Compliance

Participants are required to identify and address privacy and security issues in their proposed projects, and describe specific solutions for meeting them. In addition to complying with appropriate policies, procedures, and protections for data that ensures all privacy requirements and institutional policies are met, use of data should not allow the identification of the individual from whom the data was collected.

Participants are responsible for compliance with all applicable federal, state, local, and institutional laws, regulations, and policy. These may include, but are not limited to, Health Insurance Portability and Accountability Act (HIPAA), HHS Protection of Human Subjects regulations, and FDA regulations. The following links are intended as a starting point for addressing regulatory requirements, but should not be interpreted as a complete list of resources on these issues:

HIPAA

Main link: *http://www.hhs.gov/ocr/privacy/index.html*.

Summary of the HIPAA Privacy Rule: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html*.

Summary of the HIPAA Privacy Rule: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html*.

Summary of the HIPAA Security Rule: *http://www.hhs.gov/ocr/privacy/hipaa/understanding/srsummary.html*.

Human Subjects—HHS

Office for Human Research Protections: *http://www.hhs.gov/ohrp/index.html*.

Protection of Human Subjects Regulations: *http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html*.

Policy & Guidance: *http://www.hhs.gov/ohrp/policy/index.html*.

Institutional Review Boards & Assurances: *http://www.hhs.gov/ohrp/assurances/index.html*.

Human Subjects—U.S. Food and Drug Administration (FDA)

Clinical Trials: *http://www.fda.gov/ScienceResearch/SpecialTopics/RunningClinicalTrials/default.htm*.

Office of Good Clinical Practice: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/OfficeofScienceandHealthCoordination/ucm2018191*.

Consumer Protection—Federal Trade Commission (FTC)

Bureau of Consumer Protection: *http://business.ftc.gov/privacy-and-security*.

Dated: May 6, 2013.

Nora Volkow,

Director, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2013–11688 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Announcement of Requirements and Registration for ''Propose New Ideas For Prescription Drugs Oral Overdose Protection''

Authority: 15 U.S.C. 3719.

SUMMARY: Prescription drug abuse is a growing drug problem for America. The ''*Propose New Ideas For Prescription Drugs Oral Overdose Protection''* is a Challenge to find new and creative ways that diminish or eliminate overconsumption of intact opioid pills. This notice provides information about the requirements and registration for the Challenge.

DATES: (1) Submission Period begins May 13, 2013, 12:01 a.m., EDT.

(2) Submission Period ends June 14, 2013, 11:59 p.m., EDT.

(3) Judging will take place between June 17–June 30, 2013.

(4) Winners will be notified and prizes awarded July 8, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Elena Koustova, Director, Office of Translational Initiatives and Program Innovations, Office of Director, National Institute on Drug Abuse; NIDA Challenge Manager; NIDA SBIR/STTR Coordinator; Phone: 301–496–8768; email: *koustovae@nida.nih.gov*; *elena.koustova@nih.gov* .

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

Prescription drugs are the second-most abused category of drugs in the United States, following marijuana. The most commonly misused prescription drugs fall into three classes:

- Opioids (pain relievers, analgesics) which include oxycodone (OxyContin, Roxicodone), hydrocodone (Vicodin, Lortab), and methadone (Dolophine);
- Central nervous system (CNS) depressants which include butalbital (Fiorinal, Fioricet, Axocet), diazepam (Valium), and alprazolam (Xanax);
- Stimulants which include methylphenidate (Ritalin) and amphetamine/dextroamphetamine (Adderall)

Because prescription drugs are legal, they are easily accessible, often from a home medicine cabinet. The latest report from the National Survey on Drug Use and Health indicates that 70% of people who abuse prescription pain relievers got them from friends or relatives. Surprisingly, the individuals who abuse prescription drugs, particularly teenagers, believe that these

substances are safer than illicit drugs because they are prescribed by a healthcare professional. However, they are just as dangerous and deadly as illegal drugs when used improperly and for non-medical reasons.

The possibility that patients will abuse, become addicted to, or unlawfully channel their prescribed pharmaceuticals to the illicit marketplace is one of the greatest risks associated with prescribing opioid medications in pain management practice. Meanwhile, overdoses from opiate drugs which were once almost always directly linked to illegal heroin use, are now increasingly due to abuse of prescription painkillers.

Prescription pain medication containing opioids can be abused in several ways, crushing the pills to facilitate nasal entry into the body, dissolving the powder in water to create an injectable substance, or taking the pills orally intact (the focus of this Challenge), just to name a few. Pharmaceutical industry and academic researchers are focusing on drug formulations that limit the availability of drugs that can be abused by pill ''crushing,'' injecting and snorting. Abuse of prescription drugs by the means of injection and inhalation can be limited or prevented when those abuse-deterrent formulation technologies are successfully deployed. Unfortunately, the oral (as intended) administration, when the drug delivery system is not altered by the user, can still lead to addiction and accidental overdose. The misuse of prescription drugs by persons who over-consume prescribed medications remains less of a research focus.

NIDA is seeking ideas on how to reduce or eliminate the risk of harm from accidentally or intentionally swallowing too many pills at the same time. NIDA is particularly interested in approaches that deter overdosing on an intact product. This Challenge is a broad question formulated to obtain access to new ideas, similar to a global brainstorm for producing a breakthrough. This Challenge is not looking for ideas to reformulate medication so that an individual would not be able (abuse resistance) or would not want (abuse deterrence) to manipulate the prescription drug.

Submitted ideas should take into consideration that the proposed approach should also maintain the original drug efficacy, be devoid of new safety issues for the intended population, avoid harming a potential abuser, and be economically viable.

This Challenge is in accordance with NIDA's statutory authority, described in 42 U.S.C. 285o. The general purpose of the National Institute on Drug Abuse is the conduct and support of biomedical and behavioral research, health services research, research training and health information dissemination with respect to the prevention of drug abuse and the treatment of drug abusers. This Challenge is also in accordance with NIDA's strategic goals to prevent the initiation of prescription drug abuse and the escalation to addiction in those who have already initiated use. Furthermore, this Challenge will serve as a vehicle to promote cross-cutting priorities identified in a NIDA's current strategic plan to attract new and diverse expertise and experiences in various non-traditional areas to drug abuse research area, including chemistry, physics, bioengineering, and mathematics. Through this Challenge, NIDA hopes that global brainstorming about the stoppage of inappropriate use of prescription medications, which is a major public health challenge for our nation, will produce breakthrough ideas and reinvigorate the addiction research.

Entry Materials

All Entry Materials, including items a. through d., must be submitted to *Challenge.gov* which is an online challenge platform administered by the U.S. General Services Administration (GSA) that empowers the U.S. Government and the public to bring the best ideas and top talent to bear on our nation's most pressing challenges. Access the *www.challenge.gov* Web site and search for ''Propose New Ideas For Prescription Drugs Oral Overdose Protection.''

Other than providing your contact information as described below, please do not submit any other confidential information. Entry Materials should include a technological summary as follows of not more than 5 pages:

a. TITLE PAGE (1 page). Include a title and abstract (<350 words) for the idea. Each person submitting Entry Materials (each referred to herein as a Solver) should include on the title page his or her name, phone and fax numbers, email and mailing address.

b. DESCRIPTION OF THE IDEA (3 pages). Provide a background and outline how your idea would function to limit/eliminate overconsumption of intact opioid tablets. Use detailed descriptions, specifications, supporting precedents, analysis of existing data, drawings, figures, movies, and/or other media to define your proposal clearly. Up to 5 images (.jpg figures), one 3-min video file, or other media files of comparable length can be included.

c. REFERENCES (no page limit). References should be included in your submission, but this section will not count toward the overall page total.

d. WRITTEN CONSENT to the eligibility rules upon or before submitting an entry.

Solver is eligible to submit as many distinct entries as she/he would like; however, each submission must include a complete package, items a through d, as outlined above. All Entry Materials must be in English.

Rules for Participating in the Challenge Competition

To be eligible to win a prize under this Challenge, an individual or entity:

(1) Shall have registered to participate in the Challenge under the rules promulgated by the National Institute on Drug Abuse (NIDA);

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States;

(4) In the case of an individual, must be at least 18 years old at the time of entry;

(5) Whether participating singly or in a group, individual(s) shall be a citizen(s) or permanent resident(s) of the United States;

(6) May not be a Federal entity or Federal employee acting within the scope of their employment;

(7) Shall not be an HHS employee working on their submission(s) during assigned duty hours;

(8) Shall not be an employee of the National Institutes of Health (NIH); however, employees of other Operating Divisions within HHS (e.g., Centers for Disease Control and Prevention (CDC), Substance Abuse and Mental Services Administration (SAMHSA)) are eligible to participate;

(9) In the case of Federal grantees may not use Federal funds to develop a Challenge submission unless it is consistent with the purpose of their grant award;

(10) In the case of Federal contractors may not use Federal funds from a contract to develop a Challenge submission or to fund efforts in support of a Challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during the Challenge if the facilities and employees are made available to all individuals and entities participating in the Challenge on an equitable basis.

Process for Registration and Submitting an Entry

To register for this Challenge, Solvers must access the *www.challenge.gov* Web site and search for ''*Propose New Ideas For Prescription Drugs Oral Overdose Protection*.'' A registration link for the Challenge can be found on the landing page under this Challenge description.

Amount of the Prize

Up to three prizes worth a total of $15,000 ($5,000 each) will be awarded to submission(s) that satisfy all the Challenge criteria (below) and receive the highest cumulative scores.

Payment of the Prize

Prizes awarded under this Challenge will be paid by electronic funds transfer and may be subject to Federal income taxes. HHS will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which the Winner Will Be Selected

This Challenge is formulated to elicit new ideas, similar to a global brainstorm for producing a breakthrough. Submissions will be received and reviewed by the judging panel comprised of the experts in the area of prescription drug abuse research and pain management. The judging panel will evaluate each submission based on the following equally-weighted criteria:

1. Scientific foundation for the proposed idea, e.g. well-founded line of thought that is supported by the scientific literature or otherwise found to be accurate;
2. Idea novelty and originality;
3. Potential for development, including whether the submission will or is likely to:

(1) Preserve the original drug efficacy;

(2) Avoid new safety issues for the intended population of pain patients;

(3) Avoid harming a potential abuser;

(4) Be suitable for further research development and be commercially viable.

Scores from each criterion will be weighted equally for a maximum score of 120 (40 points each). Entry Materials from all submissions will be held until after the deadline is reached for a simultaneous review process. The evaluation process will begin by de-identifying the submissions and removing those that are not responsive to this Challenge or not in compliance with all rules of eligibility. NIDA reserves the right to disqualify and remove any submission which is deemed, in the judging panel's discretion, inappropriate, offensive, defamatory, or demeaning. Judges will examine all submissions in accordance with the criteria outlined above and meet to discuss all responsive submissions. Final ranking and recommendations will be determined by a vote.

Additional Information

Submission Rights

Solvers must agree that their submission is their original work, and that all proposed ideas must be the Solver's original effort. The Entry Materials must not violate or infringe the rights of other parties, including, but not limited to privacy, publicity, or intellectual property rights, or material that constitutes copyright or license infringement.

Intellectual Property (IP)

NIDA does not wish to receive or hold any IP related to submitted ideas. Solvers will retain all IP rights; however, each Solver may be asked to grant to NIDA a royalty-free non-exclusive worldwide license to use, copy for use, perform publicly, and display publicly all parts of the submission for the purposes of the Challenge. This statement serves as a notice to Solvers that granting this license to NIDA, if asked, is a condition of participation.

Liability

By participating in this Challenge, Solvers agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in the Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise.

Indemnification

By participating in this Challenge, Solvers agree to indemnify the Federal Government against third party claims for damages arising from or related to Challenge activities. This statement serves as a notice to Solvers that they are obligated to indemnify the government as a condition of participation.

Insurance

Based on the subject matter of the Challenge, the type of work that it will possibly require, as well as an analysis of the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from Challenge participation, solvers are not required to obtain liability insurance or demonstrate financial responsibility in order to participate in this Challenge.

Dated: May 10, 2013.

Nora Volkow,

Director, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2013–11689 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Start-Up Exclusive Evaluation Option License Agreement: In Vitro Diagnostics for Prediction of Therapeutic Efficacy in Cancer and Other Angiogenesis-Mediated Diseases

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a Start-Up Exclusive Evaluation Option License Agreement to Advanced Personalized Diagnostics, LLC, a company having a place of business in Alexandria, Virginia, to practice the inventions embodied in U.S. Provisional Patent Application No. 60/976,732, entitled ''Stably Transfected Multicolored Fluorescent Cells'', filed October 1, 2007 (HHS Ref. No. E–281–2007/0–US–01); U.S. Patent Application No. 12/060,752, entitled ''Multiplex Assay Method for Mixed Cell Populations'', filed April 1, 2008, (HHS Ref. No. E–281–2007/0–US–02); and U.S. Patent Application No. 12/802,666, entitled ''Methods of Monitoring Angiogenesis and Metastasis in Three Dimensional Co-Cultures'', filed June 10, 2010 (HHS Ref. No. E–281–2007/1–US–01). The patent rights in these inventions have been assigned to the Government of the United States of America. The territory of the prospective Start-Up Exclusive Evaluation Option License Agreement may be worldwide, and the field of use may be limited to ''The use of the Licensed Patent Rights limited to an FDA-approved Class III *in vitro* diagnostic device for prediction of therapeutic efficacy in cancer and other angiogenesis-mediated diseases.''

Upon the expiration or termination of the Start-up Exclusive Evaluation Option License Agreement, Advanced Personalized Diagnostics, LLC will have

the exclusive right to execute a Start-Up Exclusive Patent License Agreement which will supersede and replace the Start-up Exclusive Evaluation Option License Agreement, with no greater field of use and territory than granted in the Start-up Exclusive Evaluation Option License Agreement.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before May 31, 2013 will be considered.

ADDRESSES: Requests for copies of the patent application(s), inquiries, comments, and other materials relating to the contemplated Start-Up Exclusive Evaluation Option License Agreement should be directed to: Tara L. Kirby, Ph.D., Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4426; Facsimile: (301) 402–0220; Email: *tarak@mail.nih.gov.* A signed confidentiality nondisclosure agreement will be required to receive copies of any patent applications that have not been published or issued by the United States Patent and Trademark Office or the World Intellectual Property Organization.

SUPPLEMENTARY INFORMATION: This technology relates to a three-dimensional co-culture system that can be used to assay cellular activity relating to angiogenesis (formation of new blood vessels) and metastasis (spread of cancer). The co-culture system is designed to mimic the *in vivo* environment of a tumor and consists of fluorescently-labeled tumor cells, endothelial cells, and other component cell types (e.g. macrophages, mast cells, fibroblasts, adipocytes, and pericytes). The co-culture system can be used to identify, monitor, and measure changes in morphology, migration, proliferation, and apoptosis of cells involved in angiogenesis and/or metastasis. The co-cultures are developed in 96-well plates to allow rapid and efficient screening for angiogenic agents and/or therapeutic agents for cancer. This technology may be used to develop diagnostic tests for personalized therapies for cancer and other angiogenesis-mediated diseases.

The prospective Start-Up Exclusive Evaluation Option License Agreement is being considered under the small business initiative launched on October 1, 2011 and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective Start-Up Exclusive Evaluation Option License Agreement and a subsequent Start-Up Exclusive Patent License Agreement may be granted unless the NIH receives written evidence and argument, within fifteen (15) days from the date of this published notice, that establishes that the grant of the contemplated Start-Up Exclusive Evaluation Option License Agreement would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.7.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Start-Up Exclusive Evaluation Option License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 10, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–11609 Filed 5–15–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Request for Comment on the Federal Guidelines for Opioid Treatment

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Request for comment.

SUMMARY: This document is a request for comment on the revised draft of the Federal Guidelines for Opioid Treatment. These guidelines elaborate upon the Federal opioid treatment standards set forth under 42 CFR part 8.

DATES: *Comment Close Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 60 calendar days from the date of publication in the **Federal Register**.

ADDRESSES: The draft guideline may be obtained directly from *http://www.dpt.samhsa.gov* or by contacting the Division of Pharmacologic Therapies. You may submit comments in one of four ways (please choose only one of the ways listed):

- *Electronically.* You may submit electronic comments to *DPT@samhsa.hhs.gov.*
- *By regular mail.* You may mail written comments to the following address ONLY: Substance Abuse and Mental Health Services Administration, Attention: DPT Federal Register Representative, Division of Pharmacologic Therapies, 1 Choke Cherry Road, Room 7–1044, Rockville, MD 20857. Please allow sufficient time for mailed comments to be received before the close of the comment period.
- *By express or overnight mail.* You may send written comments to the following address ONLY: Substance Abuse and Mental Health Services Administration, Attention: DPT Federal Register Representative, Division of Pharmacologic Therapies, 1 Choke Cherry Road, Room 7–1044, Rockville, MD 20850.
- *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following address prior to the close of the comment period:
- For delivery in Rockville, MD: Substance Abuse and Mental Health Services Administration, Attention: DPT Federal Register Representative, Division of Pharmacologic Therapies, 1 Choke Cherry Road, Room 7–1044, Rockville, MD 20850. To deliver your comments to the Rockville address, call telephone number (240) 276–2700 in advance to schedule your delivery with one of our staff members.

FOR FURTHER INFORMATION CONTACT: Nichole Smith, Division of Pharmacologic Therapies, CSAT, SAMHSA, 1 Choke Cherry Road, Room 7–1044, Rockville, Maryland 20857, (240) 276–2700 (phone) or email at *nichole.smith@samhsa.hhs.gov*.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. Comments received by the deadline will be available for public inspection at the Substance Abuse and Mental Health Services Administration, Division of Pharmacologic Therapies, 1 Choke Cherry Road, Rockville, MD 20850, Monday through Friday of each week from 8:30 a.m. to 4:00 p.m. To schedule an appointment to view public comments, phone (240) 276–2700.

Background: Federal Regulations codified under 42 CFR part 8 set forth requirements for opioid treatment programs (''OTPs''), also known as methadone treatment programs. The regulations, which were the subject of a Final Rule published in the **Federal Register** on January 17, 2001, (''Final Rule'' 66 FR 4075–4102, January 17, 2001) include standards for opioid treatment. OTPs are required to provide

treatment in accordance with these standards as a basis for CSAT certification. These standards address patient admission requirements, medical and counseling services, drug testing, and other requirements. The final rule also established an accreditation requirement. Each OTP is required to obtain and maintain accreditation from an accreditation organization approved by SAMHSA under 42 CFR part 8. Accreditation organizations that provide OTP accreditation under the final rule are required to apply for and obtain SAMHSA approval. Under 42 CFR 8.3(a)(3), each accreditation organization must develop a set of accreditation elements or standards together with a detailed discussion of how these elements will assure that each OTP surveyed by the accreditation organization is meeting each of the Federal opioid treatment standards. The Federal Guidelines for Opioid Treatment are intended to guide accreditation organizations in preparing their accreditation standards. In addition, the Guidelines provide useful elaborations on the regulatory standards set forth under 42 CFR part 8.

As such, the updated guidelines will assist both accreditation organizations and OTPs in complying with regulatory requirements. Prepared initially in 1997, the Federal Opioid Treatment Guidelines, originally titled *Guidelines for the Accreditation of Opioid Treatment Programs,* are being updated to reflect new information and research in the field of opioid assisted treatment. CSAT convened an expert panel to provide the draft guideline now being circulated for comment. CSAT is soliciting comments on the guideline from the public, and expects comments from OTPs, accreditation organizations, patients, the medical community and other interested parties. All comments submitted no later than 60 calendar days from the date of publication in the **Federal Register** will be considered.

Summer King,

Statistician.

[FR Doc. 2013–11637 Filed 5–15–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0036]

Cooperative Research and Development Agreement (CRADA) Opportunity With the Department of Homeland Security for the Development of a Foot-and-Mouth Disease 3ABC ELISA Diagnostic Kit

AGENCY: Science and Technology Directorate, Plum Island Animal Disease Center, Department of Homeland Security.

ACTION: Notice of intent.

SUMMARY: The Department of Homeland Security Science and Technology Directorate (DHS S&T), through its Plum Island Animal Disease Center (PIADC), is seeking industry collaborators to aid DHS S&T in developing an ELISA diagnostic test that it capable of obtaining a U.S. regulatory license to detect antibodies to at least one of the Foot and Mouth Disease virus (FMDV) non-structural proteins (NSP): 3A, 3B, or 3C. This new FMDV 3ABC ELISA may be used in the event of a real or suspected outbreak of Foot-and-Mouth Disease (FMD) in order to differentiate infected from vaccinated, non-infected animals (DIVA).

The role of the industry collaborator(s) in this CRADA will be to develop and validate the FMDV 3ABC ELISA assay in collaboration with DHS S&T and the United States Department of Agriculture Animal and Plant Health Inspection Service Foreign Animal Disease Diagnostic Laboratory (USDA APHIS FADDL) at PIADC, and with other U.S. laboratories that are associated with USDA, such as the National Animal Health Laboratory Network (NAHLN). Components of a prototype assay, developed by USDA, Texas Veterinary Medical Diagnostic Laboratory, and a 3rd party fee-for-service contractor, will be made available to the industry collaborator(s). The goal of the CRADA is to submit a data package to USDA APHIS Center for Veterinary Biologics (CVB) in order to obtain a U.S. regulatory license for use under the direction of USDA administrators of the FMDV 3ABC ELISA in the U.S. (See CVB Veterinary Services Memorandum No. 800.73 for ''General Requirements for Immunodiagnostic Test Kits for the Detection of Antibody or Antigen.'') The assay must also successfully identify and test a reference panel of sera provided by OIE (World Organisation for Animal Health) as tested in a U.S. Reference Laboratory, e.g., USDA APHIS FADDL.

DHS S&T is seeking CRADA collaborators that own or have access to the technological components for, have the technological expertise in, and have proven track records of success in the fields of diagnostic test kit research, development, and the obtaining of USDA licensure for the detection of antibodies to viral antigen(s). CRADA collaborators must indicate if they are currently or may be funded by the Federal government, and, if yes, they must include a discussion of how proposed CRADA work and Federal government-funded work would not be duplicative.

The proposed term of the CRADA can be up to thirty (30) months.

DATES: Submit comments on or before June 17, 2013.

ADDRESSES: Mail comments and requests to participate to Dr. Angela Ervin, (ATTN: Angela Ervin, 245 Murray Lane SW., Washington, DC 20528–0075). Submit electronic comments and other data to *Angela.Ervin@hq.dhs.gov.*

FOR FURTHER INFORMATION CONTACT:

Information on DHS CRADAs: Marlene Owens, (202) 254–6671.

SUPPLEMENTARY INFORMATION:

Assay Requirements

1. Ideally a competitive ELISA (an assay in which a molecule in the test sample competes against a reagent provided in the kit for binding to the target) for FMDV NSPs that will differentiate FMDV infected from FMDV vaccinated animals (DIVA) (specifically cattle) and can be made commercially by the CRADA partner or by another entity and upon request by USDA APHIS, be supplied to USDA APHIS FADDL and accredited state laboratories within the National Animal Health Laboratory Network.

2. The ideal assay will have the following characteristics:

a. Diagnostic sensitivity of at least 96% for all seven major serotypes of FMDV, including detection of cattle antibodies to FMDV within 7 to 10 days post-infection.

b. Diagnostic specificity of at least 96%, ideally >99% with respect to viruses that cause FMDV look-alike clinical signs, such as Vesicular Stomatitis Virus, Swine Vesicular Disease Virus, Bovine Rhinovirus, Seneca Valley Virus.

c. Compatibility with serum samples from U.S. national cattle (beef and dairy) and domestic swine herds, and ideally with other species that are susceptible to FMDV, e.g., sheep, goats, feral swine, buffalo, deer, antelope, etc.

d. Assay time not exceeding 4 hours from start of incubation to beginning of reading the plate.

e. 96 well modular format.

f. Positive control (produced from non-FMDV infected animals, e.g., hyperimmunized with synthetically made FMDV peptides/proteins) and negative control (produced from naïve animals) for each plate.

g. Compatibility with Biosafety Level 2 (BSL–2) laboratory requirements, i.e., will not contain any reagents considered to be select agents or potentially contaminated with select agents.

3. Transportability under cold chain (1) to USDA APHIS PIADC, (2) upon USDA APHIS administrator request approved laboratories within the National Animal Health Laboratory network, and (3) outside of the US without special restrictions.

DHS S&T Role (includes but not limited to)

1. As necessary, coordination of development and commercialization access to critical assay components such as the recombinant 3ABC* protein (* indicates that the 3C protein has a mutation in the active site) and a FMDV-specific monoclonal antibody, which may be negotiated through intellectual property licenses with 3rd parties who control rights to these assay components. DHS will supply data from testing a prototype assay, but DHS will not supply historical background or any proprietary information.

2. Coordination of testing and evaluation of samples from U.S. cattle and swine vaccinated with FMD molecular vaccines.

3. Coordination of testing and evaluation of true positive samples from U.S. cattle and swine that were experimentally infected. A maximum of 500 samples can be tested.

4. If requested, coordination of testing and evaluation of true positive and true negative samples from other FMDV susceptible U.S. domestic species.

5. If requested, coordination of testing and evaluation of serum samples from FMDV susceptible U.S. wildlife species.

6. The actual testing of samples listed above mainly by scientists in USDA APHIS FADDL or by partners in laboratories that USDA APHIS FADDL and DHS S&T will identify, e.g., the NAHLN.

Period of Performance

If CRADA collaborator(s) is (are) selected, a comprehensive data package to obtain a USDA license for the FMDV 3ABC ELISA for use in cattle should be submitted to USDA APHIS CVB within 30 months of the CRADA award date. The submission must adhere to the requirements in USDA APHIS CVB Veterinary Services Memo No. 800.73 and other applicable CVB 9CFR requirements for diagnostic kits and reagents. The assay must also successfully identify samples in a reference panel of sera provided by OIE (World Organisation for Animal Health) as tested in a U.S. reference laboratory, e.g., USDA APHIS FADDL. Because these reference panels are provided on a yearly basis to FMD world reference laboratories, the testing and analysis of results may extend beyond the 30 month Period of Performance. Nevertheless, results should be made available within 2 months of the availability of reference panels.

Selection Criteria

The Plum Island Animal Disease Center (PIADC) reserves the right to select CRADA collaborators for all, some, or none of the proposals in response to this notice. PIADC will provide no funding for reimbursement of proposal development costs. Proposals (or any other material) submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified.

PIADC will select proposals at its sole discretion on the basis of:

1. How well the proposal communicates the collaborators' understanding of and ability to meet the CRADAs goals and proposed timeline.

2. How well the proposal addresses the following criteria:

a. Capability of the collaborator to provide equipment and materials for proposed testing.

b. Capability of the collaborator to meet the requirements for development, validation testing and analysis, and submission of supporting data and documents fulfilling the CVB requirements for licensure in the U.S.

c. Preliminary data or results which support the assay requirements outlined above.

Participation in this CRADA does not imply the future purchase of any materials, equipment, or services from the collaborating entities, and non-Federal CRADA participants will not be excluded from any future PIADC procurements based solely on their participation in this CRADA.

Authority: CRADAs are authorized by the Federal Technology Transfer Act of 1986, as amended and codified by 15 U.S.C. 3710a. DHS, as an executive agency under 5 U.S.C. 105, is a Federal agency for the purposes of 15 U.S.C. 3710a and may enter into a CRADA. DHS delegated the authority to conduct CRADAs to the Science and Technology Directorate and its laboratories.

Dated: May 9, 2013.

James Johnson,

Director, Office of National Laboratories.

[FR Doc. 2013–11693 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2013–0078]

Privacy Act of 1974; Department of Homeland Security/U.S. Immigration and Customs Enforcement—014 Homeland Security Investigations Forensic Laboratory System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, ''Department of Homeland Security/U.S. Immigration and Customs Enforcement—014 Homeland Security Investigations Forensic Laboratory System of Records.'' This system of records allows the Department of Homeland Security/U.S. Immigration and Customs Enforcement to collect and maintain records by the Homeland Security Investigations Forensic Laboratory (HSI–FL). The HSI–FL is a U.S. crime laboratory specializing in scientific authentication; forensic examination; research, analysis, and training related to travel and identity documents; latent and patent finger and palm prints; and audio and video files in support of law enforcement investigations and activities by DHS and other agencies. To facilitate forensic examinations and for use in forensic document training, research, and analysis, the HSI–FL maintains case files, a case management system, an electronic library of travel and identity documents (Imaged Documents and Exemplars Library), and a hard copy library referred to as the HSI–FL Library. Additionally, the Department of Homeland Security is issuing a Notice of Proposed Rulemaking elsewhere in the **Federal Register** to exempt this system of records from certain provisions of the Privacy Act. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before June 17, 2013. This new system will be effective June 17, 2013.

ADDRESSES: You may submit comments, identified by docket number DHS–2013–0078 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Jonathan R. Cantor, Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Lyn Rahilly, Privacy Officer, (202–732–3300), U.S. Immigration and Customs Enforcement, 500 12th Street SW., Mail Stop 5004, Washington, DC 20536, email: *ICEPrivacy@dhs.gov.* For privacy questions, please contact: Jonathan R. Cantor, (202–343–1717), Acting Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) proposes to establish a new DHS system of records titled, ''DHS/ICE–014—Homeland Security Investigations Forensic Laboratory System of Records.''

The Homeland Security Investigations Forensic Laboratory (HSI–FL) is an accredited crime laboratory located within ICE's Office of Homeland Security Investigations (HSI) that provides a broad range of forensic, intelligence, and investigative support services for ICE, DHS, and many other U.S. and foreign law enforcement agencies. Created in 1978 under the U.S. Department of Justice, Immigration and Naturalization Service, the HSI–FL became part of DHS on March 1, 2003, as part of the federal government's response to the 9/11 attacks. The HSI–FL is the only U.S. crime laboratory specializing in scientific authentication; forensic examination; research, analysis, and training related to travel and identity documents; latent and patent finger and palm prints; and audio and video files in support of law enforcement investigations and activities by DHS and other agencies. To facilitate forensic examinations and for use in forensic document training, research, and analysis, the HSI–FL maintains case files, a case management system, an electronic library of travel and identity documents (Imaged Documents and Exemplars Library (IDEAL)), and a hard copy library referred to as the HSI–FL Library.

As a crime laboratory specializing in the forensic examination and research of travel and identity documents, the HSI–FL attempts to determine the authenticity, authorship, and any actual or potential alterations of travel and identity documents. Examinations of such documents submitted by DHS and other U.S. and foreign law enforcement agencies and international organizations normally begin with a physical (naked eye, tactile) inspection and proceed to microscopic, instrumental, and comparative examinations, as necessary and appropriate. Depending on the document type, these examinations also may require the expert analyses of handwriting, hand printing, typewriting, printing processes, papers, inks, and stamp impressions.

HSI–FL examinations are predominantly performed on documents used to establish identity or facilitate travel, such as passports, visas, identification cards, and border crossing cards, but can be performed on virtually any document, including envelopes, handwritten documents, letters, vital records, and typewritten documents. DHS and other federal, state, and international government agencies, or organizations such as the United Nations, may submit requests to HSI–FL for document authentication. In response, the HSI–FL may conduct an analysis and share the results of forensic examinations within DHS and externally with other government agencies and international organizations in the course of law enforcement investigations and for admission into evidence in judicial proceedings.

In addition to the forensic examination of documents, the HSI–FL performs fingerprint analysis. The fingerprint analysis performed by HSI–FL may not be document-related. This analysis may include fingerprints collected from evidence during an investigation such as firearms, drug packaging, currency, periodicals, photo albums, CDs and computers. Fingerprint analysis will include both latent (invisible to the naked eye) and patent (visible to the naked eye) finger and palm prints.

The HSI–FL also performs technical enhancements of audio and video files. The audio and video work performed by the HSI–FL is limited to enhancing files to improve their quality and clarifying detail to allow law enforcement agencies to better examine the files. For example, this could include removing background noise from an audio file or improving the clarity of an image in a video. The HSI–FL is not responsible for performing forensic examinations of the audio or video files but merely performs technical work to permit law enforcement agencies outside of the HSI–FL to conduct law enforcement investigations.

Laboratory Information Management System

In order to track evidence and cases, the HSI–FL implemented the Laboratory Information Management System (LIMS) as their case management system. LIMS allows the HSI–FL to capture information about the individual submitting the request for analysis, identify the evidence submitted, track the evidence as it moves throughout the HSI–FL for chain of custody purposes, capture case notes and results of examinations, store electronic images of evidence, and produce reports of findings. LIMS also captures other case-related activities such as descriptions of expert witness testimony provided by HSI–FL employees.

The HSI–FL also uses LIMS to record and store operational (non-forensic) requests for assistance, hours HSI–FL staff spend on training activities, and digital copies of training certificates of completion. In addition, LIMS generates recurring and *ad hoc* statistics reports in support of HSI–FL staff operations and management request.

Imaged Documents and Exemplars Library

The IDEAL database and the HSI–FL Library contain two categories of records: (1) Travel and identity documents and (2) reference materials used to help in the forensic analysis of travel and identity documents. The HSI–FL maintains the documents and reference materials in both hard copy and electronic format for use in comparative forensic examination and fraudulent document training, research, and analysis. The hard copies are maintained in the HSI–FL Library while the electronic copies are stored in the IDEAL database. IDEAL contains electronic images and document characteristics for all documents and reference materials stored in the HSI–FL

Library and allows HSI–FL employees to access these electronic images and document characteristics from their own workstations. Further, IDEAL provides the inventory control of the hard copy material in the HSI–FL Library, which includes the support of ''checking out'' hard copy documents and reference materials in the HSI–FL Library by HSI–FL employees.

IDEAL indexes and assigns to all documents added to the HSI–FL Library an IDEAL identification number (IDEAL ID Number) and bar code, thus providing a standard identification and tracking mechanism and permitting indexing. The IDEAL ID Number is system-generated and allows documents to be quickly located in IDEAL. The bar code number links the images maintained in IDEAL to hard copies maintained in the HSI–FL Library.

The HSI–FL collects and maintains genuine, altered, and counterfeit travel and identity documents (hereafter, ''documents'') in hard copy format from international organizations, government agencies, and law enforcement organizations from across the United States and around the world to research methods of document production and authenticate questionable documents through comparative forensic examinations. These travel and identity documents include documents such as passports, identification cards, birth certificates, stamps, visas, and any other document that can be used to establish nationality or identity from any country including the United States.

From these same sources, the HSI–FL also collects information that helps with the identification of potential counterfeit characteristics, potential fraud, security features, and other information valuable to forensic analysis (hereafter, ''reference materials''). HSI–FL employees also make use of reference materials issued by the United States and other nations that contain useful information such as descriptions of security features of travel and identity documents or information concerning attempts to counterfeit or alter such documents.

Document characteristics including personally identifiable information (PII) are manually entered into IDEAL to catalogue, track, and facilitate searching for documents and reference materials. Depending on the particular document, the document characteristics entered into IDEAL may include the document type, document number (e.g., passport number, driver's license number, state identification number), country of origin, region, authenticity of the document, information regarding the location and availability of the hard copy document in the HSI–FL Library, and a short description of the document. Social Security Numbers are not directly entered into IDEAL, instead the serial number on the back of the document is entered into the system. In addition to manually entered information, the document is scanned into IDEAL capturing and storing additional information, including PII. The PII stored on the images is view-only and may not be searched or used in any other manner in IDEAL.

The HSI–FL divides the documents maintained in the HSI–FL Library and electronically in IDEAL into five different categories: (1) Genuine standard documents; (2) verified documents; (3) unverified documents; (4) counterfeit documents; and (5) altered documents. The first category, genuine standard documents, is comprised of documents never used in circulation and officially submitted to the HSI–FL by a valid issuing authority or other officially recognized domestic or foreign agency. Valid issuing authorities produce genuine standard documents as samples of particular travel and identity documents (e.g., passports) and include all of the same characteristics and security features of that document. Genuine standard documents are usually issued under an obviously fictitious name, such as ''Happy Traveler,'' to ensure they are easily identified as samples. Genuine standard documents do not contain the PII of actual individuals; however, they may contain photographs of individuals who have consented for their images to be used and distributed on these sample documents. The HSI–FL uses genuine standard documents during forensic analysis to authenticate other travel and identity documents purporting to have been issued by the same issuing authority. This authentication is used to support law enforcement investigations in response to government agency inquiries from the United States and around the world and judicial proceedings.

The remaining four categories of documents are provided to the HSI–FL by the valid issuing authority of a domestic or foreign agency, or from other sources including international organizations; DHS; the U.S. Department of State (DOS); and other federal, state, and foreign government agencies and law enforcement organizations. These four categories of documents may be directly provided for inclusion in the HSI–FL Library or may be initially provided for other purposes such as forensic examination and then retained by the HSI–FL, with the submitting agency's permission, after the examination is complete. The HSI–FL determines whether to include specific documents in the HSI–FL Library based upon the HSI–FL Library's need for that document, particularly whether the HSI–FL Library currently has a document of that type already in the HSI–FL Library. These categories of documents may contain the PII of individuals. Verified documents are documents that the HSI–FL has found to conform to comparable genuine travel and identity documents. Unverified documents are documents that the HSI–FL has analyzed and has not conclusively determined are verified, counterfeit, or altered. Counterfeit documents are documents that the HSI–FL has determined through forensic analysis are not authentic documents issued by a foreign or domestic governmental issuing authority. Altered documents are documents that were originally authentic documents issued by a foreign or domestic governmental issuing authority that have been changed in an unauthorized manner.

Certain designated users at the DOS have read-only access to IDEAL. This read-only access allows certain designated DOS employees to search and view travel and identity documents and reference materials. These documents and materials may contain the PII of actual individuals. This information is used by the DOS for their reference and in support of their mission. This use includes supporting the processing of petitions or applications for benefits under the Immigration and Nationality Act, and other immigration and nationality laws including treaties and reciprocal agreements. It also includes when the DOS requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications. Authorized users from the DOS are the only non-DHS users with direct access to IDEAL.

Consistent with DHS' information sharing mission, information stored in the DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies

consistent with the routine uses set forth in this system of records notice.

Additionally, DHS is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act, elsewhere in the **Federal Register**. This newly established system will be included in DHS' inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/ICE–014 Homeland Security Investigations Forensic Laboratory System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Immigration and Customs Enforcement

(ICE)–014

SYSTEM NAME:

DHS/ICE–014 Homeland Security Investigations Forensic Laboratory (HSI–FL)

SECURITY CLASSIFICATION:

Law enforcement sensitive.

SYSTEM LOCATION:

Records are maintained at U.S. Immigration and Customs Enforcement Headquarters in Washington, DC and in field offices, and electronic records are maintained in LIMS, IDEAL, and other IT systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

1. Individuals whose information is contained on United States or international travel and identity documents, such as driver's licenses, passports, and other forms of identification, that are maintained in the Homeland Security Investigations Forensic Laboratory (HSI–FL) Library;

2. Individuals whose information is contained on United States or international travel and identity documents, such as driver's licenses, passports, and other forms of identification, that are provided to the HSI–FL for forensic examination during a criminal or administrative law enforcement investigation;

3. Individuals who are the subjects of current or previous law enforcement investigations by other domestic or foreign agencies where the HSI–FL is providing support and assistance;

4. Individuals who are the subjects of current or previous law enforcement investigations into violations of U.S. customs and immigration laws, as well as other laws and regulations within ICE's jurisdiction, including investigations led by other domestic or foreign agencies, where the HSI–FL is providing support and assistance; and

5. Individuals whose image or voice may be captured on video or audio files where the HSI–FL is provided the file to perform technical enhancements of the file.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

1. Biographic, descriptive, historical and other identifying data, including: Names; photographs; fingerprint identification number; date and place of birth; passport and other travel document information; nationality; aliases; Alien Registration Number (A–Number); Social Security Number; other identification numbers, contact or location information (e.g., known or possible addresses, phone numbers); visa information; employment, educational, immigration, and criminal history; height, weight, eye color, hair color and other unique physical characteristics (e.g., scars and tattoos).

2. Fingerprints or palm prints of individuals whose information is provided to the HSI–FL for forensic examination.

3. Case-related data, including: Case number, record number, and other data describing an event involving alleged violations of criminal or immigration law (such as, location, date, time, event category (event categories describe broad categories of criminal law enforcement, such as immigration worksite enforcement, contraband smuggling, and human trafficking)); types of criminal or immigration law violations alleged; types of property involved; use of violence, weapons, or assault against DHS personnel or third parties; attempted escape; and other related information. ICE case management information, including: case category; case agent; date initiated; and date completed.

4. Birth, marriage, education, employment, travel, and other information derived from affidavits, certificates, manifests, and other documents presented to or collected by ICE during immigration and law enforcement proceedings or activities. This data typically pertains to subjects, relatives, and witnesses.

5. Data concerning personnel of other agencies that arrested, or assisted or participated in the arrest or investigation of, or are maintaining custody of an individual whose arrest record is contained in this system of records. This can include: Name; title; agency name; address; telephone number; and other information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103, 44 U.S.C. 3101, 18 U.S.C. 496, 18 U.S.C. 911, 18 U.S.C. 1001, 18 U.S.C. 1028, 18 U.S.C. 1425, 18 U.S.C. 1426, 18 U.S.C. 1427, 18 U.S.C. 1541, 18 U.S.C. 1543, and 18 U.S.C. 1546.

PURPOSE(S):

The purposes of this system are to:

1. Maintain records related to the scientific authentication, examination, research, and analysis of travel and identity documents, fingerprints, and palm prints in accordance with established laboratory policies and procedures, scientific principles, and accreditation standards.

2. Maintain a library of travel and identity documents and associated reference materials for use in forensic examinations, investigations, training, and other activities.

3. Support the forensic examinations on a full range of documents, including but not limited to, passports, visas, driver's licenses, identification cards, border crossing cards, handwritten documents, vital records, and typewritten documents. The analysis may include, but is not limited to, an examination of handwriting, hand printing, typewriting, printing processes, security features, papers, inks, and stamp impressions.

4. Maintain records facilitating the preparation of written laboratory reports and delivery of expert witness testimony in both legal proceedings.

5. Support the provision of training in fraudulent document detection, creation

of document intelligence alerts and reference guides, and provision of direct assistance to federal, state and local agencies, as well as foreign governments and commercial entities to combat document fraud.

6. Provide assistance within ICE and to domestic and foreign agencies to support the identification and arrest of individuals (both citizens and non-citizens) who commit violations of law.

7. To identify potential criminal activity, immigration violations, and threats to homeland security; to uphold and enforce the law; and to ensure public safety.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ) (including U.S. Attorneys' Offices) or other federal agency conducting litigation or proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. When a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations, and such disclosure is proper and consistent with the official duties of the person making the disclosure, a disclosure may be made to federal, state, local, tribal, territorial, international, or foreign law enforcement agencies or other appropriate authorities charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order.

H. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations) when DHS determines that such disclosure is relevant and necessary to the litigation and one of the following is party to the proceedings or has an interest in such proceeding:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity where the government has agreed to represent the employee; or

4. The United States, where DHS determines that litigation is likely to affect DHS or any of its components.

I. To federal, state, local, tribal, territorial, or foreign government agencies, as well as to other individuals and organizations during the course of an investigation by DHS or the processing of a matter under DHS's jurisdiction, or during a proceeding within the purview of the immigration and nationality laws, when DHS deems that such disclosure is necessary to carry out its functions and statutory mandates or to elicit information required by DHS to carry out its functions and statutory mandates.

J. To federal, state, local, tribal, or territorial government agencies seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

K. To federal, state, local, tribal, or territorial government agencies, or other entities or individuals, or through established liaison channels to selected foreign governments, in order to provide intelligence, counterintelligence, or other information for the purposes of national security, intelligence, counterintelligence, or antiterrorism activities authorized by U.S. law, Executive Order, or other applicable national security directive.

L. To federal, state, local, tribal, territorial, or foreign government agencies or organizations, or international organizations, lawfully engaged in collecting law enforcement intelligence, whether civil or criminal, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

M. To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

N. To federal and foreign government intelligence or counterterrorism agencies or components when DHS becomes aware of an indication of a threat or potential threat to national or international security, or when such disclosure is to support the conduct of national intelligence and security investigations or to assist in anti-terrorism efforts.

O. To federal, state, local, tribal, territorial, or foreign government agencies or entities or multinational government agencies when DHS desires to exchange relevant data for the purpose of developing, testing, or implementing new software or technology whose purpose is related to this system of records.

P. To federal, state, local, territorial, tribal, international, or foreign criminal, civil, or regulatory law enforcement authorities when the information is

necessary for collaboration, coordination and de-confliction of investigative matters, prosecutions, and/or other law enforcement actions to avoid duplicative or disruptive efforts and to ensure the safety of law enforcement officers who may be working on related law enforcement matters.

Q. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws including treaties and reciprocal agreements; or when the Department of State requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

R. To the Department of State to provide read-only access of records maintained in the Imaged Documents and Exemplars Library to assist the Department of State with their validation of travel and identity documents.

S. To federal, state, local, tribal, territorial, or foreign government agencies for purposes of completing and providing results of requested forensic examinations to the requesting agency.

T. To the Department of Justice (including United States Attorneys' Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when necessary to assist in the development of such agency's legal and/or policy position.

U. To the U.S. Senate Committee on the Judiciary or the U.S. House of Representatives Committee on the Judiciary when necessary to inform members of Congress about an alien who is being considered for private immigration relief.

V. To federal, state, tribal, territorial, local, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) to verify the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) to verify the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

W. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS' officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored in hard copy and electronically on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name, identification numbers including case or record number if applicable; other personal identification numbers including Alien Registration Number (A–Number), fingerprint identification number, and other personal identification numbers; and case related data and/or combination of other personal identifiers including, but not limited to, date of birth and nationality.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

After the forensic examination is completed, all case files shall be stored as closed case files onsite at HSI–FL for 6 years followed by 10 years in offsite temporary storage for a total of 16 years. Exception: All war crimes and capital cases shall be held indefinitely onsite at the HSI–FL.

SYSTEM MANAGER AND ADDRESS:

U.S. Immigration and Customs Enforcement, Homeland Security Investigations Forensic Laboratory, Unit Chief, 8000 West Park Drive, McLean, VA 22102–3105.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS/ICE will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to ICE's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that

individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records in the system are supplied by several sources. In general, information is obtained from federal, state, local, tribal, or foreign governments. More specifically, DHS/ICE–014 records are derived from the following sources: (a) other federal, state, local, tribal, or foreign governments and government information systems; and (b) evidence, contraband, and other seized material.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions in accordance with this rule.

Dated: April 22, 2013.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–11722 Filed 5–15–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–1091]

Availability of Final Environmental Assessment and Finding of No Significant Impact for the Proposed Modification of the Bayonne Bridge Across the Kill Van Kull Between Bayonne, Hudson County, New Jersey and Staten Island, Richmond County, New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a Final Environmental Assessment (Final EA) which examines the reasonably foreseeable environmental impacts and socio-economic impacts of the proposed modification of the historic Bayonne Bridge across the Kill Van Kull between Bayonne, New Jersey and Staten Island, New York. This notice also announces the availability of the Finding of No Significant Impact (FONSI). Because the Bayonne Bridge is a structure over navigable waters of the United States, the proposed bridge modification requires a Coast Guard Bridge Permit Amendment. This notice provides information on where to view the Final EA and FONSI, which consider an application by the Port Authority of New York & New Jersey (PANYNJ) for Coast Guard approval of the modification to the Bayonne Bridge across the Kill Van Kull.

ADDRESSES: We have provided a copy of the Final EA and FONSI in our online docket at *http://www.regulations.gov*. Also, the Coast Guard First District Bridge Office at 1 South Street Bldg 1, New York, NY 10004–1466 will maintain a printed copy of the Final EA and FONSI for public viewing. The document will be available for inspection at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The document will also be available for inspection in the locations shown in the section below titled ''Viewing the Final EA and FONSI.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Christopher Bisignano, Bridge Management Specialist, First Coast Guard District, U.S. Coast Guard; telephone 212–668–7165, email Christopher.J.Bisignano@uscg.mil. If you have questions on viewing material on the docket, call Docket Operations at 202–366–9826.

SUPPLEMENTARY INFORMATION:

Authority: The Final Environmental Assessment and Finding of No Significant Impact have been prepared in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et. seq.); Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR 1500–1508) and associated CEQ guidelines; Department of Homeland Security Management Directive 5100.1, Environmental Planning Program; and United States Coast Guard Commandant Instruction M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

Viewing the Final EA and FONSI: To view Final EA and FONSI go to *http://www.regulations.gov*, insert ''USCG–2012–1091'' in the Search box, press Enter, then click on the ''Open Docket Folder'' option. 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. The Final EA and FONSI are also available online at *http://www.uscg.mil/d1/prevention/Bridges.asp, www.dhs.gov/nepa*, and *http://www.panynj.gov/bayonnebridge/*, and are available from 10 a.m.–3 p.m., Monday through Friday (except federal holidays and as noted below), for inspection at the following locations:

1. U.S. Coast Guard Battery Bldg, 1 South Street, Building 1, New York, NY 10004
2. U.S. Coast Guard Sector New York, 212 Coast Guard Drive, Staten Island, NY 10305
3. Bayonne City Hall, 630 Avenue C, Bayonne, NJ 07002
4. Staten Island Borough Hall, 10 Richmond Terrace, Room 100, Staten Island, NY 10301
5. Bayonne Public Library, 630 Avenue C, Bayonne, NJ 07002 (Also available from 12 p.m.–5 p.m. on Saturdays)
6. Port Richmond–NY Public Library, 75 Bennett Street, Staten Island, NY 10302 (Also available 12 p.m.–5 p.m. on Thursdays and Saturdays)
7. Ironbound Community Corp, 317 Elm Street, Newark, NJ 07105
8. New York Assembly District 61, 853 Forest Avenue, Staten Island, NY 10301

9. New Jersey Legislative District 31, 447 Broadway, Bayonne, NJ 07002

10. New York City Council District 49, 130 Stuyvesant Place, Staten Island, NY 10301

11. Staten Island Community Board 1, 1 Edgewater Plaza, Room 217, Staten Island, NY 10305

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, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

Port Authority of New York and New Jersey (PANYNJ) has proposed to modify the Bayonne Bridge across navigable waters of the United States by raising the roadway thereby increasing the vertical navigational clearance from approximately 151 feet to 215 feet at Mean High Water. A thorough description of the project and how it would be completed can be found at the project's Web site: *http://www.panynj.gov/bayonnebridge/*.

The proposed bridge modification project has been identified as a nationally or regionally significant project under ''Implementing Executive Order 13604 on Improving Performance of Federal Permitting and Review of Infrastructure Projects: A Federal Plan for Modernizing the Federal Permitting and Review Process for Better Projects, Improved Environmental and Community Outcomes, and Quicker Decisions,'' dated June 2012, which requires agencies to identify and expedite the permitting and environmental review process for regionally or nationally significant infrastructure projects. The existing Bayonne Bridge has a vertical navigational clearance of approximately 151 feet above the Kill Van Kull at Mean High Water. The applicant proposes to increase the vertical navigational clearance to approximately 215 feet above the waterway at Mean High Water to provide greater clearances to accommodate larger, Post-Panamax vessels and thereby ensure the long-term viability of the Port of New York and New Jersey. Post-Panamax vessels are wider and taller ships with deeper drafts that will be able to traverse through the Panama Canal once improvements on the canal are completed in 2014. The expanded purpose of the Bayonne Bridge project is to improve the substandard features and seismic stability of the existing bridge and ensure it conforms to modern highway and structural design standards. In addition, the existing bridge is eligible for listing on the National Register of Historic Places. Therefore, the Coast Guard initiated consultation under Section 106 of the National Historic Preservation Act. The Advisory Council on Historic Preservation accepted the Coast Guard invitation to participate in the Section 106 process. As a result, a Section 106 Programmatic Agreement was formulated and then executed on May 7, 2013. The Section 106 Programmatic Agreement has been included in the Final EA.

The Coast Guard issued a NEPA Workplan, dated September 2011, which provided a discussion of the project's Purpose and Need, project alternatives and the framework of the environmental analysis. On October 31, 2011, the Coast Guard held a coordination meeting with city, state and federal agencies to discuss the project's scope and the NEPA Workplan. On November 14, 2011, the Coast Guard issued a solicitation requesting comments from the general public for the scope of the project and the NEPA Workplan. Comments received following the meeting and during the solicitation comment period included concerns from the U.S. Federal Highway Administration, the Environmental Protection Agency, various private organizations and individuals, and others regarding additional cargo volumes due to larger ships entering the Port of New York and New Jersey, the expansion of the port and port facilities, and the related impacts to air quality and traffic. In response to these comments, an Induced Demand Analysis was conducted by an independent source to study the impact of the proposed action to those communities surrounding the Port of New York and New Jersey. Further information regarding this analysis can be found in Chapter 18 of the Final EA and in Appendix I. In addition, the Coast Guard met with representatives from minority and low income communities in Staten Island, NY and Newark, NJ to explain the Coast Guard bridge permit process and to ensure those communities had a voice in the public comment process.

On January 4, 2013, the Coast Guard published a notice in the **Federal Register** announcing the availability of the Draft EA, inviting comments on it, and announcing the dates and locations of two public meetings on the Draft EA (78 FR 740). On January 25, 2013, the Coast Guard published a supplemental notice in the **Federal Register** announcing the extension of the comment period to 60 days, and a third public meeting. Public meetings were held on February 5, 2013, in Bayonne, NJ, February 7, 2013, in Staten Island, NY, and February 13, 2013, in Newark, NJ. Based on the information received during the 60-day public comment period, and during the three public meetings, the Coast Guard has determined that a Final Environmental Assessment is the most appropriate level of environmental documentation for this project. The Coast Guard has determined that there are no significant impacts and has issued a Finding of No Significant Impact. The Final EA and appendices and FONSI are available online in the *www.regulations.gov* docket as well as at *http://www.uscg.mil/d1/prevention/Bridges.asp*.

Alternatives for the proposed project considered include: (1) Taking no action; (2) various build alternatives that satisfy the purpose and need; (3) a tunnel; (4) new cargo terminals constructed downstream of the Bayonne Bridge; and (5) a ferry service in lieu of the bridge. Build alternatives included raising the roadway within the existing superstructure (preferred), jacking the arch superstructure, converting to a lift bridge, or constructing a new bridge.

As a structure over navigable waters of the United States, it requires a Coast Guard Bridge Permit Amendment pursuant to the Bridge Act of March 23, 1906, as amended, Title 33 U.S.C. 491. Additionally, the bridge permit amendment would be the major federal action in this undertaking since federal funds will not be used, and therefore the Department of Homeland Security, through the Coast Guard is the federal lead agency for review of potential effects on the human environment, including historic properties, pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) and the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.).

The Coast Guard, with assistance from PANYNJ, has prepared a Final EA in accordance with NEPA. See ''Viewing the Final EA and FONSI'' above. The Final EA identifies and examines the reasonable alternatives (including ''No Build'') and assesses the potential for impact to the human environment, including historic properties, of the alternative proposals.

This notice is issued under the authority of 5 U.S.C. 552 (a). Additionally, the Final EA and FONSI have been prepared in accordance with the National Environmental Policy Act

(NEPA) (42 U.S.C. 4321 et seq.); Council on Environmental Quality Regulations for Implementing NEPA (40 CFR 1500–1508) and associated CEQ guidelines; Department of Homeland Security Management Directive 5100.1, Environmental Planning Program; and United States Coast Guard Commandant Instruction M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

Dated: May 10, 2013.

Brian L. Dunn,

Administrator, Office of Bridge Programs, U.S. Coast Guard.

[FR Doc. 2013–11627 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3363–EM; Docket ID FEMA–2013–0001]

Texas; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Texas (FEMA–3363–EM), dated April 19, 2013, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of Texas is hereby amended to include the following area determined to have been adversely affected by the event declared an emergency by the President in his declaration of April 19, 2013.

McLennan County for debris removal (Category A) under the Public Assistance program (already designated for the Individuals and Households Program and emergency protective measures [Category B], including direct federal assistance, under the Public Assistance program).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–11590 Filed 5–15–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Baldwin (FEMA Docket No.: B–1294).	City of Gulf Shores (12–04–4632P).	The Honorable Robert S. Craft, Mayor, City of Gulf Shores, P.O. Box 299, Gulf Shores, AL 36547.	Community Development Department, 1905 West 1st Street, Gulf Shores, AL 36547.	March 11, 2013	015005
Shelby (FEMA Docket No.: B–1288).	City of Chelsea (12–04–5684P).	The Honorable Earl Niven, Sr., Mayor, City of Chelsea, P.O. Box 111, Chelsea, AL 35043.	City Clerk's Office, 11611 Chelsea Road, Chelsea, AL 35043.	March 11, 2013	010432
Shelby (FEMA Docket No.: B–1288).	Unincorporated areas of Shelby County (12–04–5684P).	The Honorable Corley Ellis, Chairman, Shelby County Commission, P.O. Box 1177, Columbiana, AL 35051.	Shelby County Engineer's Office, 506 Highway 70, Columbiana, AL 35051.	March 11, 2013	010191
Arizona:					
Yavapai (FEMA Docket No.: B–1286).	City of Prescott (12–09–1886P).	The Honorable Marlin Kuykendall, Mayor, City of Prescott, 201 South Cortez Street, Prescott, AZ 86303.	Public Works Department, 201 South Cortez Street, Prescott, AZ 86303.	March 11, 2013	040098
Yavapai (FEMA Docket No.: B–1286).	City of Prescott Valley (12–09–1886P).	The Honorable Harvey C. Skoog, Mayor, Town of Prescott Valley, 7501 East Civic Circle, Prescott Valley, AZ 86314.	Engineering Division, 7501 East Civic Circle, Prescott Valley, AZ 86314.	March 11, 2013	040121
Yavapai (FEMA Docket No.: B–1286).	Unincorporated areas of Yavapai County (12–09–1886P).	The Honorable Thomas Thurman, Chairman, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 500 South Marina Street, Prescott, AZ 86303.	March 11, 2013	040093
California:					
Los Angeles (FEMA Docket No.: B–1285).	City of Los Angeles (12–09–2655P).	The Honorable Antonio R. Villaraigosa, Mayor, City of Los Angeles, 200 North Spring Street, Los Angeles, CA 90012.	Bureau of Engineering, 1149 South Broadway, Los Angeles, CA 90015.	February 25, 2013	060137
Mendocino (FEMA Docket No.: B–1286).	City of Ukiah (12–09–2827P).	The Honorable Mary Anne Landis, Mayor, City of Ukiah, 300 Seminary Avenue, Ukiah, CA 95482.	Planning and Community Development Department, 300 Seminary Avenue, Ukiah, CA 95482.	February 28, 2013	060186
San Bernardino (FEMA Docket No.: B–1286).	Town of Apple Valley (12–09–1907P).	The Honorable Barb Stanton, Mayor, Town of Apple Valley, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	Engineering Department, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	March 11, 2013	060752
San Diego (FEMA Docket No.: B–1286).	City of San Marcos (12–09–1029P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	Public Works Department, 1 Civic Center Drive, San Marcos, CA 92069.	March 7, 2013	060296
San Luis Obispo (FEMA Docket No.: B–1288).	City of San Luis Obispo (12–09–1856P).	The Honorable Jan Howell Marx, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	Engineering Department, 919 Palm Street, San Luis Obispo, CA 93401.	March 25, 2013	060310
San Mateo (FEMA Docket No.: B–1286).	City of San Mateo (12–09–2887P).	The Honorable Brandt Grotte, Mayor, City of San Mateo, 330 West 20th Avenue, San Mateo, CA 94403.	Community Development Department, 330 West 20th Avenue, San Mateo, CA 94403.	March 4, 2013	060328
Colorado:					
Adams (FEMA Docket No.: B–1288).	City of Westminster (12–08–0832P).	The Honorable Nancy McNally, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	Engineering Division, 4800 West 92nd Avenue, Westminster, CO 80031.	March 15, 2013	080008
Arapahoe (FEMA Docket No.: B–1288).	City of Aurora (12–08–0590P).	The Honorable Steve Hogan, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Engineering Department, 15151 East Alameda Parkway, Aurora, CO 80012.	March 22, 2013	080002
Boulder (FEMA Docket No.: B–1288).	City of Boulder (12–08–0776P).	The Honorable Matthew Appelbaum, Mayor, City of Boulder, P.O. Box 791, Boulder, CO 80306.	Planning and Development Services Department, 1739 Broadway, 3rd Floor, Boulder, CO 80302.	March 25, 2013	080024
Larimer (FEMA Docket No.: B–1286).	City of Fort Collins (12–08–0677P).	The Honorable Karen Weitkunat, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80521.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	February 28, 2013	080102
Larimer (FEMA Docket No.: B–1286).	Unincorporated areas of Larimer County (12–09–0677P).	The Honorable Lew Gaiter III, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Engineering Department, 200 West Oak Street, Fort Collins, CO 80521.	February 28, 2013	080101
Weld (FEMA Docket No.: B–1294).	Town of Erie (11–08–1090P).	The Honorable Joe Wilson, Mayor, Town of Erie, P.O. Box 750, Erie, CO 80516.	Town Hall, 645 Holbrook Street, Erie, CO 80516.	March 25, 2013	080181
Weld (FEMA Docket No.: B–1294).	Unincorporated areas of Weld County (11–08–1090P).	The Honorable Sean Conway, Chairman, Weld County Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Public Works Department, 1111 H Street, Greeley, CO 80632.	March 25, 2013	080266
Florida:					
Brevard (FEMA Docket No.: B–1288).	City of Cocoa Beach (12–04–6118P).	The Honorable Leon "Skip" Beeler III, MD, Mayor, City of Cocoa Beach, P.O. Box 322430, Cocoa Beach, FL 32932.	Development Services Department, 2 South Orlando Avenue, 2nd Floor, Cocoa Beach, FL 32932.	March 25, 2013	125097
Broward (FEMA Docket No.: B–1286).	City of Hallandale Beach (12–04–5196P).	The Honorable Joy Cooper, Mayor, City of Hallandale Beach, 400 South Federal Highway, Hallandale Beach, FL 33009.	Development Services, 2600 Hollywood Boulevard, Hallandale Beach, FL 33009.	February 28, 2013	125110
Lee (FEMA Docket No.: B–1286).	Unincorporated areas of Lee County (12–04–2790P).	The Honorable John E. Manning, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	February 28, 2013	125124

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Miami-Dade (FEMA Docket No.: B–1286).	City of Sunny Isles Beach (12-04-6055P).	The Honorable Norman S. Edelcup, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	Building and Development Department, 18070 Collins Avenue, Sunny Isles Beach, FL 33610.	March 11, 2013	120688
Monroe (FEMA Docket No.: B–1294).	Unincorporated areas of Monroe County (12–04–7637P).	The Honorable David Rice, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Marathon, FL 33050.	March 25, 2013	125129
Orange (FEMA Docket No.: B–1286).	City of Orlando (12–04–5845P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32801.	March 8, 2013	120186
Hawaii:					
Hawaii (FEMA Docket No.: B–1286).	Unincorporated areas of Hawaii County (12–09–1607P).	The Honorable William P. Kenoi, Mayor, Hawaii County, 25 Aupuni Street, Suite 2603, Hilo, HI 96720.	Hawaii County Office Building, Department of Public Works, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	March 4, 2013	155166
New York:					
Westchester (FEMA Docket No.: B–1274).	Village of Mamaroneck (10–02–1072P).	The Honorable Norman S. Rosenblum, Mayor, Village of Mamaroneck, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Building Department, 169 Mount Pleasant Avenue, 3rd Floor, Mamaroneck, NY 10543.	December 19, 2012	360916
North Carolina:					
Mecklenburg (FEMA Docket No.: B–1288).	Town of Huntersville (12–04–5382P).	The Honorable Jill Swain, Mayor, Town of Huntersville, P.O. Box 664, Huntersville, NC 28078.	Planning Department, 101 Huntersville-Concord Road, Huntersville, NC 28070.	March 11, 2013	370478
Mecklenburg (FEMA Docket No.: B–1294).	Town of Cornelius (12–04–5511P).	The Honorable Jeff Tarte, Mayor, Town of Cornelius, 21445 Catawba Avenue, Cornelius, NC 28031.	Public Works Department, 21445 Catawba Avenue, Cornelius, NC 28031.	March 15, 2013	370498
Mecklenburg (FEMA Docket No.: B–1294).	Unincorporated areas of Mecklenburg County (12–04–5511P).	Mr. Harry L. Jones, Sr., Mecklenburg County Manager, 600 East 4th Street, Charlotte, NC 28202.	Charlotte-Mecklenburg Stormwater Services Division, 700 North Tryon Street, Charlotte, NC 28202.	March 15, 2013	370158
South Carolina:					
Charleston (FEMA Docket No.: B–1288).	City of Charleston, (12–04–8055P).	The Honorable Joseph P. Riley, Jr., Mayor, City of Charleston, P.O. Box 652, Charleston, SC 29402.	Engineering Department, 75 Calhoun Street, Division 301, Charleston, SC 29401.	March 15, 2013	455412
Charleston (FEMA Docket No.: B–1288).	Unincorporated areas of Charleston County (12–04–8055P).	The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405.	Charleston County Building Services Department, 4045 Bridge View Drive, North Charleston, SC 29405.	March 15, 2013	455413

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11595 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1317]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email)

Luis.Rodriguez3@fema.dhs.gov; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Florida: St. Johns ..	Unincorporated areas of St. Johns (13–04–1159P).	Mr. Michael D. Wanchick, St. Johns County Administrator, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administrative Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	*http://www.bakeraecom.com/index.php/florida/st-johns/.*	July 11, 2013	125147
New Mexico:						
Bernalillo	City of Albuquerque (13–06–1053P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	600 2nd Street Northwest, Albuquerque, NM 87102.	*http://www.rampp-team.com/lomrs.htm.*	June 17, 2013	350002
Bernalillo	Unincorporated areas of Bernalillo County (13–06–1053P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County, 2400 Broadway Southeast, Albuquerque, NM 87102.	*http://www.rampp-team.com/lomrs.htm.*	June 17 , 2013 ..	350001
Oklahoma:						
Comanche	City of Lawton (11–06–3356P).	The Honorable Fred L. Fitch, Mayor, City of Lawton, 212 Southwest 9th Street, Lawton, OK 73501.	City Hall, 212 Southwest 9th Street, Lawton, OK 73501.	*http://www.rampp-team.com/lomrs.htm.*	May 30, 2013	400049
Oklahoma	City of Oklahoma City (12–06–2435P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	405378
Oklahoma	City of Oklahoma City (12–06–3471P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	405378
Oklahoma	Unincorporated areas of Oklahoma County (12–06–2435P).	The Honorable Ray Vaughn, Chairman, Oklahoma County Board of Commissioners, 320 Robert S. Kerr Avenue, Suite 101, Oklahoma City, OK 73102.	Oklahoma County Courthouse, 320 Robert S. Kerr Avenue, Suite 101, Oklahoma City, OK 73102.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	400466
Texas:						
Bexar	City of San Antonio (12–06–3532P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Municipal Plaza, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	July 5, 2013	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Bexar	Unincorporated areas of Bexar County (12–06–3532P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	July 5, 2013	480035
Bexar	Unincorporated areas of Bexar County (13–06–0667P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	480035
Collin	City of Frisco (12–06–2227P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	*http://www.rampp-team.com/lomrs.htm.*	July 8, 2013	480134
Collin	City of McKinney (12–06–2227P).	The Honorable Brian Loughmiller, Mayor, City of McKinney, 222 North Tennessee Street, McKinney, TX 75069.	222 North Tennessee Street, McKinney, TX 75069.	*http://www.rampp-team.com/lomrs.htm.*	July 8, 2013	480135
Collin	City of Plano (12–06–2231P).	The Honorable Phil Dyer, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074.	1520 Avenue K, Plano, TX 75074.	*http://www.rampp-team.com/lomrs.htm.*	July 5, 2013	480140
Dallas	Town of Sunnyvale (12–06–1197P).	The Honorable Jim Phaup, Mayor, Town of Sunnyvale, 127 North Collins Road, Sunnyvale, TX 75182.	Town Hall, 537 Long Creek Road, Sunnyvale, TX 75182.	*http://www.rampp-team.com/lomrs.htm.*	July 12, 2013	480188
Harris	Unincorporated areas of Harris County (12–06–2602P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77002.	*http://www.rampp-team.com/lomrs.htm.*	May 31, 2013	480287
Kaufman	City of Dallas (12–06–1197P).	The Honorable Mike Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	City Hall, 320 East Jefferson Boulevard, Room 321, Dallas, TX 75203.	*http://www.rampp-team.com/lomrs.htm.*	July 12, 2013	480171
Virginia:						
Fairfax	Town of Herndon (12–03–2159P).	The Honorable Lisa C. Merkel, Mayor, Town of Herndon, P.O. Box 427, Herndon, VA 20172.	Municipal Center, 777 Lynn Street, Herndon, VA 20170.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	510052
Fairfax	Unincorporated areas of Fairfax County (12–03–2159P).	The Honorable Sharon Bulova, Chairman-at-Large, Fairfax County Board of Supervisors, 12000 Government Center Parkway, Suite 530, Fairfax, VA 22035.	Fairfax County Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	*http://www.rampp-team.com/lomrs.htm.*	July 11, 2013	515525

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11606 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1319]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR

Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Alaska: Sitka	City and Borough of Sitka (13–10–0358P).	The Honorable Mim McConnell, Mayor, City and Borough of Sitka, 100 Lincoln Street, Sitka, AK 99835.	100 Lincoln Street, 1st Floor, Sitka, AK 99835.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	June 26, 2013	020006
Illinois:						
Boone and Winnebago.	City of Loves Park (12–05–6395P).	The Honorable Darryl F. Lindberg, Mayor, City of Loves Park, 100 Heart Boulevard, Loves Park, IL 61111.	Loves Park Development Public Works Department, 100 Heart Boulevard, Loves Park, IL 61111.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 19, 2013	170722
Kane	Village of North Aurora (13–05–0140P).	The Honorable Dale Berman, Village President, Village of North Aurora, 25 East State Street, North Aurora, IL 60542.	North Aurora Village Hall, Building and Zoning Division, 25 East State Street, North Aurora, IL 60542.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 26, 2013	170329
Iowa:						
Hardin	City of Iowa Falls (12–07–3261P).	The Honorable Jerry Welden, Mayor, City of Iowa Falls, 315 Stevens Street, Iowa Falls, IA 50126.	315 Stevens Street, Iowa Falls, IA 50126.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	June 20, 2013	190140
Hardin	Unincorporated areas of Hardin County (12–07–3261P).	The Honorable Brian Lauterbach, Chair, Hardin County Board of Supervisors, 1215 Edington Avenue, Suite 1, Eldora, IA 50627.	1215 Edgington Avenue, Suite 2, Eldora, IA 50627.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	June 20, 2013	190874
Kansas:						
Butler	City of Andover (12–07–3333P).	The Honorable Ben Lawrence, Mayor, City of Andover, 1609 East Central Avenue, Andover, KS 67002.	909 North Andover Road, Andover, KS 67002.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	July 5, 2013	200383

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
McPherson ...	Unincorporated areas of Mcpherson County (12–07–2666P).	The Honorable Ron Loomis, Chairman, Mcpherson County Commission, 117 North Maple, McPherson, KS 67460.	117 North Maple, McPherson, KS 67460.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	June 24, 2013	200214
McPherson ...	City of Galva (12–07–2666P).	The Honorable H. Wayne Ford, Mayor, City of Galva, 208 South Main, Galva, KS 67443.	208 South Main, Galva, KS 67443.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	June 24, 2013	200497
Ohio:						
Cuyahoga	City of Lyndhurst (12–05–7754P).	The Honorable Joseph M. Cicero, Jr., Mayor, City of Lyndhurst, 5301 Mayfield Road, Lyndhurst, OH 44124.	5301 Mayfield Road, Lyndhurst, OH 44124.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	July 5, 2013	390113
Oregon:						
Marion	City of Salem (12–10–1472P).	The Honorable Anna M. Peterson, Mayor, City of Salem, 555 Liberty Street Southeast, Room 220, Salem, OR 97301.	555 Liberty Street Southeast, Room 305, Salem, OR 97301.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	June 21, 2013	410167
Marion	Unincorporated areas of Marion County (12–10–1472P).	The Honorable Janet Carlson, Chair, Marion County Board of Commissioners, 451 Division Street, Northeast, Salem, OR 97301.	Marion County Public Works, Planning and Zoning, 5155 Silverton Road Northeast, Salem, OR 97305.	*http://www.starr-team.com/starr/LOMR/Pages/RegionX.aspx.*	June 21, 2013	410154
Wisconsin:						
Kenosha	Village of Bristol (12–05–7434P).	The Honorable Mike Farrell, Village President, Village of Bristol, 19801 83rd Street, Bristol, WI 53104.	19801 83rd Street, Bristol, WI 53104.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 20, 2013	550595
Kenosha	Village of Pleasant Prairie (12–05–7434P).	The Honorable John Steinbrink, Village President, Village of Pleasant Prairie, 8640 88th Avenue, Pleasant Prairie, WI 53158.	9915 39th Avenue, Pleasant Prairie, WI 53158.	*http://www.starr-team.com/starr/LOMR/Pages/RegionV.aspx.*	June 20, 2013	550613

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11592 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the

floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–1279).	Unincorporated areas of Maricopa County (12–09–0756P).	The Honorable Don Stapley, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85009.	2801 West Durango Street, Phoenix, AZ 85009.	August 17, 2012	040037
Maricopa (FEMA Docket No.: B–1280).	Town of Cave Creek (12–09–1536P).	The Honorable Vincent Francia, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, AZ 85331.	37622 North Cave Creek, Cave Creek, AZ 85331.	January 4, 2013	040129
Maricopa (FEMA Docket No.: B–1280).	Unincorporated Areas of Maricopa County (12–09–1536P).	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, AZ 85009.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	January 4, 2013	040037
California:					
Fresno (FEMA Docket No.: B–1280).	Unincorporated Areas of Fresno County (12–09–1045P).	The Honorable Debbie Poochigian, Chair, Fresno County Board of Supervisors, 2281 Tulare Street, Room 300, Fresno, CA 93721.	Design Services Division, 2220 Tulare Street, 6th Floor, Fresno, CA 93721.	January 25, 2013	065029
Riverside (FEMA Docket No.: B–1280).	City of Moreno Valley (12–09–0582P).	The Honorable Henry T. Garcia, City Manager, 14177 Frederick Street, Moreno Valley, CA 92553.	14177 Frederick Street, Moreno Valley, CA 92553.	February 15, 2013	065074
Riverside (FEMA Docket No.: B–1280).	City of Beaumont (12–09–2411P).	The Honorable Roger Berg, Mayor, City of Beaumont, 550 East 6th Street, Beaumont, CA 92223.	550 East 6th Street, Beaumont, CA 92223.	February 9, 2013	060247
Riverside (FEMA Docket No.: B–1279).	Unincorporated areas of Riverside County (12–09–0462P).	The Honorable John F. Tavaglione, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, Riverside, CA 92501.	Riverside County Flood Control, Water Conservation District, 1995 Market Street, Riverside, CA 92501.	September 17, 2012	060245
San Diego (FEMA Docket No.: B–1279).	Unincorporated Areas of San Diego County (12–09–0044P).	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92101.	5555 Overland Avenue, San Diego, CA 92101.	August 28, 2012	060284
San Diego (FEMA Docket No.: B–1279).	City of San Diego (12–09–0966P).	The Honorable Jerry Sanders, Mayor, City of San Diego, 202 C Street, San Diego, CA 92101.	202 C Street, San Diego, CA 92101	October 9, 2012	060295
Colorado:					
El Paso (FEMA Docket No.: B–1295).	Unincorporated Areas of El Paso County (12–08–0579P).	The Honorable Amy Lathan, Chair, El Paso County Board of Commisioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 8903.	Development Services Department, 2880 International Circle, Suite 110, Colorado Springs, CO 80910.	February 28, 2013	080059
Connecticut:					
New Haven (FEMA Docket No.: B–1295).	Town of Beacon Falls (12–01–1573P).	The Honorable Gerald F. Smith, First Selectman, Town of Beacon Falls, 10 Maple Avenue, Beacon Falls, CT 06403.	Beacon Falls Town Hall, 10 Maple Avenue, Beacon Falls, CT 06403.	March 6, 2013	090072
New Haven (FEMA Docket No.: B–1279).	Town of Guilford (12–01–0839P).	The Honorable Joseph S. Mazza, First Selectman, Town of Guilford Board of Selectmen, 31 Park Street, Guilford, CT 06437.	50 Boston Street, Guilford, CT 06437	July 27, 2012	090077
New Haven (FEMA Docket No.: B–1280).	City of Meriden (12–01–1133P).	The Honorable Michael S. Rohde, Mayor, City of Meriden, 142 East Main Street, Meriden, CT 06450.	142 East Main Street, Room 19, Meriden, CT 06450.	February 1, 2013	090081
Idaho:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Ada (FEMA Docket No.: B–1280).	Unincorporated Areas of Ada County (12–10–0639P).	The Honorable Rick Yzaguirre, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	200 West Front Street, Boise, ID 83702 ..	January 25, 2013	160001
Ada (FEMA Docket No.: B–1280).	City of Meridian (11–10–0941P).	The Honorable Tammy de Weerd, Mayor, City of Meridian, 33 East Broadway Avenue, Meridian, ID 83642.	33 East Broadway Avenue, Meridian, ID 83642.	February 15, 2013	160180
Ada (FEMA Docket No.: B–1280).	Unincorporated Areas of Ada County (11–10–0941P).	The Honorable Rick Yzaguirre, Chairman, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	200 West Front Street, Boise, ID 83702 ..	February 15, 2013	160001
Latah (FEMA Docket No.: B–1295).	City of Moscow (11–10–1574P).	The Honorable Nancy Chaney, Mayor, City of Moscow, 206 East 3rd Street, Moscow, ID 83843.	Moscow Community Development, 221 East 2nd Street, Moscow, ID 83843.	March 27, 2013	160090
Illinois:					
Cook (FEMA Docket No.: B–1280).	Village of Bridgeview (12–05–6205P).	The Honorable Steven Landek, Mayor, Village of Bridgeview, 7500 South Oketo Avenue, Bridgeview, IL 60455.	7500 South Oketo Avenue, Bridgeview, IL 60455.	January 10, 2013	170065
DuPage (FEMA Docket No.: B–1295).	Village of Roselle (12–05–8596P).	The Honorable Gayle Smolinski, Mayor, Village of Roselle, 31 South Prospect Street, Roselle, IL 30172.	Roselle Village Hall, 31 South Prospect Street, Roselle, IL 60172.	March 15, 2013	170216
Peoria (FEMA Docket No.: B–1280).	City of Peoria (12–05–6071P).	The Honorable Jim Ardis, Mayor, City of Peoria, 419 Fulton Street, Room 207, Peoria, IL 61602.	3505 North Dries Lane, Peoria, IL 61604	January 18, 2013	170536
Peoria (FEMA Docket No.: B–1280).	City of Peoria (12–05–6047P).	The Honorable Jim Ardis, Mayor, City of Peoria, 419 Fulton Street, Room 207, Peoria, IL 61602.	3505 North Dries Lane, Peoria, IL 61604	February 11, 2013	170536
Indiana:					
Floyd (FEMA Docket No.: B–1279).	City of New Albany (12–05–0562P).	The Honorable Jeff M. Gahan, Mayor, City of New Albany, 311 Hauss Square, Suite 316, New Albany, IN 47150.	311 Hauss Square, New Albany, IN 47150.	September 12, 2012	180062
Hendricks (FEMA Docket No.: B–1279).	Unincorporated areas of Hendricks County (12–05–0826P).	The Honorable Eric L. Wathen, President, Hendricks County Board of Commissioners, 355 South Washington Street, Danville, IN 46122.	355 South Washington Street, Danville, IN 46122.	August 30, 2012	180415
Lake (FEMA Docket No.: B–1280).	Town of St. John (12–05–7462P).	The Honorable Mike Forbes, Town Council President, 10995 West 93rd Avenue, St. John, IN 46373.	10995 West 93rd Avenue, St. John, IN 46373.	February 4, 2013	180141
Lake (FEMA Docket No.: B–1295).	City of Hammond (12–05–7873P).	The Honorable Thomas M. McDermott, Jr. Mayor, City of Hammond, 5925 Calumet Avenue, Hammond, IN 46320	5925 Calumet Avenue, Hammond, IN 46320.	March 1, 2013	180134
Lake (FEMA Docket No.: B–1295).	Town of Munster (12–05–7873P).	The Honorable David Nellans, President, Munster Town Council, 1005 Ridge Road, Munster, IN 46321.	1005 Ridge Road, Munster, IN 46321	March 1, 2013	180139
Iowa:					
Black Hawk (FEMA Docket No.: B–1279).	City of Cedar Falls (12–07–1218P).	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613.	220 Clay Street, Cedar Falls, IA 50613	April 12, 2012	190017
Kansas:					
Sedwick (FEMA Docket No.: B–1295).	City of Wichita (12–07–0465P).	The Honorable Carl Brewer, Mayor, City of Wichita, 455 North Main, Wichita, KS 67202.	455 North Main, 8th Floor, Wichita, KS 67202.	March 12, 2013	200328
Sedwick (FEMA Docket No.: B–1295).	City of Maize (12–07–0465P).	The Honorable Clair Donnelly, Mayor, City of Maize, 10100 West Grady Avenue, Maize, KS 67101.	10100 West Grady Avenue, Maize, KS 67101.	March 12, 2013	200520
Sedwick (FEMA Docket No.: B–1295).	Unincorporated Areas of Sedwick County (12–07–0465P).	The Honorable Tim R. Norton, Chairman, Sedwick County Board of Commissioners, 525 North Main, Suite 320, Wichita, KS 67203.	144 South Seneca Street, Wichita, KS 67213.	March 12, 2013	200321
Maine:					
Cumberland (FEMA Docket No.: B–1279).	City of Portland (12–01–0271P).	The Honorable Michael Brennan, Mayor, City of Portland, 389 Congress Street, Portland, ME 04101.	389 Congress Street, Portland, ME 04101	September 14, 2012	230051

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
York (FEMA Docket No.: B–1279).	Town of Kittery (12–01–1257P).	The Honorable Judith Spiller, Chair, Kittery Town Council, 200 Rogers Road, Kittery, ME 03904.	200 Rogers Road, Kittery, ME 03904	November 23, 2012	230171
Massachusetts:					
Norfolk (FEMA Docket No.: B–1295).	Town of Sharon (12–01–2415P).	The Honorable Richard Alan Powell, Chair, Town of Sharon Board of Selectman, 90 South Main Street, Sharon, MA 02067.	217R South Main Street, Sharon, MA 02067.	March 11, 2013	250252
Plymouth (FEMA Docket No.: B–1280).	Town of Mattapoisett (12–01–2089P).	The Honorable Jordan C. Collyer, Chairman, Board of Selectmen, 16 Main Street, Mattapoisett, MA 02739.	16 Main Street, Mattapoisett, MA 02739 ..	February 22, 2013	255214
Plymouth (FEMA Docket No.: B–1295).	Town of Wareham (12–01–2090P).	The Honorable Stephen M. Holmes, Chairman, Town of Wareham Board of Selectman, 54 Marion Road, Wareham, MA 02571.	54 Marion Road, Wareham, MA 02571	March 15, 2013	255223
Michigan:					
Macomb (FEMA Docket No.: B–1279).	Charter Township of Clinton (12–05–2784P).	The Honorable Robert J. Cannon, Supervisor, Clinton Township, Board of Trustees, 40700 Romeo Plank Road, Clinton Township, MI 48038.	40700 Romeo Plank Road, Clinton Township, MI 48038.	October 26, 2012	260121
Oakland (FEMA Docket No.: B–1279).	City of Troy (12–05–7920P).	The Honorable Janice Daniels, Mayor, City of Troy, 500 West Big Beaver Road, Troy, MI 48084.	500 West Big Beaver Road, Troy, MI 48084.	December 28, 2012	260180
Ingham (FEMA Docket No.: B–1279).	Charter Township of Meridian (12–05–0834P).	The Honorable Susan McGillicuddy, Supervisor, Meridian Township Board, 5151 Marsh Road, Okemos, MI 48864.	5151 Marsh Road, Okemos, MI 48864	October 22, 2012	260093
Minnesota:					
Olmsted (FEMA Docket No.: B–1295).	City of Rochester (12–05–4929P).	The Honorable Ardell F. Brede, Mayor, City of Rochester, 201 4th Street Southeast, Room 281, Rochester, MN 55904.	2122 Campus Drive Southeast, Suite 100, Rochester, MN 55904.	March 21, 2013	275246
Rice (FEMA Docket No.: B–1279).	City of Northfield (12–05–1809P).	The Honorable Mary Rossing, Mayor, City of Northfield, 801 Washington Street, Northfield, MN 55057.	801 Washington Street, Northfield, MN 55057.	October 2, 2012	270406
Missouri:					
Boone (FEMA Docket No.: B–1279).	Unincorporated areas of Boone County (12–07–0634P).	The Honorable Dan Atwill, Presiding Commissioner, Boone County Board of Commissioners, 801 East Walnut, Room 333, Columbia, MO 65201.	801 East Walnut, Columbia, MO 65201 ...	August 31, 2012	290034
St. Charles (FEMA Docket No.: B–1279).	Unincorporated areas of St. Charles County (12–07–0766P).	The Honorable Nancy Matheny, Chair, St. Charles County Council, 100 North 3rd Street, Suite 124, St. Charles, MO 63301.	300 North 2nd Street, St. Charles, MO 63301.	December 20, 2012	290315
St. Charles (FEMA Docket No.: B–1279).	City of O'Fallon (12–07–0766P).	The Honorable Bill Hennessy, Mayor, City of O'Fallon, 100 North Main Street, O'Fallon, MO 63366.	100 North Main Street, O'Fallon, MO 63366.	December 20, 2012	290316
Greene (FEMA Docket No.: B–1295).	City of Springfield (12–07–2300P).	The Honorable Bob Stephens, Mayor, City of Springfield, 840 Boonville Avenue, Springfield, MO 65801.	840 Boonville Avenue, Springfield, MO 65801.	March 29, 2013	290149
Greene (FEMA Docket No.: B–1279).	City of Springfield (12–07–2301P).	The Honorable Bob Stephens, Mayor, City of Springfield, 840 Boonville Avenue, Springfield, MO 65801.	840 Boonville Avenue, Springfield, MO 65801.	December 27, 2012	290149
Nebraska:					
Dakota (FEMA Docket No.: B–1279).	Village of Homer (12–07–1010P).	The Honorable Corbet Dorsey, Chairman, Homer Village Board, 110 John Street, Homer, NE 68030.	110 John Street, Homer, NE 68030	September 21, 2012	310241
Lancaster (FEMA Docket No.: B–1279).	City of Lincoln (12–07–2343P).	The Honorable Chris Beutler, Mayor, City of Lincoln, 555 South 10th Street, Suite 301, Lincoln, NE 68508.	555 South 10th Street, Suite 301, Lincoln, NE 68508.	December 7, 2012	315273
New Hampshire:					
Belknap (FEMA Docket No.: B–1279).	Town of Belmont (12–01–0021P).	The Honorable Jon Pike, Chairman, Board of Selectmen, 143 Main Street, Belmont, NH 03220.	143 Main Street, Belmont, NH 03220	August 17, 2012	330002

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Hillsborough (FEMA Docket No.: B–1279).	City of Nashua (12–01–0285P).	The Honorable Donnalee Lozeau, Mayor, City of Nashua, 229 Main Street, Nashua, NH 03061.	229 Main Street, Nashua, NH 03061	November 27, 2012	330097
Ohio:					
Athens (FEMA Docket No.: B–1279).	City if Athens (12–05–4250P).	The Honorable Paul Wiehl, Mayor, City of Athens, 8 East Washington Street, Athens, OH 45701.	28 Curran Drive, Athens, OH 45701	December 21, 2012	390016
Athens (FEMA Docket No.: B–1279).	Unincorporated areas of Athens County (12–05–4250P).	The Honorable Lenny Eliason, Chair, Athens County Board of Commissioners, 15 South Court Street, Room 234, Athens, OH 45701.	69 South Plains Road, The Plains, OH 45780.	December 21, 2012	390760
Cuyahoga (FEMA Docket No.: B–1279).	City of Strongsville (12–05–0377P).	The Honorable Thomas P. Perciak, Mayor, City of Strongsville, 16099 Foltz Industrial Parkway, Strongsville, OH 44149.	16099 Foltz Industrial Parkway, Strongsville, OH 44149.	December 7, 2012	390132
Franklin (FEMA Docket No.: B–1280).	City of Columbus (12–05–3607P).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, Columbus, OH 43215.	1250 Fairwood Avenue, Columbus, OH 43206.	January 31, 2013	390170
Franklin (FEMA Docket No.: B–1279).	City of Columbus (11–05–7877P).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, 2nd Floor, Columbus, OH 43215.	90 West Broad Street, Columbus, OH 43215.	August 30, 2012	390170
Franklin (FEMA Docket No.: B–1279).	Unincorporated areas of Franklin County (11–05–7877P).	The Honorable Marilyn Brown, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, OH 43215.	280 East Broad Street, Columbus, OH 43215.	August 30, 2012	390167
Lucas (FEMA Docket No.: B–1279).	City of Toledo (12–05–6346P).	The Honorable Michael P. Bell, Mayor, City of Toledo, 640 Jackson Street, Suite 2200, Toledo, OH 43604.	6200 Bay Shore Road, Suite 300, Toledo, OH 43616.	December 28, 2012	395373
Montgomery (FEMA Docket No.: B–1279).	City of Englewood (12–05–5251P).	The Honorable Patricia Burnside, Mayor, City of Englewood, 333 West National Road, Englewood, OH 45322.	333 West National Road, Englewood, OH 45322.	December 14, 2012	390828
Oregon:					
Clackamas (FEMA Docket No.: B–1279).	City of Lake Oswego (12–10–0728P).	The Honorable Jack Hoffman, Mayor, City of Lake Oswego, 380 A Avenue, Lake Oswego, OR 97034.	380 A Avenue, Lake Oswego, OR 97034	August 24, 2012	410018
Jackson (FEMA Docket No.: B–1280).	Unincorporated Areas Of Jackson County (11–10–1120P).	The Honorable Don Skundrick, Chair, Jackson County Board of Commissioners, 10 South Oakdale Avenue, Room 100, Medford, OR 97501.	10 South Oakdale Avenue, Medford, OR 97501.	February 22, 2013	415589
Jackson (FEMA Docket No.: B–1279).	Unincorporated areas of Jackson County, OR (11–10–1783P).	The Honorable Don Skundrick, Chair, Jackson County Board of Commissioners, 10 South Oakdale Avenue, Room 100, Medford, OR 97501.	10 South Oakdale Avenue, Medford, OR 97501.	December 6, 2012	415589
Josephine (FEMA Docket No.: B–1279).	Unincorporated areas of Josephine County (11–10–1783P).	The Honorable Simon G. Hare, Chair, Josephine County Board of Commissioners, 500 Northwest 6th Street, Grant Pass, OR 97526.	510 Northwest 4th Street, Grants Pass, OR 97526.	December 6, 2012	415590
Linn (FEMA Docket No.: B–1279).	City of Sweet Home (12–10–0280P).	The Honorable Craig Fentiman, Mayor, City of Sweet Home, 1140 12th Avenue, Sweet Home, OR 97386.	1140 12th Avenue, Sweet Home, OR 97386.	December 27, 2012	410146
Marion (FEMA Docket No.: B–1279).	City of Salem (11–10–1646P).	The Honorable Anna M. Peterson, Mayor, City of Salem, 555 Liberty Street Southeast, Room 220, Salem, OR 97301.	555 Liberty Street Southeast, Salem, OR 97301.	August 31, 2012	410167
Marion (FEMA Docket No.: B–1279).	Unincorporated areas of Marion County (12–10–0559P).	The Honorable Patti Milne, Chair, Marion County Board of Commissioners, 451 Division Street Northeast, Salem, OR 97301.	5155 Silverton Road, Northeast, Salem, OR 97305.	September 21, 2012	410154
Multnomah (FEMA Docket No.: B–1279).	City of Fairview (11–10–1884P).	The Honorable Mike Weatherby, Mayor, City of Fairview, 1300 Northeast Village Street, Fairview, OR 97024.	1300 Northeast Village Street, Fairview, OR 97024.	July 27, 2012	410180

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Multnomah, (FEMA Docket No.: B–1279).	City of Troutdale (11–10–1884P).	The Honorable James Knight, Mayor, City of Troutdale, 104 Southeast Kibling, Troutdale, OR 97060.	19 East Historic Columbia River Highway, Troutdale, OR 97060.	July 27, 2012	410184
Multtnomah (FEMA Docket No.: B–1279).	City of Wood Village (11–10–1884P).	The Honorable Patricia Smith, Mayor, City of Fairview, 2055 Northeast 238th Drive, Wood Village, OR 97060.	2055 Northeast 238th Drive, Wood Village, OR 97060.	July 27, 2012	410185
Washington:					
King (FEMA Docket No.: B–1280).	City of Shoreline (12–10–0141P).	The Honorable Keith McGlashan, Mayor, City of Shoreline, 17500 Midvale Avenue, North, Shoreline, WA 98133.	17500 Midvale Avenue, North, Shoreline, WA 98133.	February 4, 2013	530327
King (FEMA Docket No.: B–1279).	Unincorporated areas of King County (11–10–1517P).	The Honorable Dow Constantine, King County, Executive, 401 5th Avenue, Suite 800, Seattle, WA 98104.	201 South Jackson Street, Suite 600, Seattle, WA 98055.	August 17, 2012	530071
Spokane (FEMA Docket No.: B–1279).	Unincorporated areas of Spokane County (12–10–0760P).	The Honorable Todd Mielke, Chair, Spokane County Board of Commissioners, 1116 West Broadway Avenue, Spokane, WA 99260.	1026 West Broadway Avenue, Spokane, WA 99260.	November 21, 2012	530174
Wisconsin:					
Brown (FEMA Docket No.: B–1280).	Village of Howard (12–05–4503P).	The Honorable Burt R. McIntyre, President, Howard Town Board of Trustees, 2456 Glendale Avenue, Green Bay, WI 54313.	2456 Glendale Avenue, Green Bay, WI 54313.	March 4, 2013	550023
Dane (FEMA Docket No.: B–1295).	City of Monona (12–05–5696P).	The Honorable Bob Miller, Mayor, City of Monona, 5211 Schluter Road, Monona, WI 53716.	5211 Schluter Road, Monona, WI 53716	March 15, 2013	550088
Dane (FEMA Docket No.: B–1295).	City of Madison (12–05–5696P).	The Honorable Paul R. Soglin, Mayor, City of Madison, 210 Martin Luther King Jr. Boulevard, Room 403, Madison, WI 53703.	Department of Public Works and Transportation, Engineering Division, 210 Martin Luther King Junior Boulevard, Room 115, Madison, WI 53703.	March 15, 2013	550083
Dodge (FEMA Docket No.: B–1279).	City of Beaver Dam (11–05–9168P).	The Honorable Tom Kennedy, Mayor, City of Beaver Dam, 205 South Lincoln Avenue, Beaver Dam, WI 53916.	205 South Lincoln Avenue, Beaver Dam, WI 53916.	September 14, 2012	550095
Green (FEMA Docket No.: B–1279).	Unincorporated areas of Green County (12–05–1770P).	The Honorable Arthur Carter, Chair, Green County Board of Supervisors, 1016 16th Avenue, Monroe, WI 53566.	1016 16th Avenue, Monroe, WI 53566	September 13, 2012	550157
Outagamie (FEMA Docket No.: B–1279).	Unincorporated areas of Outagamie County (12–05–1117P).	The Honorable Thomas Nelson, Outagamie County Executive, 410 South Walnut Street, Appleton, WI 54911.	410 South Walnut Street, Appleton, WI 54911.	December 28, 2012	550302
Richland (FEMA Docket No.: B–1279).	City of Richland (11–05–7586P).	The Honorable Larry Fowler, Mayor, City of Richland Center, 450 South Main Street, Richland Center, WI 53581.	450 South Main Street, Richland Center, WI 53581.	August 24, 2012	555576
Richland (FEMA Docket No.: B–1279).	Unincorporated areas of Richland County (11–05–7586P).	The Honorable Jeanetta Kirkpatrick, Chair, Richland County Board of Supervisors, 181 West Seminary Street, Richland Center, WI 53581.	181 West Seminary Street, Room 309, Richland Center, WI 53581.	August 24, 2012	550356
Rock (FEMA Docket No.: B–1280).	City of Janesville (12–05–4053P).	The Honorable Eric Levitt, Manager, City of Janesville, 18 North Jackson Street, 3rd Floor, Janesville, WI 53547.	18 North Jackson Street, Janesville, WI 53547.	November 21, 2012	555560
Sheboygan (FEMA Docket No.: B–1279).	Unincorporated areas of Sheboygan County (12–05–4154P).	The Honorable Roger L. Testroete, Chairman, Sheboygan County Board, 508 New York Avenue, Sheboygan, WI 53081.	508 New York Avenue, Room 335, Sheboygan, WI 53081.	December 21, 2012	550424
Sheboygan (FEMA Docket No.: B–1279).	Village of Glenbeulah (12–05–4154P).	The Honorable Douglas Daun, President, Glenbeulah Village Board, 110 North Swift Street, Glenbeulah, WI 53023.	110 North Swift Street, Glenbeulah, WI 53023.	December 21, 2012	550570
Trempealeau (FEMA Docket No.: B–1280).	City of Arcadia (12–05–1591P).	The Honorable John Kimmel, Mayor, City of Arcadia, 203 West Main Street, Arcadia, WI 54612.	203 West Main Street, Arcadia, WI 54612	February 15, 2013	550439
Trempealeau (FEMA Docket No.: B–1280).	Unincorporated Areas of Trempealeau County (12–05–1591P).	The Honorable Ernest Vold, Chair, Trempealeau County, Board of Supervisors, 36245 Main Street, Whitehall, WI 54773.	36245 Main Street, Whitehall, WI 54773 ..	February 15, 2013	555585

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Walworth (FEMA Docket No.: B–1295).	Village of Genoa City (12–05–6204P).	The Honorable John Wrzeszcz, President, Village of Genoa City Board, 810 Oak Ridge Lane, Genoa City, WI 53128.	Village Hall, 715 Walworth Street, Genoa City, WI 53128.	March 15, 2013	550465
Walworth (FEMA Docket No.: B–1295).	Unincorporated Areas of Walworth County (12–05–6204P).	The Honorable Nancy Russell, Chairperson, Walworth County Board of Supervisors, 100 West Walworth Street, Elkhorn, WI 53121.	100 West Walworth Street, Elkhorn, WI 53121.	March 15, 2013	550462
Waukesha (FEMA Docket No.: B–1279).	Unincorporated areas of Waukesha County (12–05–1322P).	The Honorable Don Vrakas, Waukesha County Executive, 515 West Moreland Boulevard, Room 320, Waukesha, WI 53188.	1320 Pewaukee Road, Room 230, Waukesha, WI 53188.	November 16, 2012	550476

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11589 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
New York: Westchester (FEMA Docket No.: B–1279).	Village of Mamaroneck (12–02–1302P).	The Honorable Norman S. Rosenblum, Mayor, Village of Mamaroneck, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Building Department, 169 Mount Pleasant Avenue, 3rd Floor, Mamaroneck, NY 10543.	February 20, 2013	360916
Texas:					
Bexar (FEMA Docket No.: B–1290).	Unincorporated areas of Bexar County (12–06–2065P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad, Suite 420, San Antonio, TX 78207.	February 19, 2013	480035

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Collin (FEMA Docket No.: B–1290).	City of Allen (12–06–1794P).	The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, 1st Floor, Allen, TX 75013.	City Hall, Engineering Department, 305 Century Parkway, 1st Floor, Allen, TX 75013.	February 8, 2013	480131
Collin (FEMA Docket No.: B–1290).	City of Frisco (12–06–2035P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	City Hall, 6101 Frisco Square Boulevard, 3rd Floor, Frisco, TX 75034.	February 4, 2013	480134
Harris (FEMA Docket No.: B–1290).	Unincorporated areas of Harris County (12–06–2603P).	The Honorable Ed Emmett, Harris County Judge, 1001 Preston, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	January 28, 2013	480287
Tarrant (FEMA Docket No.: B–1290).	City of Fort Worth (12–06–1169P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	1000 Throckmorton Street, Fort Worth, TX 76102.	January 14, 2013	480596
Tarrant (FEMA Docket No.: B–1290).	Town of Westlake (12–06–1796P).	The Honorable Laura Wheat, Mayor, Town of Westlake, 3 Village Circle, Suite 202, Westlake, TX 76262.	3 Village Circle, Suite 202, Westlake, TX 76262.	January 14, 2013	480614
Williamson (FEMA Docket No.:, B–1290).	Unincorporated areas of Williamson County (12–06–1129P).	The Honorable Dan A. Gattis, Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Courthouse, 710 South Main Street, Georgetown, TX 78626.	January 31, 2013	481079
Virginia:					
City of Richmond (FEMA Docket No.: B–1290).	Independent City of Richmond (11–03–1134P).	The Honorable Dwight C. Jones, Mayor, City of Richmond, 900 East Broad Street, Suite 201, Richmond, VA 23219.	Department of Public Works, 900 East Broad Street, Suite 704, Richmond, VA 23219.	February 4, 2013	510129
Loudoun (FEMA Docket No.: B–1290).	Town of Leesburg (12–03–0044P).	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	January 31, 2013	510091
West Virginia: Marion (FEMA Docket No.: B–1290).	Unincorporated areas of Marion County (11–03–2271P).	The Honorable Burley Tennant, President, Marion County Board of Commissioners, 200 Jackson Street, Room 403, Fairmont, WV 26554.	Marion County Courthouse, Planning Department, 200 Jackson Street, Fairmont, WV 26554.	January 31, 2013	540097

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11596 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1315]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 14, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1315, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain

management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Gibson County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6670.htm*	
City of Oakland City	City Hall, 210 East Washington Street, Oakland City, IN 47660.
City of Princeton	City Hall, 310 West State Street, Princeton, IN 47670.
Town of Fort Branch	Town Hall, 210 West Locust Street, Fort Branch, IN 47648.
Town of Francisco	Town Hall, 203 West Main Street, Francisco, IN 47649.
Town of Hazleton	Town Hall, 101 South Main Street, Hazleton, IN 47640.
Town of Patoka	Town Hall, 110 South Main Street, Patoka, IN 47666.
Unincorporated Areas of Gibson County	Gibson County Annex North, 225 North Hart Street, Princeton, IN 47670.
Morgan County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6472.htm*	
City of Martinsville	City Hall, 59 South Jefferson Street, Martinsville, IN 46151.
Town of Brooklyn	Town Hall, 4 North Main Street, Brooklyn, IN 46111.
Town of Mooresville	Town Hall, 4 East Harrison Street, Mooresville, IN 46158.
Town of Morgantown	Town Hall, 120 West Washington Street, Morgantown, IN 46160.
Town of Paragon	Town Hall, 209 West Union Street, Paragon, IN 46166.
Unincorporated Areas of Morgan County	Morgan County Administration Building, 180 South Main Street, Martinsville, IN 46151.
Posey County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6669.htm*	
City of Mount Vernon	Posey County Area Plan Commission, 2nd Floor Coliseum Building, Room 223, 126 East Third Street, Mount Vernon, IN 47620.
Town of Cynthiana	Posey County Area Plan Commission, 2nd Floor Coliseum Building, Room 223, 126 East Third Street, Mount Vernon, IN 47620.
Town of Griffin	Posey County Area Plan Commission, 2nd Floor Coliseum Building, Room 223, 126 East Third Street, Mount Vernon, IN 47620.
Town of New Harmony	Town Hall, 520 Church Street, New Harmony, IN 47631.
Unincorporated Areas of Posey County	Posey County Area Plan Commission, 2nd Floor Coliseum Building, Room 223, 126 East Third Street, Mount Vernon, IN 47620.
Shelby County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6594.htm*	
City of Shelbyville	City Hall, Planning Commission, 44 West Washington Street, Shelbyville, IN 46176.
Town of Morristown	Municipal Building, 418 West Main Street, Morristown, IN 46161.
Unincorporated Areas of Shelby County	Shelby County Plan Commission, 25 West Polk Street, Shelbyville, IN 46176.
Howard County, Nebraska, and Incorporated Areas	
Maps Available for Inspection Online at: *www.starr-team.com/starr/RegionalWorkspaces/RegionVII/HowardCounty/SitePages/Home.aspx*	
City of St. Paul	City Hall, 704 6th Street, St. Paul, NE 68873.
Unincorporated Areas of Howard County	Howard County Courthouse, 612 Indian Street, St. Paul, NE 68873.

Community	Community map repository address
Village of Dannebrog	Village Hall, 102 South Mill Street, Dannebrog, NE 68831.
Summit County, Ohio, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/SummitCountyOH/SitePages/Home.aspx*	
City of Akron	City Hall, 166 South High Street, Akron, OH 44308.
City of Barberton	Engineering Department, 576 West Park Avenue, Barberton, OH 44203.
City of Cuyahoga Falls	Engineering Department, 2310 Second Street, Cuyahoga Falls, OH 44221.
City of Fairlawn	City Hall, 3487 South Smith Road, Fairlawn, OH 44333.
City of Green	Central Administration Building, 1755 Town Park Boulevard, Uniontown, OH 44685.
City of Hudson	City Hall, 115 Executive Parkway, Suite 400, Hudson, OH 44236.
City of Munroe Falls	City Hall, 43 Munroe Falls Avenue, Munroe Falls, OH 44262.
City of New Franklin	City Hall, 5611 Manchester Road, Akron, OH 44319.
City of Norton	Building and Zoning Department, 4060 Columbia Woods Drive, Norton, OH 44203.
City of Stow	Engineering Department, 3760 Darrow Road, Stow, OH 44224.
City of Tallmadge	Planning and Zoning Department, 46 North Avenue, Tallmadge, OH 44278.
City of Twinsburg	City Hall, 10075 Ravenna Road, Twinsburg, OH 44087.
Unincorporated Areas of Summit County	Building Standards Department, 1030 East Tallmadge Avenue, Akron, OH 44310.
Village of Boston Heights	Village Hall, 45 East Boston Mills Road, Boston Heights, OH 44236.
Village of Clinton	Village Hall, 7871 Main Street, Clinton, OH 44216.
Village of Lakemore	Municipal Building, 1400 Main Street, Lakemore, OH 44250.
Village of Mogadore	Village Hall, 135 South Cleveland Avenue, Mogadore, OH 44260.
Village of Peninsula	Village Hall, 1582 Main Street, Peninsula, OH 44264.
Village of Reminderville	Village Hall, 3382 Glenwood Boulevard, Reminderville, OH 44202.
Village of Richfield	Planning and Zoning Department, 4410 West Streetsboro Road, Richfield, OH 44286.
Village of Silver Lake	Village Hall, 2961 Kent Road, Silver Lake, OH 44224.
Bristol County, Rhode Island (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionI/Pages/default.aspx*	
Town of Barrington	Town Hall, 283 County Road, Barrington, RI 02806.
Town of Bristol	Town Hall, 10 Court Street, Bristol, RI 02809.
Town of Warren	Town Hall, 513 Main Street, Warren, RI 02885.
Jefferson County, Wisconsin, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/JeffersonWI/Preliminary%20Maps/Forms/AllItems.aspx*	
City of Fort Atkinson	City Hall, 101 North Main Street, Fort Atkinson, WI 53538.
City of Jefferson	City Hall, 317 South Main Street, Jefferson, WI 53549.
City of Lake Mills	City Hall, 200 D Water Street, Lake Mills, WI 53551.
City of Waterloo	City Hall, 136 North Monroe Street, Waterloo, WI 53594.
City of Watertown	City Hall, 106 Jones Street, Watertown, WI 53094.
City of Whitewater	City Hall, 312 West Whitewater Street, Whitewater, WI 53190.
Unincorporated Areas of Jefferson County	County Courthouse, Room 201, 320 North Main Street, Jefferson, WI 53949.
Village of Cambridge	Village Hall, 200 Spring Street, Cambridge, WI 53523.
Village of Johnson Creek	Village Hall, 125 Depot Street, Johnson Creek, WI 53038.
Village of Lac La Belle	Village Hall, 600 Lac La Belle Drive, Oconomowoc, WI 53066.
Village of Palmyra	Village Hall, 100 West Taft Street, Palmyra, WI 53156.
Galveston County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.riskmap6.com/Community.aspx?cid=333&sid=5*	
City of Clear Lake Shores	City Hall, 1006 South Shore Drive, Clear Lake Shores, TX 77565.
City of Dickinson	City Hall, 4403 Highway 3, Dickinson, TX 77539.
City of Friendswood	City Hall, 910 South Friendswood Drive, Friendswood, TX 77546.
City of Galveston	City Hall, 823 Rosenberg Street, Room 401, Galveston, TX 77553.
City of Hitchcock	City Hall, 7423 Highway 6, Hitchcock, TX 77563.
City of Kemah	City Hall, 1401 Highway 146, Kemah, TX 77565.
City of La Marque	City Hall, 1111 Bayou Road, La Marque, TX 77568.
City of League City	Building Department, 600 West Walker Street, League City, TX 77573.
City of Santa Fe	City Hall, 12002 Highway 6, Santa Fe, TX 77510.

Community	Community map repository address
City of Texas City	Community Development Department, 928 5th Avenue North, Texas City, TX 77590.
Unincorporated Areas of Galveston County	Galveston County Courthouse, 722 Moody Avenue, Galveston, TX 77550.
Village of Bayou Vista	City Hall, 2929 Highway 6, Bayou Vista, TX 77563.
Village of Jamaica Beach	Municipal Court, 16628 San Luis Pass Road, Jamaica Beach, TX 77554.
Village of Tiki Island	Civic Association, 802 Tiki Drive, Tiki Island, TX 77554.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11586 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1312]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 14, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1312, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Mason County, Michigan (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/MasonCoMI/SitePages/Home.aspx*	
Charter Township of Pere Marquette	Pere Marquette Charter Township Hall, 1699 South Pere Marquette Highway, Ludington, MI 49431.
City of Ludington	City Hall, 400 South Harrison Street, Ludington, MI 49431.
Township of Amber	Amber Township Hall, 171 South Amber Road, Scottville, MI 49454.
Township of Branch	Branch Township Hall, 6688 East First Street, Walhalla, MI 49458.
Township of Custer	Custer Municipal Building/Fire Barn, 2549 East U.S. Highway 10, Custer, MI 49405.
Township of Eden	Eden Township Hall, 3369 East Hawley Road, Custer, MI 49405.
Township of Grant	Grant Township Hall, 835 West Hoague Road, Manistee, MI 49660.
Township of Hamlin	Hamlin Township Hall, 3775 North Jebavy Drive, Ludington, MI 49431.
Township of Logan	Logan Township Hall, 3975 Tyndall Road, Branch, MI 49402.
Township of Riverton	Riverton Township Hall, 2122 West Hawley Road, Scottville, MI 49454.
Township of Summit	Summit Township Hall, 4879 West Deren Road, Ludington, MI 49431.
Clarion County, Pennsylvania (All Jurisdictions)	
Maps Available for Inspection Online at: *www.rampp-team.com/pa.htm*	
Borough of East Brady	Borough Building, 502 Ferry Street, Suite 15, East Brady, PA 16028.
Borough of Foxburg	Foxburg Municipal Building, 1417 Perryville Road, Parker, PA 16049.
Borough of New Bethlehem	Borough Building, 210 Lafayette Street, New Bethlehem, PA 16242.
Township of Brady	Brady Township Building, 935 Phillipston Road, Rimersburg, PA 16248.
Township of Madison	Madison Township Building, 1183 Madison Shop Road, Rimersburg, PA 16246.
Township of Perry	Perry Township Building, 5687 Doc Walker Road, Parker, PA 16049.
Township of Porter	Porter Township Building, 9485 Curllsville Road, New Bethlehem, PA 16242.
Township of Redbank	Redbank Township Building, 10 Swede Hollow Road, Fairmount City, PA 16224.
Township of Richland	Richland Township Building, 511 Dittman Road, Emlenton, PA 16373.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–11587 Filed 5–15–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA 2010–0037]

Hazardous Fire Risk Reduction, East Bay Hills, CA

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability of draft environmental impact statement and notice of public meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) has prepared an environmental impact statement (EIS) evaluating the environmental impacts of funding a combination of hazardous fuels reduction projects within the East Bay Hills area in Alameda and Contra Costa Counties, California. The projects may be funded through Federal assistance grants under the Hazard Mitigation Grant Program (HMGP) and the Pre-Disaster Mitigation (PDM). The National Park Service, the U.S. Forest Service, the National Oceanographic and Atmospheric Administration, Fisheries Service, the U.S. Fish and Wildlife Service, the California Emergency Management Agency, the University of California, Berkeley (UCB), the City of Oakland (Oakland), and the East Bay Regional Parks District (EBRPD) have participated in the preparation of the EIS as cooperating agencies. Public meetings will be held during the public comment period on the draft EIS. The draft EIS is available on the project Web site at *http://ebheis.cdmims.com.*

DATES: Public meetings will be held May 14 and May 18, 2013. The public comment period on the Draft EIS starts with a concurrent publication through EPA of a notice in the **Federal Register** and will continue until June 17, 2013. FEMA will consider all oral comments recorded at the public meetings and all electronic and written comments on the draft EIS received or postmarked by that date. Agencies, interested parties, and the public are invited to submit comments on this draft EIS at any time during the public comment period.

ADDRESSES: FEMA will hold public meetings to allow the public an opportunity to learn more about the project and to submit comments on the draft EIS at the following locations:

1. May 14, 2013, at 2 p.m., Richard C. Trudeau Training Center, Main Room, 11500 Skyline Boulevard, Oakland, CA 94619.

2. May 14, 2013, at 6 p.m., Richard C. Trudeau Training Center, Main Room, 11500 Skyline Boulevard, Oakland, CA 94619.

3. May 18, 2013, at 10 a.m., Claremont Middle School, Gymnasium, 5750 College Avenue, Oakland, CA 94618.

You may submit comments, identified by Docket ID FEMA–2010–0037, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Search for Docket ID FEMA–2010–0037 and follow the instructions for submitting comments.

Mail/Hand Delivery/Courier: Office of Chief Counsel, Federal Regulatory Affairs Division, Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3100.

Instructions: All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via a link in the footer of *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2010–0037'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.'' These documents also may be inspected at FEMA, Office of Chief Counsel, 500 C Street SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Alessandro Amaglio, Regional Environmental Officer, Region IX, FEMA, 1111 Broadway, Suite 1200, Oakland, CA 94607–4052 and phone number at (510) 627–7027.

SUPPLEMENTARY INFORMATION: FEMA has received four hazard mitigation applications for hazardous fuels reduction projects in the East Bay Hills of Alameda and Contra Costa counties, California and at the Miller/Knox Regional Shoreline in Contra Costa County in California. The proposed action is to fund these four projects under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended, establishing the HMGP and Section 203 of the Stafford Act, establishing the PDM grant program. The California Emergency Management Agency is the official applicant, and UCB, Oakland, and EBRPD are subapplicants.

The four grant applications propose vegetation management work in 60 project areas located on land owned by UCB and Oakland and within 11 parks owned and maintained by EBRPD. Another 45 project areas are referred to as the connected action areas and they are adjacent or nearby areas where EBRPD plans to do similar vegetation management work that would not be funded by the grant applications under consideration. Together, the proposed and connected actions would provide more effective protection over a larger area. The connected actions are being implemented as funding becomes available.

In addition to the vegetation management work proposed for grant funding, there is additional work proposed within the project areas that may be funded by other agencies. Some of this additional work includes activities that are not eligible for FEMA funding, such as the pile burning and area burning proposed by EBRPD.

The Strawberry Canyon Vegetation Management Project on UCB land involves the removal of eucalyptus and other exotic non-native trees in a 56-acre area, chipping the downed trees and scattering the chips in portions of the project area, and the application of herbicides, as needed, to eradicate eucalyptus tree sprouts from the area. The Claremont Canyon Vegetation Management Project on UCB land involves the removal of eucalyptus, Monterey pine, and acacia trees in a 43-acre area, chipping the downed trees and scattering the chips in portions of the project area, and the application of herbicides, as needed, to eradicate eucalyptus tree sprouts from the area. The City of Oakland's project involves thinning and eradication techniques within 359 acres on Oakland, UCB, and EBRPD lands. The EBRPD project involves the treatment of 540 acres to reduce fuel load through brush removal (mechanical and hand), chemical treatment, limbing and mowing, thinning, and grazing techniques as appropriate to reduce the risk of fire hazard. These projects would affect approximately 998 acres of the Wildland-Urban Interface in the East Bay Hills running from Lake Chabot to Wildcat Canyon and Sobrante Ridge. The connected actions would involve similar vegetation management activities on an additional 1,061 acres of EBRPD lands.

The draft EIS evaluates the potential effects of two alternatives including:

(1) No action, which involves denying the grant applications; and

(2) The proposed and connected actions of vegetation management activities on 105 project areas.

Public Involvement and Comments

Public meetings will begin with an open house during which staff will be available to answer questions about the project followed by a short overview presentation and an opportunity to present oral comments or submit written comments. Public meeting locations and times as described under the **DATES** and **ADDRESSES** sections of this notice will also be announced through the local media, the project Web site (*http://ebheis.cdmims.com*), and an interested party mailing list. All meeting locations will be handicapped-accessible and accessible by public transit. Anyone needing special accommodations should contact FEMA Region IX to make arrangements.

Speakers will be asked to provide brief comments to allow adequate time to hear all comments. Should any speaker desire to provide further information for the record that cannot be presented within the designated time, such additional information may be submitted at the meeting, electronically, or by letter at the address provided on this notice by June 17, 2013. Speakers are encouraged to provide a written version of their oral comments at the meetings to ensure that their comments are completely and accurately recorded.

FEMA requests that reviewers provide specific information and comments on factual errors, missing information, or additional considerations that should be corrected or included in the final EIS. Comments on the draft EIS should be specific and should address the adequacy of the statement and the merits of the alternatives discussed (40 CFR 1503.3).

Individual respondents may request confidentiality. The names, street addresses, and city or town information of those providing comments will be part of the administrative record, and will be subject to public disclosure unless confidentiality is requested. Such a request must be stated prominently at the beginning of the comment. We will honor requests to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety, consistent with applicable law.

After gathering public comments, FEMA will identify and provide responses in the final EIS according to 40 CFR 1503.4. A Record of Decision addressing the federal action will be issued by FEMA no sooner than 30 days following distribution of the final EIS, which is expected to occur about August, 2013.

Authority: 42 U.S.C. 4331; 40 CFR Part 1500; 44 CFR Part 10.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–11707 Filed 5–15–13; 8:45 am]

BILLING CODE 9119–19–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection; 73–028; ICE Mutual Agreement between Government and Employers (IMAGE); OMB Control No. 1653–0048.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 15, 2013.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Scott Elmore, Forms Manager, U.S. Immigration and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536; *scott.a.elmore@ice.dhs.gov*.

Comments are encouraged and will be accepted for sixty days until July 15, 2013. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more 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, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of an existing information collection.

(2) *Title of the Form/Collection:* Immigration and Customs Enforcement (ICE) Mutual Agreement between Government and Employers (IMAGE).

(3) *Agency form number, if any and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form 73–028); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Businesses or other for-profit and not-for-profit institutions. The Immigration and Customs Enforcement Mutual Agreement between Government and Employers (IMAGE) program is the outreach and education component of the Office of Homeland Security Investigations (HSI) Worksite Enforcement (WSE) program. IMAGE is designed to build cooperative relationships with the private sector to enhance compliance with immigration laws and reduce the number of unauthorized aliens within the American workforce. Under this program, ICE will partner with businesses representing a cross-section of industries. A business will initially complete and prepare an IMAGE application so that ICE can properly evaluate the company for inclusion in the IMAGE program. The information provided by the company plays a vital role in determining that company's admissibility into the program. While 8 U.S.C. 1324(a) makes it illegal to knowingly employ a person who is not in the U.S. legally, there is no requirement for any entity in the private sector to participate in the program and the information obtained from the company should also be available to the public.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 90 minutes (1.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 150 annual burden hours.

Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Scott Elmore, Forms Manager, U.S. Immigration and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536; *scott.a.elmore@ice.dhs.gov*.

Dated: May 13, 2014.

Scott Elmore,

Forms Manager, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2013–11639 Filed 5–15–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NEW 149341 and NEW 179095]

Public Land Order No. 7814; Partial Revocation of Bureau of Reclamation Order Dated July 11, 1955, and Transfer of Administrative Jurisdiction, Niobrara River Lands; NE

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in-part a withdrawal created by a Bureau of Reclamation Order. The revocation affects 185.88 acres of public lands withdrawn on behalf of the Bureau of Reclamation for the O'Neil Unit, Pick-Sloan Missouri River Basin Project. The Bureau of Reclamation has determined that it no longer needs the lands for reclamation purposes. This order also transfers administrative jurisdiction of the lands to the National Park Service for management under the provisions of the Wild and Scenic Rivers Act and the Niobrara Scenic River Designation Act of 1991.

DATES: *Effective Date:* May 16, 2013.

FOR FURTHER INFORMATION CONTACT: Janelle Wrigley, Realty Officer, Bureau of Land Management, 5353 North Yellowstone Road, Cheyenne, Wyoming 82003, 307–775–6257 or via email at *jwrigley@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 Niobrara Scenic River Designation Act of 1991, 105 STAT. 254, designated certain segments of the Niobrara River in Nebraska as components of the Wild and Scenic Rivers System. Included within the boundary of the designated river are 185.88 acres of public lands withdrawn as part of the O'Neil Unit, Pick-Sloan Missouri River Basin Reclamation Project, in Brown and Keya Paha Counties, Nebraska. The Bureau of

Reclamation has determined that it no longer needs the 185.88 acres of public lands for reclamation purposes.

The Niobrara Scenic River Designation Act of 1991 made the 185.88 acres subject to management under the Wild and Scenic Rivers Act of 1968, Public Law 90–542 (16 U.S.C. 1271–1287), which specifically authorizes the transfer of Federal land for administration for river management purposes in accordance with the Act. Pursuant to Section 6(e) of the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1277(e), the National Park Service requested that the 185.88 acres be transferred to its administrative jurisdiction for management under the provisions of the Wild and Scenic Rivers Act and the Niobrara Scenic River Designation Act of 1991.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714), Public Law 90–542 (16 U.S.C. 1271–1287), and Reorganization Plan No. 3 of 1950 (64 STAT. 1262), it is ordered as follows:

1. The Bureau of Reclamation Order dated July 11, 1955, which withdrew public lands and reserved them on behalf of the Bureau of Reclamation for the Missouri River Basin Project, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Nebraska

T. 32 N., R. 22 W.,
Sec. 2, lot 9;
Sec. 3, lot 9;
Sec. 5, lot 9.
T. 33 N., R. 23 W.,
Sec. 35, lot 7.
T. 33 N., R. 24 W.,
Sec. 22, lot 5;
Sec. 25, lot 4;
Sec. 27, SW¼SW¼;
Sec. 28, SW¼NE¼ and E½SE¼.

The areas described aggregate 185.88 acres in Keya Paha and Brown Counties.

2. The lands described in Paragraph 1 are hereby transferred to the administrative jurisdiction of the National Park Service to be managed in accordance with the provisions of the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271–1287, and the Niobrara Scenic River Designation Act of 1991, 105 STAT. 254.

Dated: May 2, 2013.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2013–11729 Filed 5–15–13; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2013

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA) for Targeted Topic Training and Targeted Topic Training and Educational Materials Development grants.

Funding Opportunity No.: SHTG–FY–13–02.

Catalog of Federal Domestic Assistance No.: 17.502.

SUMMARY: This notice announces availability of approximately $1.5 million for Susan Harwood Training Program grants under the following categories: Targeted Topic Training and Targeted Topic Training and Educational Materials Development.

DATES: Grant applications must be received electronically by the Grants.gov system no later than 4:30 p.m., e.t., on Thursday, June 13, 2013, the application deadline date.

ADDRESSES: The complete Susan Harwood Training Grant Program solicitation for grant applications and all information needed to apply for this funding opportunity are available at the Grants.gov Web site, *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: Questions regarding this solicitation for grant applications should be emailed to *HarwoodGrants@dol.gov* or directed to Heather Wanderski, Program Analyst, or Jim Barnes, Director, Office of Training Programs and Administration, at 847–759–7700 (note this is not a toll-free number). To obtain further information on the Susan Harwood Training Grant Program, visit the OSHA Web site at: *http://www.osha.gov/dte/sharwood/index.html*. Please note that on the Susan Harwood Web page, the ''Applying for a Grant'' section contains a PowerPoint presentation entitled ''Helpful Tips for Improving Your Susan Harwood Grant Application.'' All applicants are encouraged to review this before drafting a proposal.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Section 21 of the Occupational Safety and Health Act of 1970, (29 U.S.C. 670), Public Law 111–117, and Public Law 112–10, and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 13, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–11674 Filed 5–15–13; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

ACTION: Notice.

DATE AND TIME: The Legal Services Corporation's Board of Directors will meet telephonically on May 21, 2013. The meeting will commence at 11:00 a.m., EDT, and will continue until the conclusion of the Board's agenda.

LOCATION: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL–IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

STATUS OF MEETING: Open, except that, upon a vote of the Board of Directors, the meeting may be closed to discuss a candidate for the position of Vice President of Legal Affairs, General Counsel, and Corporate Secretary. A verbatim written transcript will be made of the closed session portion of the meeting. The transcript of any portion of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) will not be available for public inspection. A copy of the General Counsel's Certification that, in his

opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open

1. Approval of agenda
2. Consider and act on the Board of Directors' transmittal to accompany the Inspector General's Semiannual Report to Congress for the period of October 1, 2012 through March 30, 2013
3. Consider and act on a resolution thanking Amy Reagan for her service on the Pro Bono Task Force (Resolution 2013–XXX)
4. Consider and act on whether to authorize an executive session of the Board

Closed

5. Discussion of candidate for the position of Vice President of Legal Affairs, General Counsel, and Corporate Secretary

Open

6. Consider and act on a resolution on the appointment of a Vice President for Legal Affairs, General Counsel, and Corporate Secretary (Resolution 2013–XXX)
7. Public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov*, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 13, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–11719 Filed 5–14–13; 11:15 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0095]

Design Limits and Loading Combinations for Metal Primary Reactor Containment System Components

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.57, ''Design Limits and Loading Combinations for Metal Primary Reactor Containment System Components,'' in which there are no substantive changes to the RG. The revision includes correction of a subsection title and editorial changes to improve clarity. This guide describes a method that the NRC staff considers acceptable for design limits and loading combinations for metal primary reactor containment system components.

ADDRESSES: Please refer to Docket ID NRC–2013–0095 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0095. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Revision 2 of Regulatory Guide 1.57 is available in ADAMS under Accession No. ML 12325A043.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's Public Document Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Richard Rivera-Lugo, telephone: 301–251–7652, email: *Richard.Rivera-Lugo@nrc.gov*; or Edward O'Donnell, telephone: 301–251–7455, email: *Edward.Odonnell@nrc.gov*. Both of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. Regulatory guides were developed to describe and make available to the public information methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses. The NRC typically seeks public comment on a draft version of a regulatory guide by announcing its availability for comment in the **Federal Register**. However, as explained on page 7 of NRC Management Directive 6.6 ''Regulatory Guides,'' (ADAMS Accession No. ML110330475) the NRC may directly issue a final regulatory guide without a draft version or public comment period if the changes to the regulatory guide are non-substantive.

The NRC is issuing Revision 2 of RG 1.57 (ADAMS Accession No. ML12325A043) directly as a final regulatory guide because the changes between Revision 1 and Revision 2 are non-substantive. The revision was to correct an error in a subsection title on page ten of Revision 1, which referred to the ultimate capacity of concrete containment structures when it should be steel containments, since metal primary reactor containment systems are the focus of this regulatory guide. In addition, Revision 1 specifically referred to Section 3.8.2, ''Steel Containment'' of NRC's Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, NUREG–0800) (ADAMS Accession No. ML100630179) without further elaboration on the application of the guidance. This was corrected by importing the guidance found in NUREG–0800, Section 3, 8.2 into Revision 2 of RG 1.57. This did not change the staff's regulatory guidance. In addition, editorial changes were made to improve clarity and ADAMS Accession Numbers were added in the

reference section to facilitate public access to the documents.

II. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The changes in Revision 2 of RG 1.57 are limited to editorial changes to improve clarity and the correction of a title. These changes do not fall within the kinds of agency actions that constitute backfitting or are subject to limitations in the issue finality provisions of part 52. Accordingly, the NRC did not address the Backfit Rule or issue finality provisions of part 52.

III. Congressional Review Act

This regulatory guide is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as designated in the Congressional Review Act.

IV. Submitting Suggestions for Improvement of Regulatory Guides

Revision 2 of RG 1.57 is being issued without public comment. However, you may at any time submit suggestions to the NRC for improvement of existing regulatory guides or for the development of new regulatory guides to address new issues. Suggestions can be submitted by the form available online at *http://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html.* Suggestions will be considered in future updates and enhancements of the regulatory guide.

Dated at Rockville, Maryland, this 8th day of May, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–11710 Filed 5–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–09068; License SUA–1598; NRC–2008–0391]

Lost Creek ISR, LLC, Lost Creek Uranium In-Situ Recovery Project; Sweetwater County, Wyoming

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact for license amendment, correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on April 3, 2013 [78 FR 20146], that listed, in tabular format, documents that related to the notice. This action will correct an incorrect listing of an Agencywide Document Access and Management System (ADAMS) Accession Number contained in the table found on page 20147.

FOR FURTHER INFORMATION CONTACT: Mr. Alan B. Bjornsen, Project Manager, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1195; email: *Alan.Bjornsen@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 20147, in the table found at the bottom of the page, the item ''Letter WDEQ, Request for Comments, ADAMS Accession No. ML12305A410'' was inadvertently included, and should be removed. The document contains pre-conditional information that was not to be made publicly available.

Dated at Rockville, Maryland, this 9th day of May, 2013.

For the Nuclear Regulatory Commission.

Kevin Hsueh,

Chief, Environmental Review Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–11709 Filed 5–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327–LR, 50–328–LR; ASLBP No. 13–927–01–LR–BD01]

Tennessee Valley Authority; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, *see* 37 FR 28710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Tennessee Valley Authority (Sequoyah Nuclear Plant, Units 1 and 2)

This proceeding involves an application by Tennessee Valley Authority to renew for twenty years its operating licenses for Sequoyah Nuclear Plant, Units 1 and 2, which are located in Soddy-Daisy, Tennessee. The current Unit 1 and Unit 2 operating licenses expire, respectively, on September 17, 2020 and September 15, 2021. In response to a ''Notice of Acceptance for Docketing of Application and Notice of Opportunity for Hearing Regarding Renewal of Sequoyah Nuclear Plants, Units 1 and 2,'' *see* 78 Fed. Reg. 14,362 (Mar. 5, 2013), a ''Petition for Leave to Intervene and Request for Hearing'' was filed on May 6, 2013 by the Blue Ridge Environmental Defense League, Bellefonte Efficiency and Sustainability Team, and Mothers Against Tennessee River Radiation.

The Board is comprised of the following administrative judges:

Alex S. Karlin, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Paul B. Abramson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR. 2.302.

Issued at Rockville, Maryland, this 10th day of May 2013.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2013–11712 Filed 5–15–13; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m., Wednesday, June 5, 2013.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Hearing OPEN to the Public at 2:00 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES:

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Friday, May 31, 2013.

The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Friday, May 31, 2013. Such statement must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the June 13, 2013 Board meeting will be posted on OPIC's Web site on or about Thursday, May 23, 2013.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 408–0297, or via email at *Connie.Downs@opic.gov.*

Dated: May 14, 2013.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2013–11816 Filed 5–14–13; 4:15 pm]

BILLING CODE 3210–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 303; SEC File No. 270–450, OMB Control No. 3235–0505.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 303 (17 CFR 242.303) of Regulation ATS (17 CFR 242.300 *et seq.*) under the Securities and Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation ATS sets forth a regulatory regime for ''alternative trading systems'' (''ATSs''), which are entities that carry out exchange functions but which are not required to register as national securities exchanges under the Act. In lieu of exchange registration, an ATS can instead opt to register with the Commission as a broker-dealer and, as a condition to not having to register as an exchange, must instead comply with Regulation ATS. Rule 303 of Regulation ATS (17 CFR 242.303) describes the record preservation requirements for ATSs. Rule 303 also describes how such records must be maintained, what entities may perform this function, and how long records must be preserved.

Under Rule 303, ATSs are required to preserve all records made pursuant to Rule 302, which includes information relating to subscribers, trading summaries, and time-sequenced order information. Rule 303 also requires ATSs to preserve any notices provided to subscribers, including, but not limited to, notices regarding the ATSs operations and subscriber access. For an ATS subject to the fair access requirements described in Rule 301(b)(5)(ii) of Regulation ATS, Rule 303 further requires the ATS to preserve at least one copy of its standards for access to trading, all documents relevant to the ATS's decision to grant, deny, or limit access to any person, and all other documents made or received by the ATS in the course of complying with Rule 301(b)(5) of Regulation ATS. For an ATS subject to the capacity, integrity, and security requirements for automated systems under Rule 301(b)(6) of Regulation ATS, Rule 303 requires an ATS to preserve all documents made or received by the ATS related to its compliance, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results, and other similar records. As provided in Rule 303(a)(1), ATSs are required to keep all of these records, as applicable, for a period of at least three years, the first two in an easily accessible place. In addition, Rule 303 requires ATSs to preserve records of partnership articles, articles of incorporation or charter, minute books, stock certificate books, copies of reports filed pursuant to Rule 301(b)(2), and records made pursuant to Rule 301(b)(5) for the life of the ATS.

The information contained in the records required to be preserved by Rule 303 will be used by examiners and other representatives of the Commission, state securities regulatory authorities, and the self-regulatory organizations to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. Without the data required by the Rule, regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to register as broker-dealers and comply with the requirements of Regulation ATS. There are currently 92 respondents. To comply with the record preservation requirements of Rule 303, these respondents will spend approximately 1,380 hours per year (92 respondents at 15 burden hours/respondent). At an average cost per burden hour of $104.20, the resultant total related cost of compliance for these respondents is $143,796 per year (1,380 burden hours multiplied by $104.20/hour).

Written comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11622 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 20a–1; OMB Control No. 3235–0158, SEC File No. 270–132.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 20a–1 (17 CFR 270.20a–1) was adopted under Section 20(a) of the Investment Company Act of 1940 (''1940 Act'') (15 U.S.C. 80a–20(a)) and concerns the solicitation of proxies, consents, and authorizations with respect to securities issued by registered investment companies (''Funds''). More specifically, rule 20a–1 under the 1940 Act (15 U.S.C. 80a–1 *et seq.*) requires that the solicitation of a proxy, consent, or authorization with respect to a security issued by a Fund be in compliance with Regulation 14A (17 CFR 240.14a–1 *et seq.*), Schedule 14A (17 CFR 240.14a–101), and all other rules and regulations adopted pursuant to section 14(a) of the Securities Exchange Act of 1934 (''1934 Act'') (15 U.S.C. 78n(a)). It also requires, in certain circumstances, a Fund's investment adviser or a prospective adviser, and certain affiliates of the adviser or prospective adviser, to transmit to the person making the solicitation the information necessary to enable that person to comply with the rules and regulations applicable to the solicitation. In addition, rule 20a–1 instructs Funds that have made a public offering of securities and that hold security holder votes for which proxies, consents, or authorizations are not being solicited, to refer to section 14(c) of the 1934 Act (15 U.S.C. 78n(c)) and the information statement requirements set forth in the rules thereunder.

The types of proposals voted upon by Fund shareholders include not only the typical matters considered in proxy solicitations made by operating companies, such as the election of directors, but also include issues that are unique to Funds, such as the approval of an investment advisory contract and the approval of changes in fundamental investment policies of the Fund. Through rule 20a–1, any person making a solicitation with respect to a security issued by a Fund must, similar to operating company solicitations, comply with the rules and regulations adopted pursuant to Section 14(a) of the 1934 Act. Some of those Section 14(a) rules and regulations, however, include provisions specifically related to Funds, including certain particularized disclosure requirements set forth in Item 22 of Schedule 14A under the 1934 Act.

Rule 20a–1 is intended to ensure that investors in Fund securities are provided with appropriate information upon which to base informed decisions regarding the actions for which Funds solicit proxies. Without rule 20a–1, Fund issuers would not be required to comply with the rules and regulations adopted under Section 14(a) of the 1934 Act, which are applicable to non-Fund issuers, including the provisions relating to the form of proxy and disclosure in proxy statements.

The staff currently estimates that approximately 1,108 proxy statements are filed by Funds annually. Based on staff estimations and information from the industry, the staff estimates that the average annual burden associated with the preparation and submission of proxy statements is 85 hours per response, for a total annual burden of 94,180 hours (1,108 responses × 85 hours per response = 94,180). In addition, the staff estimates the costs for purchased services, such as outside legal counsel, proxy statement mailing, and proxy tabulation services, to be $30,000 per proxy solicitation.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11620 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 302; SEC File No. 270–453, OMB Control No. 3235–0510.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 302 (17 CFR 242.302) of Regulation ATS (17 CFR 242.300 *et seq.*) under the Securities and Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation ATS sets forth a regulatory regime for ''alternative trading systems'' (''ATSs''), which are entities that carry out exchange functions but which are not required to register as national securities exchanges under the Act. In lieu of exchange registration, an ATS can instead opt to register with the Commission as a broker-dealer and, as a condition to not having to register as an exchange, must instead comply with Regulation ATS. Rule 302 of Regulation ATS (17 CFR 242.302) describes the recordkeeping requirements for ATSs. Under Rule 302, ATSs are required to make a record of subscribers to the ATS, daily summaries of trading in the ATS, and time-sequenced records of order information in the ATS.

The information required to be collected under Rule 302 should increase the abilities of the Commission, state securities regulatory authorities,

and the self-regulatory organizations to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. If the information is not collected or collected less frequently, the regulators would be limited in their ability to comply with their statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to register as broker-dealers and comply with the requirements of Regulation ATS. There are currently 92 respondents. These respondents will spend approximately 11,960 hours per year (92 respondents at 130 burden hours/respondent) to comply with the recordkeeping requirements of Rule 302. At an average cost per burden hour of $63, the resultant total related cost of compliance for these respondents is $753,480 per year (11,960 burden hours multiplied by $63/hour).

Written comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11621 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–30511; File No. 812–13665]

FS Investment Corporation, et al.; Notice of Application

May 9, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d), 57(a)(4) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit business development companies (''BDCs'') to co-invest with certain affiliated investment funds in portfolio companies.

APPLICANTS: FS Investment Corporation (''FSIC''); FS Energy and Power Fund (''FSEP''); FS Investment Corporation II (''FSIC II,'' and collectively with FSIC and FSEP, the ''Funds''); FB Income Advisor, LLC (''FSIC Investment Adviser''); FS Investment Advisor, LLC (''FSEP Investment Adviser''); FSIC II Advisor, LLC (''FSIC II Investment Adviser,'' and collectively with FSEP Investment Adviser and FSIC Investment Adviser, the ''Investment Advisers''); Broad Street Funding LLC, Arch Street Funding LLC, Locust Street Funding LLC, Race Street Funding LLC and Walnut Street Funding LLC (the ''FSIC SPV Subs''); FSEP Term Funding, LLC, EP Investments LLC, FSEP–BBH, Inc., Energy Funding LLC and EP Funding LLC (the ''FSEP SPV Subs''); and Del River LLC, Cooper River LLC, Lehigh River LLC and Cobbs Creek LLC (the ''FSIC II SPV Subs,'' and collectively with the FSIC SPV Subs and FSEP SPV Subs, the ''SPV Subs''.

FILING DATES: The application was filed on June 12, 2009, and amended on August 17, 2010, February 22, 2012, May 15, 2012, October 15, 2012, March 27, 2013 and May 9, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 3, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: c/o Michael C. Forman, FS Investment Corporation, Cira Centre, 2929 Arch Street, Suite 675, Philadelphia, PA 19104–1150.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Exemptive Applications Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. FSIC, FSEP and FSIC II are externally managed, non-diversified, closed-end management investment companies that have elected or intend to elect, to be regulated as BDCs under the Act.[1] Each of FSIC, FSEP and FSIC II's investment objective is to generate current income and long-term capital appreciation. A majority of the members of the board of directors (''Board'') of each of the Funds are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Independent Directors'').

2. FSIC Investment Adviser, FSEP Investment Adviser and FSIC II Investment Adviser is each registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as the investment adviser to FSIC, FSEP and FSIC II, respectively.[2] Each Investment Adviser is an affiliate of Franklin Square Holdings, L.P. (''Franklin Square Capital Partners''). Franklin Square Capital Partners owns a majority interest in FSEP Investment Adviser and FSIC II Investment Adviser and a minority interest in FSIC Investment Adviser.

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] Each of FSIC, FSIC II and FSEP has sub-advisors who are only affiliated with the Funds as a result of an investment sub-advisory agreement.

Applicants represent that there is and will continue to be substantial overlap of the members of the investment committees of the Investment Advisers, which unanimously approve all investment decisions for the Funds.

3. Each of the FSIC SPV Subs, the FSEP SPV Subs and the FSIC II SPV Subs is a wholly-owned subsidiary controlled by FSIC, FSEP or FSIC II, as applicable and formed specifically for the purpose of procuring financing or otherwise holding investments. Each SPV Sub is relying on section 3(c)(1) or 3(c)(7) of the Act.

4. Applicants request an order (''Order'') to permit a Fund (and any SPV Sub of such Fund),[3] on the one hand, and one or more Funds (and any SPV Sub of such Funds) or one or more unregistered funds for which an Investment Adviser serves as the main investment adviser (collectively referred to as ''Co-Investment Affiliates''), on the other hand, to (a) participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 57 of the Act, and (b) make additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers. For purposes of the application, a ''Co-Investment Transaction'' means any transaction in which any of the Funds (or any SPV Sub) participate together with one or more Co-Investment Affiliates in reliance on the Order, and a ''Potential Co-Investment Transaction'' means any investment opportunity in which any of the Funds (or any SPV Sub) could not participate together with one or more Co-Investment Affiliates without obtaining and relying on the Order.[4]

5. Upon issuance of the requested Order, all Potential Co-Investment Transactions within a Fund's Objectives and Strategies [5] that are presented to a Co-Investment Affiliate will be referred to the Fund's Investment Adviser, and such investment opportunities may result in a Co-Investment Transaction. When considering Potential Co-Investment Transactions for any Fund, the Investment Adviser will analyze and evaluate the investment opportunity based on the Fund's investment objectives, investment policies, investment positions, capital available for investment, and other factors relevant to such Fund. The Investment Advisers will, from time to time, determine that certain investments they recommend to their respective Funds would also be appropriate investments for one or more Co-Investment Affiliates in accordance with the policies and procedures that have been adopted by the Investment Adviser. This determination may result in a Fund, on the one hand, and one or more Co-Investment Affiliates, on the other hand, co-investing in certain investment opportunities (the ''Co-Investment Program''). Other than pro rata dispositions and follow-on investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the applicable Investment Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors or trustees, as applicable, eligible to vote under section 57(o) of the Act (''Eligible Directors''). The ''required majority,'' as defined in section 57(o) of the Act (''Required Majority''), will approve each Co-Investment Transaction prior to any investment by a Fund.[6]

6. With respect to the pro rata dispositions and follow-on investments provided in conditions 7 and 8, a Fund may participate in a pro rata disposition or follow-on investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Co-Investment Affiliate in such disposition or follow-on investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or follow-on investment, as the case may be; and (ii) the Board of the Fund has approved that Fund's participation in pro rata dispositions and follow-on investments as being in the best interests of the Fund. If the Board does not so approve, any such disposition or follow-on investment will be submitted to the Fund's Eligible Directors. The Board of any Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and follow-on investments with the result that all dispositions and/or follow-on investments must be submitted to the Eligible Directors.

7. Applicants state that no Independent Director of a Fund will have a financial interest in any Co-Investment Transaction, other than through ownership of securities in the Funds and none will participate individually in any Co-Investment Transaction.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC (or a company controlled by such BDC) in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that the Advisers and the entities that they advise would be deemed to be a person related to a Fund in a manner described by section 57(b) and therefore prohibited by section 57(a)(4) and rule 17d–1 from participating in the Co-Investment Program. Further, because the SPV Subs are controlled by the Funds, the SPV Subs are subject to section 57(a)(4) and would be prohibited from participating in the Co-Investment Program without the Order.

2. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to BDCs. Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 applies.

3. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. Rule 17d–1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC (or a company controlled by such BDC) is a participant, absent an order from the Commission. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with

[3] For purposes of the application, a ''Fund'' includes any future closed-end management investment companies that elect to be regulated as a BDC and are advised by any of the Investment Advisers.

[4] All existing entities that currently intend to rely on the Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

[5] ''Objectives and Strategies'' means, with respect to each Fund, such Fund's investment objectives and strategies, as described in such Fund's registration statement on Form N–2, other filings such Fund has made with the Commission under the Securities Act of 1933 (''Securities Act''), or under the Securities Exchange Act of 1934, and such Fund's reports to shareholders. In the case of a SPV Sub generally the objectives and strategies will be the same as that of its parent Fund.

[6] In the case of an SPV Sub, the Required Majority refers to the Eligible Directors of the parent Fund.

the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

4. Applicants state that they expect that co-investment in portfolio companies by any of the Funds and the Co-Investment Affiliates will increase favorable investment opportunities for the Funds and that the Co-Investment Program will be implemented only if the Required Majority approves it.

5. Applicants submit that the Required Majority's approval of each Co-Investment Transaction before investment, and other protective conditions set forth in the application, will ensure that the Company will be treated fairly. Applicants state that each Fund's participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief will be subject to the following conditions:[7]

1. Each time a Co-Investment Affiliate or an Investment Adviser to any Co-Investment Affiliate considers a Potential Co-Investment Transaction for a Co-Investment Affiliate that falls within Fund's then-current Objectives and Strategies, the Fund's Investment Adviser will make an independent determination of the appropriateness of the investment for the Fund in light of such Fund's then-current circumstances.

2. (a) If the applicable Investment Adviser deems that the applicable Fund's participation in any such Potential Co-Investment Transaction is appropriate, it will then determine an appropriate level of investment for such Fund.

(b) If the aggregate amount recommended by an Investment Adviser to be invested by the applicable Fund in the Potential Co-Investment Transaction together with the amount proposed to be invested by the other Co-Investment Affiliates, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on the ratio of the applicable Fund's capital available for investment in the asset class being allocated, on the one hand, and the other Co-Investment Affiliates' capital available for investment in the asset class being allocated, on the other hand, to the aggregated capital available for investment for the asset class being allocated of all Co-Investment Affiliates involved in the investment opportunity, up to the amount proposed to be invested by each. The applicable Investment Advisers will provide the Eligible Directors of each participating Fund with information concerning each party's available capital to assist the Eligible Directors with their review of the applicable Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Investment Adviser will distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by the applicable Fund and any Co-Investment Affiliate, to the Eligible Directors of each participating Fund for their consideration. The applicable Fund will co-invest with Co-Investment Affiliates only if, prior to such Fund's and any Co-Investment Affiliates' participation in the Potential Co-Investment Transaction, a Required Majority of such Fund concludes that:

(i) the terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Fund and its shareholders and do not involve overreaching of such Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of such Fund; and

(B) such Fund's then-current Objectives and Strategies;

(iii) the investment by Co-Investment Affiliates would not disadvantage such Fund, and participation by such Fund is not on a basis different from or less advantageous than that of any Co-Investment Affiliate; provided, that if a Co-Investment Affiliate, other than such Fund, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the Investment Advisers agree to, and do, provide, periodic reports to such Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Co-Investment Affiliate or any affiliated person of a Co-Investment Affiliate receives in connection with the right of the Co-Investment Affiliate to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Co-Investment Affiliates (the Co-Investment Affiliates (other than the Fund) may, in turn, share their portion with their affiliated persons) and the applicable Fund in accordance with the amount of each party's investment; and

(iv) the proposed investment by such Fund will not benefit the Investment Advisers or the Co-Investment Affiliates or any affiliated person of either of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by sections 17(e) and 57(k) of the Act, as applicable, (C) in the case of fees or other compensation described in condition 2(c)(iii)(C), or (D) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction.

3. The applicable Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Investment Adviser will present to the applicable Fund's Board, on a quarterly basis, a record of all investments made by the Co-Investment Affiliates in Potential Co-Investment Transactions during the preceding quarter that fell within such Fund's then-current Objectives and Strategies that were not made available to the Fund, and an explanation of why the investment opportunities were not offered to the Fund. All information presented to such Fund's Board pursuant to this condition will be kept for the life of such Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

[7] For purposes of the conditions set forth in the application, the term ''Fund'' includes the SPV Subs. In the case of an SPV Sub, all actions to be taken by or with respect to a Required Majority of such SPV Sub shall refer to the Eligible Directors of the parent Fund on behalf of such SPV Sub, as if the Fund and the SPV Sub operated as one company.

5. Except for follow-on investments made in accordance with condition 8, below, a Fund will not invest in reliance on the Order in any portfolio company in which any Co-Investment Affiliate or any affiliated person of a Co-Investment Affiliate is an existing investor.

6. A Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for such Fund as for the Co-Investment Affiliates. The grant to a Co-Investment Affiliate, but not such Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Co-Investment Affiliate elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Investment Advisers will:

(i) notify each Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Fund in the disposition.

(b) Each Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to other Co-Investment Affiliates.

(c) A Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Fund has approved as being in the best interests of the Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of each Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the applicable Investment Adviser will provide its written recommendation as to the Fund's participation to the Eligible Directors, and the Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Fund's best interests.

(d) Each Co-Investment Affiliate will bear its own expenses in connection with any such disposition.

8. (a) If any Co-Investment Affiliate desires to make a follow-on investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the Investment Advisers will:

(i) notify each Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed follow-on investment, by each Fund.

(b) A Fund may participate in such follow-on investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate in such investment is proportionate to its outstanding investments in the issuer immediately preceding the follow-on investment; and (ii) the Board of the Fund has approved as being in the best interests of the Fund the ability to participate in follow-on investments on a pro rata basis (as described in greater detail in the application). In all other cases, the applicable Investment Adviser will provide its written recommendation as to the Fund's participation to the Eligible Directors, and the Fund will participate in such follow-on investment solely to the extent that a Required Majority determines that it is in the Fund's best interests.

(c) If, with respect to any follow-on investment:

(i) the amount of the opportunity is not based on the Co-Investment Affiliate's outstanding investments immediately preceding the follow-on investment; and

(ii) the aggregate amount recommended by the applicable Investment Adviser to be invested by such Fund in the follow-on investment, together with the amount proposed to be invested by the other Co-Investment Affiliates in the same transaction, exceeds the amount of the opportunity, then the amount invested by each such party will be allocated among them pro rata based on the ratio of such Fund's capital available for investment in the asset class being allocated, on the one hand, and the Co-Investment Affiliates' capital available for investment in the asset class being allocated, on the other hand, to the aggregated capital available for investment for the asset class being allocated of all Co-Investment Affiliates involved in the follow-on investment opportunity, up to the amount proposed to be invested by each.

(d) The acquisition of follow-on investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by any Co-Investment Affiliate that the applicable Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments which such Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the applicable Fund of participating in new and existing Co-Investment Transactions. All information presented to such Fund's Board pursuant to this condition will be kept for the life of such Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

10. Each Fund will maintain the records required by section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No director or trustee of a Fund will be considered an Independent Director or an Eligible Director if such director or trustee is also a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the 1940 Act) of any of the Co-Investment Affiliates (other than any other Fund).

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) shall, to the extent not payable by the applicable Investment Adviser under any agreement with the applicable Fund or other Co-Investment Affiliate, be shared by such Fund and each Co-Investment Affiliate in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be

distributed to the applicable Fund and the Co-Investment Affiliates on a pro rata basis based on the amount they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Investment Advisers or other investment adviser of a Co-Investment Affiliate pending consummation of the transaction, the fee will be deposited into an account maintained by the Investment Advisers or other investment adviser of a Co-Investment Affiliate at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata between such Fund and the Co-Investment Affiliates based on the amount they invest in such Co-Investment Transaction. None of the Co-Investment Affiliates, their investment advisers, nor any affiliated person (as defined in the Act) of the Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of Co-Investment Affiliates, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of the advisers of the Co-Investment Affiliates, investment advisory fees paid in accordance with the agreements between such advisers and the Funds or other Co-Investment Affiliates).

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11604 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30512; 812–14089]

CPG Carlyle Private Equity Fund, LLC, et al.; Notice of Application

May 9, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of units of beneficial interest (''Units'') with varying sales loads and to impose asset-based service and/or distribution fees and contingent deferred sales loads (''CDSCs'').

Applicants: CPG Carlyle Private Equity Fund, LLC (the ''Feeder Fund''), CPG Carlyle Private Equity Master Fund, LLC (the ''Master Fund''), and Central Park Advisers, LLC (the ''Adviser'').

Filing Dates: The application was filed on October 30, 2012, and amended on March 26, 2013 and May 8, 2013.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 3, 2013, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Gary L. Granik, Esq., Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, (202) 551–6811 or Daniele Marchesani, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Feeder Fund and the Master Fund are continuously offered non-diversified closed-end management investment companies registered under the Act and organized as Delaware limited liability companies. The Feeder Fund operates as a feeder fund in a master-feeder structure and intends to invest substantially all of its assets in the Master Fund. The Master Fund invests primarily in ''alternative'' investment funds with an emphasis on private equity funds (*e.g.,* buyout, growth, and mezzanine).

2. The Adviser, a Delaware limited liability company and wholly-owned subsidiary of Central Park Group, LLC, is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Feeder Fund and the Master Fund.

3. The Feeder Fund continuously offers its Units [1] in private placements in reliance on the provisions of Regulation D under the Securities Act of 1933. Units of the Feeder Fund are not listed on any securities exchange and do not trade on an over-the-counter system. Applicants do not expect that any secondary market will develop for the Units.

4. The Feeder Fund currently offers a single class of Units (the ''Class A Units'') at net asset value per Unit subject to a sales load and annual asset-based distribution fee. The Feeder Fund proposes to offer an additional Unit class (the ''Class I Units'') at net asset value that may (but would not necessarily) be subject to a front-end sales load and an annual asset-based service and/or distribution fee. Both classes would be subject to minimum purchase requirements.

5. In order to provide a limited degree of liquidity to unitholders, the Feeder Fund may from time to time offer to repurchase Units at their then current net asset value in accordance with rule 13e–4 under the Securities Exchange Act of 1934 (''1934 Act'') pursuant to written tenders by unitholders.[2] Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Feeder Fund's board of trustees (''Board''), in its sole discretion.[3] The Adviser

[1] ''Units'' includes any other equivalent designation of a proportionate ownership interest of the Feeder Fund (or any other registered closed-end management investment company relying on the requested order).

[2] Likewise, the Master Fund's repurchase offers will be conducted pursuant to rule 13e–4 under the 1934 Act.

[3] Units are subject to an early withdrawal fee at a rate of 2.00% of the aggregate net asset value of the investors' Units repurchased by the Feeder Fund (the ''Early Withdrawal Fee'') with respect to any repurchase of Units from an investor at any time prior to the day immediately preceding the one-year anniversary of the investor's purchase of the Units. The Early Withdrawal Fee will equally apply to all investors of the Feeder Fund, regardless of class, consistent with section 18 of the Act and rule 18f–3 under the Act. To the extent the Feeder Fund determines to waive, impose scheduled

anticipates to recommend that the Board authorize the Feeder Fund to offer to repurchase Units from unitholders quarterly.

6. Applicants request that the order also apply to any other continuously offered registered closed-end management investment company existing now or in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser acts as investment adviser, and which provides periodic liquidity with respect to its Units through tender offers conducted in compliance with rule 13e–4 under the 1934 Act.[4]

7. Applicants represent that any asset-based service and/or distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'') as if that rule applied to the Feeder Fund.[5] Applicants also represent that the Feeder Fund will disclose in its Confidential Memorandum, the fees, expenses and other characteristics of each class of Units offered for sale by the Confidential Memorandum, as is required for open-end, multiple class funds under Form N–1A. As is required for open-end funds, the Feeder Fund will disclose its expenses in unitholder reports, and disclose any arrangements that result in breakpoints in or elimination of sales loads in its Confidential Memorandum.[6] The Feeder Fund will also comply, and will contractually require its placement agency to comply, with any requirements that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding Confidential Memorandum disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Feeder Fund.[7]

8. The Feeder Fund will allocate all expenses incurred by it among the various classes of Units based on the net assets of the Feeder Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of a Feeder Fund allocated to a particular class of Units will be borne on a pro rata basis by each outstanding Unit of that class. Applicants state that the Feeder Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

9. In the event the Feeder Fund imposes a CDSC, the applicants will comply with the provisions of rule 6c–10 under the Act, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Feeder Fund will comply with rule 22d–1 under the Act as if the Feeder Fund were an open-end investment company.

Applicants' Legal Analysis

Multiple Classes of Units

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Units of the Feeder Fund may be prohibited by section 18(c). Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Units of the Feeder Fund may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Feeder Fund to issue multiple classes of Units.[8]

3. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of unitholders. Applicants submit that the proposed arrangements would permit the Feeder Fund to facilitate the distribution of its Units and provide investors with a broader choice of unitholder options. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that the Feeder Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

CDSCs

4. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that any CDSC imposed by the Feeder Fund will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Feeder Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Feeder Fund were an open-end investment company. Applicants further state that the Feeder Fund will apply the CDSC (and any waivers or scheduled variations of the CDSC) uniformly to all unitholders in a given class and consistently with the requirements of rule 22d–1 under the Act.

Asset-Based Service and/or Distribution Fees

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an

variations of, or eliminate the Early Withdrawal Fee, it will comply with the requirements of rule 22d–1 under the Act as if it were a CDSC and such waiver, scheduled variation or elimination will apply uniformly to all unitholders of the Feeder Fund.

[4] The Feeder Fund and any other entity relying on the requested relief will do so in a manner consistent with the terms and conditions of the application.

[5] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA''). Any Fund or Adviser presently intending to rely on the order requested in this application is listed as an applicant.

[6] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[7] *See, e.g.,* Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

[8] The Master Fund will not issue multiple classes of its units and is an applicant because of the master-feeder structure.

affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

6. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to permit the Feeder Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3 and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11605 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69560; File No. SR–CBOE–2013–050]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Complex Order Router Subsidy Program

May 10, 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 May 8, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt an additional qualification requirement to participate in CBOE's Complex Order Router Subsidy Program. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 8, 2013, CBOE established the Complex Order Router Subsidy Program (the ''CORS Program'' or ''Program'') which allows CBOE to enter into subsidy arrangements with any CBOE Trading Permit Holder (''TPH'') (each, a ''Participating TPH'') or Non-CBOE TPH broker-dealer (each a ''Participating Non-CBOE TPH'') that provide certain order routing functionalities to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves.[3] (The term ''Participant'' as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). Specifically, CBOE TPHs and non-CBOE TPHs that participate in the CORS Program receive a payment from CBOE for every executed contract for complex orders routed to CBOE through their system. The purpose of this proposed change is to add an additional feature that a Participant's order routing functionality must have to qualify for the Program.

SR–CBOE–2013–032 includes a description of the features that an order routing functionality of a Participant must have, and the performance requirements that the order routing functionality must satisfy, in order to qualify for the program.[4] Any CBOE TPH or broker-dealer that is not a CBOE TPH is permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features required in SR–CBOE–2013–032. In addition to the features described in SR–CBOE–2013–032, the Exchange is proposing to require a Participant's order routing functionality to provide current consolidated market data for complex orders from the U.S. options exchanges that offer complex order execution systems in order for the Participant to qualify to participate in the Program. A Participant shall have forty-five (45) days from the date that an exchange launches trading of complex orders to provide that exchange's market data for complex orders as part of its

[3] *See* Securities Exchange Act Release No. 69203 (March 21, 2013), 78 FR 18655 (March 27, 2013) (SR–CBOE–2013–032).

[4] SR–CBOE–2013–032, pp. 5–7. The primary functional requirements under the CORS Program are that an order routing functionality has to: (i) be capable of interfacing with CBOE's API to access current CBOE trade engine functionality and (ii) cause CBOE to be the default destination exchange for complex orders, but allow any user to manually override CBOE as the default destination on an order-by-order basis.

order routing functionality for any exchange that does not yet exist or that does not offer complex order execution systems as of May 6, 2013.

Nothing in the proposed subsidy arrangement relieves any CBOE TPH or non-CBOE TPH broker-dealer that is using an order routing functionality whose provider is participating in the CORS Program (''Users'') from complying with its best execution obligations. Just as with any customer order and any other routing functionality, both a CBOE TPH and a non-CBOE TPH broker dealer have an obligation to consider the availability of price improvement at various markets and whether routing a customer order through a functionality that incorporates the features described above would allow for access to such opportunities if readily available. The Exchange recognizes that, unlike simple, non-complex orders, there is no NBBO for complex orders and an exception from the prohibition on trade-throughs is provided for any transaction that is effected as a portion of a complex order.[5] The Exchange believes that the proposed additional requirement to provide consolidated market data for complex orders provides an additional tool for Users to assess the availability of price improvement at other markets and therefore facilitates compliance with their best execution obligations. Finally, any User, whether or not a CBOE TPH, needs to conduct best execution evaluations on a regular basis, at a minimum quarterly, that include its use of any router incorporating the features described above.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''), in general. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the proposed rule change ensures that CBOE TPHs and non-CBOE TPH broker dealers that use a Participant's order router functionality are provided current consolidated market data for complex orders, which lets them assess the availability of price improvement at other markets. This information facilitates a User's compliance with its best execution obligations, thereby enhancing investor protection and promoting just and equitable principles of trade.

In addition, the Exchange believes that this proposed change is not unfairly discriminatory because the proposed additional requirement is applicable to every Participating CBOE TPH and Participating Non-CBOE TPH. Additionally, every user of a Participant's order routing functionality would be receiving the consolidated market data for complex orders. Finally, any CBOE TPH or broker-dealer that is not a CBOE TPH may participate in the CORS Program, provided that its complex order routing functionality incorporates the requirements set forth in SR–CBOE–2013–032 and above.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change will impose an unnecessary burden on intramarket competition because it will apply equally to all participating parties. Additionally, the Exchange believes the proposed rule change will reduce the burdens on investors who use a Participant's order routing functionality that result from having to comply with best execution obligations, as they will not themselves individually receive market data for complex orders from each exchange that offers complex order execution systems. Further, the Exchange does not believe that such change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE for complex orders or use order routing functionalities that are a part of the CORS Program for complex orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–050. 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

[5] *See* CBOE Rule 6.81(b)(7).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–050, and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11676 Filed 5–15–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69555; File No. SR–Phlx–2013–45]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing for Mini Options

May 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 29, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section A of the Exchange's Pricing Schedule entitled ''Mini Options Fees''. While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated that they become operative on May 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Section A of the Pricing Schedule by updating various existing transaction fees for Non-Customers for both adding and removing liquidity. Additionally, the proposed rule change will also establish fees and rebates applicable for order executions that are part of PIXL.[3]

Specifically, the Exchange is proposing to assess market participants on a per trade basis the following fees and rebates on Mini Options:

	Customer	Professional	Specialist and market maker	Broker-dealer	Firm
Mini Options Transaction Fee—Electronic Adding Liquidity	$0.00	$0.03	$0.02	$0.03	$0.03
Mini Options Transaction Fee—Electronic Removing Liquidity	0.00	0.09	0.04	0.09	0.09
Mini Options Transaction Fee—Floor and QCC	0.00	0.09	0.09	0.09	0.09

Additionally, for executions that occur as part of PIXL, the following fees and rebates will apply: (i) Initiating Order: $0.015 per contract; (ii) PIXL Order (contra-party to the Initiating Order): Customer is $0.00 and all others will be assessed will be assessed a transaction fee of $0.03 per contract; and (iii) PIXL Order (contra-party to other than the Initiating Order): Customer will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract (the contra-party will be assessed a transaction fee of $0.03 per contract).

PFOF fees will be as follows: (i) Penny Pilot Options: $0.02; and (ii) all Other Options: $0.06. Also, Routing Fees set forth in Section V will now apply to Mini Options. Other options transaction fee caps, discounts or rebates, in addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that already do not apply to transactions in Mini Options, also now will not apply to transactions in Mini Options. Finally, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program.

Transaction Fees. Section A provides for a ''Mini Options Transaction Fee—Electronic'' and for a ''Mini-Options Transaction Fee—Floor and QCC'', both of which apply in the Customer, Professional, Specialist and Market Maker, Broker-Dealer and Firm fee categories. As noted in a previous filing, ''the Exchange is currently setting these fees at $0.00 but may in the future file

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). *See* Rule 1080(n) and Section IV of the Pricing Schedule.

proposed rule changes to amend the transaction fee level in one or more categories.'' [4] The Exchange now seeks to amend the transaction fee level in several categories and, specifically, separate the ''Mini Options Transaction Fee—Electronic'' into two distinct fee categories, ''Mini Options Transaction Fee—Electronic Adding Liquidity'' and ''Mini Options Transaction Fee—Electronic Removing Liquidity''.

The ''Mini Options Transaction Fee—Electronic Adding Liquidity'' for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.03 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.02 per contract, while for Customers it will remain $0.00.

The ''Mini Options Transaction Fee—Electronic Removing Liquidity'' for Professionals, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Specialists and Market Makers will increase from $0.00 to $0.04 per contract, while for Customers it will remain $0.00.

The ''Mini Options Transaction Fee—Floor and QCC'' for Professionals, Specialists and Market Makers, Broker-Dealers, and Firms will increase from $0.00 to $0.09 per contract. This same transaction fee for Customers will remain $0.00.

PIXL Executions. For order executions that are part of PIXL, certain new fees will apply. Initiating Orders will be $0.15 per contract [sic]. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Payment for Order Flow. PFOF will now apply to Mini Options and will be $0.02 per contract for Penny Pilot Options and $0.06 for all other options.[5]

Routing Fees. Routing fees set forth in Section V will now apply to Mini Options.

Fee Caps. In addition to the Monthly Market Maker Cap and the Monthly Firm Fee Cap set forth in Section II that do not apply to transactions in Mini Options, neither will other transaction fee caps, discounts or rebates.

Customer Rebate Program. Also, Mini Options volume will now be included in the calculations for the Customer Rebate Program eligibility, but will not be eligible to receive the rebates associated with the Customer Rebate Program. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(4) of the Act [7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Transaction Fees. The Exchange believes that for Customers the proposed Mini Options Transaction Fee-Electronic Adding Liquidity, Mini Options Transaction Fee-Electronic Removing Liquidity, and Mini Options Transaction Fee—Floor and QCC, as well as the fees and rebates applicable for executions that occur as part of PIXL, are reasonable because those fees are set at zero in order to encourage Customers to transact Mini Options.

The Exchange also believes that the Mini Options Transaction Fee-Electronic Adding Liquidity, the Mini Options Transaction Fee-Electronic Removing Liquidity, and the Mini Options Transaction Fee—Floor and QCC are reasonable, equitable and not unfairly discriminatory because while all Customers will be able to take advantage of the zero fee level, all Professionals, Broker-Dealers, and Firms will all pay the identical per contract transaction fees ($0.03, $0.09 and $0.09, respectively) and will therefore be treated in a uniform manner. Specialists and Market Makers will also pay the identical Mini Options Transaction Fee—Floor and QCC of $0.09 per contract and will therefore also be treated in a uniform manner.

Specialists and Market Makers will pay a lower Mini Options Transaction Fee-Electronic Adding Liquidity and a lower Mini Options Transaction Fee-Electronic Removing Liquidity fees of $0.02 and $0.04 per contract, respectively. These lower fees are reasonable, equitable and not unfairly discriminatory because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants. They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between Specialists and Market Makers, Customers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options, supporting the proposed floor and remove liquidity transaction fees for other than Customer. However, the Exchange believes it is necessary to keep fees to provide liquidity lower than the fees for removing liquidity to create appropriate economics to ensure there is ample liquidity for market participants to execute against.

PIXL Executions. The Exchange's proposal to charge the following new fees for order executions that are part of PIXL is reasonable. Specifically, Initiating Orders will be $0.015 per contract. PIXL Orders (contra-party to the Initiating Order) will be $0.00 for Customers and all others will be assessed a transaction fee of $0.03 per contract. For PIXL Orders (contra-party to other than the Initiating Order) Customers will be assessed a transaction fee of $0.00 and all others will be assessed a transaction fee of $0.03 per contract. The contra-party will be assessed a transaction fee of $0.03 per contract.

Generally, these fees range from slightly more than, to slightly less than,

[4] *See* Securities Exchange Act Release No. 69351 (April 9, 2013), 78 FR 22353 (April 15, 2013) at 22353 (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Pricing of Mini Options).

[5] The Payment for Order Flow program started on July 1, 2005 as a pilot and after a series of orders extending the pilot became effective on April 29, 2012. *See* Securities Exchange Act Release No. 52114 (July 22, 2005), 70 FR 44138 (August 1, 2005) (SR-Phlx-2005-44); 57851 (May 22, 2008), 73 FR 31177 (May 20, 2008) (SR-Phlx-2008-38); 55891 (June 11, 2007), 72 FR 333271 (June 15, 2007) (SR-Phlx-2007-39); 53754 (May 3, 2006), 71 FR 27301 (May 10, 2006) (SR-Phlx-2006-25); 53078 (January 9, 2006), 71 FR 2289 (January 13, 2006) (SR-Phlx-2005-88); 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR-Phlx-2005-58); and 59841 (April 29, 2009), 74 FR 21035 (May 6, 2009) (SR-Phlx-2009-38).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

10% of what the various market participants pay today. Charging all market participants the same fee for Initiating Orders is equitable and not unfairly discriminatory because it applies to all market participants equally. The transaction fee for PIXL Orders (contra-party to the Initiating Order) and for PIXL Orders (contra-party to other than the Initiating Order) are equitable and not unfairly discriminatory because they apply to all market participants, other than Customers, equally and uniformly.

It is equitable and not unfairly discriminatory to not charge Customers a transaction fee for PIXL Orders (contra-party to the Initiating Order) or for PIXL Orders (contra-party to other than the Initiating Order) because the Exchange believes it helps attract Customers, which is beneficial to all other market participants on the Exchange who generally seek to trade with Customer order flow.

Payment for Order Flow Fees. The Exchange believes that it is reasonable that the PFOF fees will now apply to Mini Options at a rate of $0.02 per contract for Penny Pilot Options and $0.06 for all other options. The Exchange also believes that this proposal is equitable and not unfairly discriminatory as it applies to all of market participants equally. Further, the proposed PFOF fees are similar to those already established at other market centers.[8]

The fees are also reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract, and, as such, levying fees that are approximately 10% of what a market participant pays today is reasonable and equitable. The Exchange's cost to process quotes, orders and trades in Mini Options is the same as for standard options.

Routing Fees. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that the routing fees set forth in Section V will now apply to Mini Options. These fees are reasonable because they will allow the Exchange to recoup and cover its costs of providing routing services for Customer orders in Mini Options just as it does for other standard equity options for which it incurs the same costs.

The Exchange believes that Routing Fees are equitable and not unfairly discriminatory because the Exchange would uniformly assess the same Routing Fees to all Customers and Non-Customers, and because market participants have the ability to directly route orders in Mini Options to an away market and avoid the Routing Fee. Market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees.

Finally, the Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess different fees for Customers orders as compared to non-Customer orders because the Exchange has traditionally assessed lower fees to Customers as compared to non-Customers. Customers will continue to receive the lowest fees or no fees when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for customer orders as compared to non-customer orders in standard options.[9]

Fee Caps. The Exchange has previously stated that it believes that it is reasonable, equitable and not unfairly discriminatory to not apply the Monthly Market Maker Cap or Monthly Firm Fee Cap to Mini Options transaction fees [10] and now seeks to clarify that other options transaction fee caps, discounts or rebates will also not apply to transactions in Mini Options and that this equitable and not unfairly discriminatory because this applies to all market participants equally and uniformly.

Customer Rebate Program. The Customer Rebate Program was established to incentivize market participants to increase the amount of Customer order flow they transact on the Exchange.[11] The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that Mini Options volume will be included in, but will not be eligible for the Customer Rebate Program defined in Section B of the Pricing Schedule. However, by including Mini Options volume in the calculations for the Customer Rebate Program eligibility, members have the ability to earn additional rebates from standard contracts because they can add this volume to other eligible volume for purposes of qualifying for a rebate tier in Section B of the Pricing Schedule. It is reasonable, equitable and not unfairly discriminatory since any market participant is eligible for a tier, which means that more eligible volume equals more ways for a market participant to earn a rebate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

The Mini Options are a new product that will commence trading on the Exchange on March 28, 2013. The Exchange believes that incentivizing market participants to transact Mini Options by not assessing transaction fees and certain other fees encourages competition in these products. There is no intra-market competition as the Exchange will treat all market participants in a like manner with respect to the transaction fees. Also, the Exchange believes that because other markets will also list Mini Options there is no undue burden on intermarket competition because market participants will be able to select the venue where they will trade these products. In terms of Routing, the Exchange-believes that assessing Customers lower fees as compared to Non-Customers and assessing the same Routing Fees to all Non-Customers regardless of the venue does not create an undue burden on competition. The Exchange has traditionally assessed no or lower fees to Customers. Also, the Exchange believes that because Mini Options represent 1/10th of the size of a standard option contract, reduced Routing Fees will not misalign the cost to transact Mini Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[8] *See* Chicago Board Options Exchange, MIAX Options Exchange and NYSE AMEX fee schedules.

[9] BATS assesses lower customer routing fees as compared to non-customer routing fees per the away market. For example BATS assesses ISE customer routing fees of $0.30 per contract and an ISE non-customer routing fee of $0.57 per contract. *See* BATS BZX Exchange Fee Schedule.

[10] *Supra* note 4.

[11] *See* Securities Exchange Act Release No. 68924 (February 13, 2013), 78 FR 11916 (February 20, 2013).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–45 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.

All submissions should refer to File Number SR–Phlx–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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2013–45 and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11624 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69558; File No. SR–CBOE–2013–035]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Exchange Trading Days and Hours of Business and Trading Halts

May 10, 2013.

I. Introduction

On March 11, 2013, Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Rules 6.1 (Days and Hours of Business) and 6.3 (Trading Halts). The proposed rule change was published for comment in the **Federal Register** on March 29, 2013.[4] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

As further described below, the Exchange proposes to amend various CBOE rules that govern the ability of the Exchange to open and/or halt the trading of an option. Currently, those rules are tied to whether the ''primary market'' for the underlying security opens or halts trading. The primary focus of the Exchange's proposal is to allow it to be able to open for trading even if the primary market for the underlying security is not open for trading as well as to allow it to halt trading even if the primary market does not halt (because it is not open for trading).

Changes to Rule 6.1 (Days and Hours of Business). Exchange Rule 6.1 provides that no Trading Permit Holder (''TPH'') ''shall make any bid, offer, or transaction on the Exchange before or after'' business hours. The Exchange proposes to delete this language because it states that the current language is obsolete. According to the Exchange, the provision is obsolete because TPHs now have the ability to submit information in the electronic system outside of business hours.[5]

Exchange Rule 6.1.01 currently provides that the hours during which transactions in options on individual stocks may be made ''shall correspond to the normal hours for business set forth in the rules of the primary exchange listing the stocks underlying CBOE options.'' The Exchange proposes to amend Exchange Rule 6.1.01 to provide that business hours correspond to the normal hours for business established by the exchanges ''currently trading the stocks underlying CBOE options.''[6] The proposal would thus delink the Exchange's rule from the status of the primary market and instead permit the Exchange to open or remain open to trade options during normal business hours even if the primary market for the underlying security is not open for business. The Exchange states that its proposal will allow it to open or remain open to trade options during normal business hours if there is ample liquidity in the underlying market for the security.[7]

Changes to Rule 6.3 (Trading Halts). Exchange Rule 6.3 specifies when the Exchange will halt trading. Exchange Rule 6.3(a) lists the factors that CBOE will consider in making that determination. Currently, Exchange Rule 6.3(a)(i) provides that the Exchange should consider a halt if ''trading in the underlying security has been halted or suspended in the primary market.'' The

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 69227 (March 25, 2013), 78 FR 19348 (''Notice'').

[5] *See* Notice, *supra* note 4 at 19348.

[6] In the Notice, the Exchange represented that the national equity exchanges all have the same core business hours (e.g., New York Stock Exchange Rule 51(a) and BATS Exchange Rule 1.5(w) mentions regular trading hours of 9:30 a.m. through 4:00 p.m. (Eastern time)). *See id.*

[7] *See id.*

Exchange proposes to amend that provision by removing the reference to the primary market and instead provide that the Exchange may consider whether trading in the underlying security has been halted or suspended in ''one or more of the markets trading such security.'' For example, if the primary market is unable to open due to a natural disaster, or other circumstance, but other national securities exchanges are trading the underlying security and halt or suspend trading in that security, then the proposed change would allow CBOE to halt trading in the overlying options. The Exchange also proposes to make similar changes to Exchange Rule 6.3(a)(iii), which lists factors that CBOE should consider when determining whether to halt securities other than options.

Similarly, Exchange Rule 6.3.01 currently allows the Post Director or Order Book Official to suspend trading in an option if the underlying security is halted or suspended in the primary market. The Exchange proposes to expand the authority of the Post Director or Order Book Official to halt or suspend trading in an option if the underlying security has been halted or suspended in ''one or more of the markets trading the underlying security.'' In effect, the proposal would allow the Post Director or Order Book Official to halt or suspend trading in an option in response to a halt or suspension in a market other than the primary market for the underlying security, particularly when the primary market is not open for business but the security is being traded elsewhere.

Finally, the Exchange proposes to amend language in Exchange Rule 6.3.05, which currently allows the Exchange to turn off the Retail Automatic Execution System (''RAES'') with respect to a stock-option order if credible information has been communicated that trading in the underlying stock has been halted or suspended in the primary market for that stock-option order. The Exchange proposes to replace the term ''primary market'' with ''one or more of the markets trading the underlying security.'' The proposal would allow the Exchange to turn off RAES with respect to a stock-option order if credible information has been communicated that one or more of the markets trading the underlying security has halted trading in the underlying security.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the Exchange's proposal to amend the aforementioned CBOE rules governing the Exchange's ability to open for trading or continue trading an option even if the ''primary market'' for the underlying security does not open for trading or otherwise closes is consistent with Section 6(b)(5) of the Act.[10] Similarly, the change to allow CBOE to consider whether trading in the underlying security has been halted or suspended in ''one or more of the markets trading such security'' instead of requiring CBOE to only consider trading in the underlying primary market is consistent with Section 6(b)(5) of the Act.[11]

Under its proposal, CBOE's discretion to open or continue trading in options, or halt trading in options, would not be limited by or solely rely on the status of the primary market for an underlying security. In addition, the proposed changes to Exchange Rule 6.3 would grant the Post Director and Order Book Official of the Exchange greater discretion regarding whether to halt trading by allowing them to consider halts at markets other than the primary market.

The proposed rule changes would grant discretion to the Exchange to trade options when there is sufficient liquidity outside of the primary market and to halt the trading of options if exchanges other than the primary market are trading the underlying security and halt trading rather than limit the Exchange's authority by specific reference to the status of the primary market for the underlying securities. The Commission believes that allowing CBOE to have such discretion has the potential to lessen market disruptions in the event that a primary market for an underlying security is unable to open or remain open for trading, particularly for an extended period. Thus, the proposal is designed to facilitate the trading of options when other cash equity markets are open and able to trade or continue trading in the underlying securities.

Accordingly, the Commission finds that the Exchange's proposal is consistent with the Act, including Section 6(b)(5) thereof, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[12] that the proposed rule change (SR–CBOE–2013–035) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11625 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

[8] In approving the proposed rule change, the Commission has considered the impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *Id.*

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69559; File No. SR–NASDAQ–2013–074]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Penny Pilot Options and Non-Penny Pilot Options

May 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2 governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to amend certain Penny Pilot Options [3] Rebates to Add Liquidity and Non-Penny Pilot Fees for Adding Liquidity applicable to Firms,[4] Non-NOM Market Makers [5] and Broker Dealers.[6]

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on May 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Chapter XV, entitled ''Options Pricing,'' at Section 2(1) governing the rebates and fees assessed for option orders entered into NOM. The Exchange proposes to adopt certain tiered pricing for Firms, Non-NOM Market Makers and Broker-Dealers with respect to Penny Pilot Options Rebates to Add Liquidity and Non-Penny Pilot Options Fees for Adding Liquidity.

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers,[7] Professionals [8] and NOM Market Makers [9] and a $0.10 per contract Penny Pilot Options Rebate to Add Liquidity to Firms, Non-NOM Market Makers and Broker-Dealers. With respect to Customers and Professionals, the Exchange pays Penny Pilot Options Rebates to Add Liquidity based on various criteria with rebates ranging from $0.25 to $0.48 per contract as follows:

	Monthly volume	Rebate to add liquidity
Tier 1	Participant adds Customer and Professional liquidity of up to 0.20% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.	$0.25
Tier 2	Participant adds Customer and Professional liquidity of 0.21% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month.	0.40
Tier 3	Participant adds Customer and Professional liquidity of 0.31% to 0.49% of total industry customer equity and ETF option ADV contracts per day in a month.	0.43
Tier 4	Participant adds Customer and Professional liquidity of 0.5% or more of total industry customer equity and ETF option ADV contracts per day in a month.	0.45
Tier 5 [a]	Participant adds (1) Customer and Professional liquidity of 25,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant executed at least one order on NASDAQ's equity market.	0.42
Tier 6 [b,c] ...	Participant has Total Volume of 130,000 or more contracts per day in a month, of which 25,000 or more contracts per day in a month must be Customer or Professional liquidity.	0.45
Tier 7 [b,c] ...	Participant has Total Volume of 175,000 or more contracts per day in a month, of which 50,000 or more contracts per day in a month must be Customer or Professional liquidity.	0.47
Tier 8 [b,c] ...	Participant (1) Has Total Volume of 325,000 or more contracts per day in a month, or (2) adds Customer or Professional liquidity of 1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month or (3) adds Customer or Professional liquidity of 60,000 or more contracts per day in a month and NOM Market Maker liquidity of 40,000 or more contracts per day per month.	0.48

[3] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through June 30, 2013. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009)(SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009)(SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); and 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013). *See also* NOM Rules, Chapter VI, Section 5.

[4] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[5] The term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[6] The term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[7] The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48)). The Customer and Professional Rebates to Add Liquidity range from [sic].

[8] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[9] The term ''NOM Market Maker'' is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

With respect to NOM Market Makers, the Exchange pays Penny Pilot Options Rebates to Add Liquidity based on various criteria in four tiers with rebates which range from $0.25 to $0.38 per contract as follows:

	Monthly volume	Rebate to add liquidity
Tier 1	Participant adds NOM Market Maker liquidity in Penny Pilot Options of up to 39,999 contracts per day in a month.	$0.25
Tier 2	Participant adds NOM Market Maker liquidity in Penny Pilot Options of 40,000 to 89,999 contracts per day in a month.	$0.30
Tier 3	Participant and its affiliate under Common Ownership qualify for Tier 8 of the Customer and Professional Rebate to Add Liquidity in Penny Pilot Options.	$0.37
Tier 4	Participant adds NOM Market Maker liquidity in Penny Pilot Options of 110,000 or more contracts per day in a month.	$0.28 or $0.38 in the following symbols BAC, GLD, IWM, QQQ and VXX or $0.40 in SPY

The Exchange proposes to amend the Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity to pay a Participant that adds 15,000 contracts per day or more of Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options or Non-Penny Pilot Options in a given month a Penny Pilot Options Rebate to Add Liquidity of $0.20 per contract. The Exchange believes that the proposed Penny Pilot Options Rebate to Add Liquidity will encourage Firms, Non-NOM Market Makers and Broker-Dealers to transact additional liquidity on NOM.

The Exchange also proposes to amend the Non-Penny Pilot Options Fees for Adding Liquidity for a Firm, Non-NOM Market Maker and Broker-Dealer. Today, a Customer does not pay a Non-Penny Pilot Options Fee for Adding Liquidity. Professionals, Firms, Non-NOM Market Makers and Broker-Dealers pay a $0.45 per contract Non-Penny Pilot Options Fee for Adding Liquidity and a NOM Market Maker pays a $0.35 per contract Non-Penny Pilot Options Fee for Adding Liquidity. The Exchange proposes to decrease the Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fees for Adding Liquidity from $0.45 to $0.36 per contract provided a Participant adds 15,000 contracts per day or more of Firm, Non-NOM Market Maker or Broker-Dealer liquidity in Penny Pilot Options or Non-Penny Pilot Options in a given month. The Exchange believes that the proposed reduced Non-Penny Pilot Options Fees for Adding Liquidity will encourage Firms, Non-NOM Market Makers and Broker-Dealers to provide additional liquidity on NOM.

The Exchange proposes to add a new note 2 to describe the rebate and reduced fee as described herein to Chapter XV, Section 2(1).

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(4) of the Act,[11] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls as described in detail below.

The Exchange believes that the proposed Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity are reasonable because a Firm, Non-NOM Market Maker and Broker-Dealer have the opportunity to obtain an increased rebate, similar to Customers, Professionals and NOM Market Makers today,[12] by transacting 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month.

The Exchange believes that the proposed Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebates to Add Liquidity are equitable and not unfairly discriminatory because the Exchange would continue to offer Customers, Professionals and NOM Market Makers an opportunity to obtain higher rebates. The Exchange believes that continuing to pay Customers and Professionals tiered Rebates to Add Liquidity in Penny Pilot Options, as compared to other market participants, is equitable and not unfairly discriminatory because Customers are entitled to higher rebates because Customer order flow brings unique benefits to the market through increased liquidity which benefits all market participants. The Exchange believes that continuing to offer Professionals the same Penny Pilot Options Rebates to Add Liquidity as Customers is equitable and not unfairly discriminatory because the Exchange believes that offering Professionals the opportunity to earn the same rebates as Customers, as is the case today, and higher rebates as compared to Firms, Broker-Dealers and Non-NOM Market Makers, and in some cases NOM Market Makers, is equitable and not unfairly discriminatory because the Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. By offering Professionals, as well as Customers, higher rebates, the Exchange hopes to simply remain competitive with other venues so that it remains a choice for market participants when posting orders and the result may be additional Professional order flow for the Exchange, in addition to increased Customer order flow.

In addition, a Participant may not be able to gauge the exact rebate tier it would qualify for until the end of the month because Professional volume would be commingled with Customer volume in calculating tier volume.[13] A Professional could only otherwise presume the Tier 1 rebate would be achieved in a month when determining price.[14] Further, the Exchange initially established Professional pricing in order to ''. . . bring additional revenue to the Exchange.'' [15] The Exchange noted in

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] Customers and Professionals Penny Pilot Option Rebates to Add Liquidity are based on various criteria with rebates ranging from $0.25 to $0.48 per contract. A NOM Market Maker is paid a Penny Pilot Options Rebate to Add Liquidity based on various criteria in four tiers with rebates which range from $0.25 to $0.38 per contract. *See* Chapter XV, Section 2(1).

[13] Customer and Professional volume is aggregated for purposes of determining which rebate tier a Participant qualifies for with respect to the Professional Rebate to Add Liquidity in Penny Pilot Options.

[14] A Professional would be unable to determine the exact rebate that would be paid on a transaction by transaction basis with certainty until the end of a given month when all Customer and Professional volume is aggregated for purposes of determining which tier the Participant qualified for in a given month.

[15] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–

the Professional Filing that it believes ''. . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.'' [16] The Exchange also noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a customer and market maker, accomplishes this objective.[17] The Exchange does not believe that providing Professionals with the opportunity to obtain higher rebates equivalent to that of a Customer creates a competitive environment where Professionals would be necessarily advantaged on NOM as compared to NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers. Also, a Professional is assessed the same fees as other market participants, except Customers and NOM Market Makers, as discussed herein.[18] For these reasons, the Exchange believes that continuing to offer Professionals the same rebates as Customers is equitable and not unfairly discriminatory. Finally, the Exchange believes that NOM Market Makers should be offered the opportunity to earn higher rebates as compared to Non-NOM Market Makers, Firms and Broker Dealers because NOM Market Makers add value through continuous quoting [19] and the commitment of capital. Firms, Non-NOM Market Makers and Broker-Dealers would continue to be offered the same Penny Pilot Options Rebate to Add Liquidity, as is the case today, except, similar to other market participants, Firms, Non-NOM Market Makers and Broker-Dealers would have the opportunity to earn a higher Penny Pilot Options Rebate to Add Liquidity if they transact 15,000 contract per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month. The volume requirement for Firms, Non-NOM Market Makers and Broker-Dealers to qualify for the higher Penny Pilot Options Rebate to Add Liquidity is less than is required to earn a Tier 1 Customer or Professional Rebate to Add Liquidity in Penny Pilot Options or a Tier 1 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Option.[20] The proposed Firm, Non-NOM Market Maker and Broker-Dealer Penny Pilot Options Rebate to Add Liquidity of $0.20 per contract is the same for these market participants and would be uniformly applied to all Participants that qualify for the increased rebate.

The Exchange's proposal to decrease the Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fees for Adding Liquidity from $0.45 to $0.36 per contract if a Firm, Non-NOM Market Maker or Broker-Dealer transacts 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month is reasonable because a Firm, Non-NOM Market Maker and Broker-Dealer have the opportunity to lower their transaction fees by transacting additional liquidity on NOM.

The Exchange's proposal to decrease the Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fees for Adding Liquidity from $0.45 to $0.36 per contract if a Firm, Non-NOM Market Maker or Broker-Dealer transacts 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month is equitable and not unfairly discriminatory because the Exchange would continue to assess Firms, Non-NOM Market Makers and Broker-Dealers the same Non-Penny Pilot Options Fees for Adding Liquidity, as is the case today, except, similar to other market participants, Firms, Non-NOM Market Makers and Broker-Dealers would have the opportunity to reduce Non-Penny Pilot Options Fees for Adding Liquidity if they transact 15,000 contract per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month. Today, Customers are not assessed a Non-Penny Pilot Options Fee for Adding Liquidity because Customer order flow is unique and benefits all market participants. A NOM Market Maker would continue to be assessed lower fees as compared to Firms, Non-NOM Market Makers and Broker-Dealers in Non-Penny Pilot Fees for Adding Liquidity ($0.35 per contract for a NOM Market Maker as compared to other market participants), even with the proposed reduced fee of $0.36 per contract, because, as mentioned herein, NOM Market Makers add value through continuous quoting [21] and the commitment of capital. The proposed reduced Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fee for Adding Liquidity of $0.26 per contract is the same for Firms, Non-NOM Market Makers and Broker-Dealers, and would be uniformly applied to all Participants that qualify for the reduced fee.

The Exchange believes that not offering Professionals the same reduction in Non-Penny Pilot Options Fees for Adding Liquidity is reasonable because Professionals have the opportunity to earn significantly higher rebates for adding liquidity in Penny Pilot Options, as compared to Firms, Non-NOM Market Makers and Broker-Dealers, which should continue to incentivize Professionals to add liquidity to the Exchange in Penny Pilot Options, which account for approximately 80% of the industry volume every month. The Exchange believes that the Penny Pilot Options Professional rebate tiers, which requires Professionals to add a certain amount of Penny Pilot Options liquidity per month and liquidity in either Penny Pilot Options or Non-Penny Pilot Options for purposes of Tiers 6, 7 or 8,[22] incentivizes Professionals to add Non-Penny Pilot Options liquidity on NOM. Further, Professionals average effective rate to add liquidity in Penny Pilot Options and/or Non-Penny Pilot Options has a high probability of being lower than the average effective rate for a Firm, Non-NOM Market Maker or Broker-Dealers to add liquidity in Penny Pilot Options or Non-Penny Pilot Options in any given month, despite the Exchange's decision to not offer a Professional the opportunity to reduce

NASDAQ–2011–066) (''Professional Filing''). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[16] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066).

[17] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066). The Exchange noted in this filing that it believes the role of the retail customer in the marketplace is distinct from that of the professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

[18] The Fee for Removing Liquidity in Penny Pilot Options is $0.48 per contract for all market participants, except Customers and NOM Market Makers. Customers are assessed $0.45 per contract and NOM Market Makers would continue to be assessed $0.47 per contract.

[19] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

[20] The 15,000 contract threshold for Firms, Non-NOM Market Makers and Broker-Dealers to earn the Penny Pilot Options Rebate to Add Liquidity equates to approximately 0.12% of the industry customer equity and ETF volume.

[21] *See* note 19.

[22] Tiers 6, 7 or 8 of the Professional Penny Pilot Options Rebate to Add Liquidity permits Participants to add Total Volume which is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and Non-Penny Pilot Options which either adds or removes liquidity on NOM.

Non-Penny Pilot Fees for Adding Liquidity in certain circumstances. By way of example, if a Professional and a Firm add liquidity volume, which volume is evenly split between Penny Pilot Options and Non-Penny Pilot Options and both achieve the maximum rebate opportunity available, the Professional's effective rate to add liquidity in Penny Pilot Options and/or Non-Penny Pilot Options would be an average effective rebate of $0.015 per contract, while the Firm's effective rate would be an average effective fee of $0.08 per contract. Otherwise, the Non-Penny Pilot Options Fees for Adding Liquidity are the same for all market participants, except Customers, when a Firm, Non-NOM Market Maker or Broker-Dealer does not otherwise qualify for the reduced fee. The Exchange believes that its proposal to reduce the Firm, Non-NOM Market Maker and Broker-Dealer Fees for Adding Liquidity in Non-Penny Pilot Options, only when a Firm, Non-NOM Market Maker or Broker-Dealer adds liquidity of 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options volume in a given month, is equitable and not unfairly discriminatory because of the potential a Professional has to achieve higher rebates in Penny Pilot Options, particularly when such volume is aggregated with Customer volume and, in certain cases, includes liquidity in either Penny Pilot Options or Non-Penny Pilot Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Customers have traditionally been paid the highest rebates offered by options exchanges. The Exchange does not believe that providing Professionals with the opportunity to obtain higher rebates equivalent to that of a Customer creates an undue burden on competition where Professionals would be necessarily advantaged on NOM as compared to NOM Market Makers, Firms, Broker-Dealers or Non-NOM Market Makers because the Exchange does not believe that the amount of the rebate offered by the Exchange has a material impact on a Participant's ability to execute orders in Penny Pilot Options. The Exchange does not believe the proposed rebate tiers would result in any burden on competition as between market participants because the remaining market participants, Firms, Non-NOM Market Makers and Broker-Dealers would continue to earn uniform rebates today and have the opportunity to earn the same enhanced rebate. The Exchange believes that incentivizing Firms, Non-NOM Market Makers and Broker-Dealers to transact a greater number of Penny Pilot Options or Non-Penny Pilot Options brings greater liquidity to the Exchange.

The Exchange's proposal to decrease the Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fees for Adding Liquidity, provided those Participants transacted 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options liquidity in a given month, does not misalign the current fees on NOM. These market participants would continue to pay uniform transaction fees as compared to other market participants. Customers would not pay such a fee, as is the case today because of the unique benefits attributed to Customer order flow, and NOM Market Makers would continue to be assessed a more favorable fee, despite the fee reduction offered to Firms, Non-NOM Market Makers and Broker-Dealers because NOM Market Makers have obligations [23] to the market which are not borne by other market participants and therefore the Exchange believes that NOM Market Makers are entitled to a lower fee as compared to other market participants, except Customers.

With respect to the Non-Penny Pilot Options Fees for Adding Liquidity, the Exchange noted that Professionals have the opportunity to earn significantly higher Penny Pilot Options Rebates for Adding Liquidity as compared to Firms, Non-NOM Market Makers and Broker-Dealers by qualifying for rebate tiers which aggregates Penny Pilot Options volume and Non-Penny Pilot Options volume, in certain circusmtances [sic],[24] as well as volume from Customer executions. The Exchange believes that its proposal to reduce the Firm, Non-NOM Market Maker and Broker-Dealer Non-Penny Pilot Options Fees for Adding Liquidity only when a Firm, Non-NOM Market Maker or Broker-Dealer adds liquidity of 15,000 contracts per day or more of Penny Pilot Options or Non-Penny Pilot Options volume in a given month does not create an undue burden on competition given the opportunity for Professionals to qualify for higher Penny Pilot Options rebates.

The Exchange believes the differing outcomes, rebates and fees created by the Exchange's proposed pricing incentives contribute to the overall health of the market place for the benefit of all Participants that willing choose to transact options on NOM. For the reasons specified herein, the Exchange does not believe this proposal creates an undue burden on competition. The Exchange operates in a highly competitive market comprised of eleven U.S. options exchanges in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. These market forces support the Exchange belief that the proposed rebate structure and tiers proposed herein are competitive with rebates and tiers in place on other exchanges. The Exchange believes that this competitive marketplace continues to impact the rebates present on the Exchange today and substantially influences the proposals set forth above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[25] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File

[23] *See* note 19.

[24] *See* note 22.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

Number SR–NASDAQ–2013–074 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–074. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–074, and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11636 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69554; File No. SR–NYSEArca–2013–47]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Non-Display Usage Fees and Amending the Professional End-User Fees for NYSE Arca Options Market Data

May 10, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 1, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish non-display usage fees and to amend the Professional End-User fees for NYSE Arca Options market data, operative on May 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish non-display usage fees and to amend the Professional End-User fees for NYSE Arca Options market data, operative on May 1, 2013. The subsections below describe (1) the background on the current fees for these real-time products; (2) the rationale for creating the new non-display usage fee structure; (3) the proposed fee change for non-display usage by Professional End-Users; (4) the proposed fee change for display usage by Professional End-Users; and (5) an example comparing the current and proposed fees.

Background

On October 1, 2012, the Exchange began offering the following real-time options market data products: ArcaBook for Arca Options—Trades, ArcaBook for Arca Options—Top of Book, ArcaBook for Arca Options—Depth of Book, ArcaBook for Arca Options—Complex, ArcaBook for Arca Options—Series Status, and ArcaBook for Arca Options—Order Imbalance (collectively, ''Arca Options Products'').[4] Fees cover all six products.[5]

The Exchange charges an access fee of $3,000 per month and a redistribution fee of $2,000 per month for the Arca Options Products.

The Exchange charges Professional End-Users $50 per month for each ''User per Source'' for the receipt and use of the Arca Options Products.[6] A Professional End-User is a person or entity that receives market data from the Exchange or a Redistributor and uses that market data solely for its own internal purposes; a Professional End-User is not permitted to redistribute that market data to any person or entity outside of its organization. A ''Source'' is a Professional End-User-controlled

[4] *See* Securities Exchange Act Release No. 67720 (Aug. 23, 2012), 77 FR 52769 (Aug. 30, 2012) (SR–NYSEArca–2012–89).

[5] *See* SR–NYSEArca–2013–41 (establishing a fee schedule) and Securities Exchange Act Release No. 68005 (Oct. 9, 2012), 77 FR 63362 (Oct. 16, 2012) (SR–NYSEArca–2012–106) (establishing fees for Arca Options Products). Arca Options Products are not offered with separate fees for the individual underlying products.

[6] The Exchange notes that the User per Source reporting policy differs from the unit-of-count policy used for other Exchange market data products, such as NYSE Arca Trades and NYSE Arca BBO. *See* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23).

source of data from a Redistributor,[7] such as a data feed; in this case, it is the Arca Options Products. An access identifier (''Access ID'') is a unique identifier that a Professional End-User has assigned to a natural person, application, or device (each, a ''User''),[8] which identifier the Professional End-User's Entitlement System uses to administer technical controls over access to market data.[9] The term ''device'' includes display and non-display devices.

In order to remove an Access ID from the reporting and fee obligations for the Arca Options Products, the Professional End-User must disable the ability of the Access ID to receive such data entirely. The Professional End-User must maintain an audit trail to evidence the disabling of an Access ID for any period. In the absence of an adequate audit trail, all Access IDs that connect to the server remain fee liable. If the Professional End-User cannot limit or track the number of Access IDs, it must report all Access IDs.

The following sections describe the unit-of-count for different types of access to and usage of Arca Options Products.

Redistributor Controlled Access

The unit-of-count for Redistributors of controlled accesses to market data, such as display devices and single-use application program interfaces (''APIs''), is each Access ID. Redistributors must ensure, by way of their agreements with clients, that Access IDs are not shared among Users. If a Professional End-User cannot or does not disclose in advance its restrictions relating to Access ID sharing, thereby enabling simultaneous access by multiple Users, the maximum number of potential accesses (i.e., the greatest number of natural persons, applications, and devices that can access the market data) is charged.

Internal Use

Professional End-Users using User per Source reporting may report the total number of natural persons per each Source rather than the number of Access IDs per Source. For example, if a natural person has two Access IDs receiving data from a single Redistributor's data feed, the Professional End-User may report a count of one. If a natural person has one Access ID receiving data from two Redistributors' data feeds, however, the Professional End-User must report a count of two. Likewise, if a natural person has two Access IDs receiving data feeds from two separate Redistributors, the Professional End-User must report a count of two.[10]

This aspect of User per Source reporting applies only to a Professional End-User's controlled internal distribution of data, and does not apply to Redistributor-controlled access as described above; therefore, a Professional End-User may not net internal Users against Access IDs for a Redistributor's controlled access, such as a device or API, as described in the preceding section.

Application Usage

Some internal distribution networks feature downstream applications that control access to market data without using a centralized Entitlement System. The Access IDs of each such application must be reported, and Professional End-Users must ensure that audit trails are maintained. Professional End-Users may report each of the Users of the application and not the Access IDs of these systems; however, Professional End-Users must ensure that all Users are reported across all Entitlement Systems and applications. For example, a User that has an Access ID from an Entitlement System and an Access ID from a downstream application, each receiving data from a single Redistributor source, would be reported once.

Counting Users in Closed Networks

In a Closed Network, a Professional End-User has an environment whereby market data is published on an intranet or subnet with no other access control such as an Entitlement System. In environments such as this, all assigned IP addresses on the network range are considered a User per Source and are therefore reportable. In the case of a closed network in which physical access to the network determines a User's ability to access market data, the Professional End-User must report any device that has physical access to the network as a separate User per Source.

In closed networks that employ virtual devices, the Professional End-User must report all physical and virtual devices. (A virtual device can be either a display or non-display device.) For example, if a server provides five different market data products through five different IP addresses, each of which is capable of accessing market data, the Professional End-User must report all five IP addresses for each of the five products. That is, the Professional End-User must report virtual devices (in the form of IP addresses) as well as physical devices, and not just the physical server.[11]

Same User Name for Multiple Uses

Frequently, Users are assigned the same User name to log into multiple services and applications that do not share a common Entitlement System. For example, a natural person might elect to use the same User name to gain access to Redistributor A's services as it uses to gain access to Redistributor B's services. Or, he or she may use the same User name to access Redistributor A's Service X as he or she uses to gain access to Redistributor A's Service Y. Or, he or she may use the same User name to access Application A with Redistributor A's data as he or she may use to access Application B with Redistributor A's data. Despite the use of the same User name for multiple purposes, each use of a User name by a separate Entitlement System must be treated as a separate Access ID.

Simultaneous Access and Contention-Based Entitlement Systems

Simultaneous access is the capability of a single Access ID to be used concurrently on two or more devices identified on a network by their host name, IP address, or other system-level identifier for network access. Entitlement Systems must control and track the number of simultaneous accesses by a single Access ID.

Contention-Based Entitlement Systems are not consistent with User per Source reporting. Those are systems for which a limited number of ''tokens'' or ''accesses'' that control the number of simultaneous Users are shared among Users. As is the case if a Professional End-User cannot or does not disclose in

[7] Under the current User per Source policy, a Redistributor is any entity that makes market data available to any person other than the Redistributor and its employees, directors, officers and partners, irrespective of the means of transmission or access. *See infra* n.13.

[8] An Access ID may be a User name, but is not limited to a User name. For example, it could be a host name, an Internet protocol (''IP'') address, or a MAC/network address. A User may have more than one Access ID assigned to control access to market data. Sharing of passwords and/or Access IDs among Users is prohibited, as is simultaneous access by multiple Users using the same Access ID. Simultaneous access by an individual User is allowed if the Professional End-User discloses in advance the technical and/or process controls that prohibit the sharing of Access IDs or other means of accessing data.

[9] The Exchange considers any mechanism that controls access to market data to constitute an Entitlement System. *See supra* n.5.

[10] The Professional End-User must identify the User associated with each Access ID. Where an Access ID cannot be associated to a natural person User (e.g., because it is associated with a non-display device), the Professional End-User must treat that Access ID as a User per Source.

[11] If a physical or virtual device (including an IP address) is capable of receiving a market data product, the Professional End-User must report the device regardless of whether a User uses the device to gain access to the market data product.

advance its restrictions relating to Access ID sharing, thereby enabling simultaneous access by multiple Users, the maximum number of potential accesses (i.e., the greatest number of natural persons, applications, and devices that can access the market data) will be chargeable.

Rationale for New Non-Display Usage Fee Structure

As noted in a previous market data fee filing by the Exchange's affiliate, ''technology has made it increasingly difficult to define 'device' and to control who has access to devices, [and] the markets have struggled to make device counts uniform among their customers.'' [12] Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading. Additionally, market data feeds have become faster and contain a vastly larger number of quotes and trades. Today, a majority of trading is done by leveraging non-display devices consuming massive amounts of data. Some firms base their business models largely on incorporating non-display data into applications and do not require widespread data access by the firm's employees. Changes in market data consumption patterns have increased the use and importance of non-display data.

Applications that can be used in non-display devices provide added value in their capability to manipulate and spread the data they consume. Such applications have the ability to perform calculations on the live data stream and manufacture new data out of it. Data can be processed much faster by a non-display device than it can be by a human being processing information that he or she views on a data terminal. Non-display devices also can dispense data to multiple computer applications as compared with the restriction of data to one display terminal.

While the non-display data has become increasingly valuable to data recipients who can use it to generate substantial profits, it has become increasing difficult for them and the Exchange to accurately count non-display devices. The number and type of non-display devices, as well as their complexity and interconnectedness, have grown in recent years, creating administrative challenges for vendors, data recipients, and the Exchange to accurately count such devices and audit such counts. Unlike a display device, such as a Bloomberg terminal, it is not possible to simply walk through a trading floor or areas of a data recipient's premises to identify non-display devices. During an audit, an auditor must review a firm's entitlement report to determine usage. While display use is generally associated with an individual end user and/or unique user ID, a non-display use is more difficult to account for because the entitlement report may show a server name or IP address or it may not. The auditor must review each IP or server and further inquire about downstream use and quantity of servers with access to data; this type of counting is very labor-intensive and prone to inaccuracies.

For these reasons, the Exchange determined that its current fee structure, which in certain instances is based on counting non-display devices, does not adequately reflect market and technology developments and the value of the non-display data and its many profit-generating uses for subscribers. As such, the Exchange, in conjunction with its domestic and foreign affiliate exchanges, undertook a review of its market data policies with a goal of bringing greater consistency and clarity to its fee structure; easing administration for itself, vendors, and subscribers; and setting fees at a level that better reflects the current value of the data provided. As a result of this review, the Exchange has determined to amend its fee schedule.

Proposed Non-Display Usage Fees

The Exchange proposes to establish new monthly fees for non-display usage, which will be consistent with the structure of certain non-display fees established for certain equity market data products of the Exchange and its affiliates.[13] Non-display usage will mean accessing, processing or consuming an NYSE Arca data product delivered via direct and/or Redistributor [14] data feeds, for a purpose other than in support of its display or further internal or external redistribution. The proposed non-display fees will apply to the non-display use of the data product as part of automated calculations or algorithms to support trading decision-making processes or the operation of trading platforms (''Non-Display Trading Activities''). They include, but are not limited to, high frequency trading, automated order or quote generation and/or order pegging, or price referencing for the purposes of algorithmic trading and/or smart order routing. Applications and devices that solely facilitate display, internal distribution, or redistribution of the data product with no other uses and applications that use the data product for other non-trading activities, such as the creation of derived data, quantitative analysis, fund administration, portfolio management, and compliance, are not covered by the proposed non-display fee structure and are subject to the current fee structure. The Exchange reserves the right to audit data recipients' use of NYSE Arca market data products in Non-Display Trading Activities in accordance with NYSE Arca's vendor and subscriber agreements.

The fee structure will have three categories, which recognize the different uses for the market data. Category 1 Fees apply where a data recipient's non-display use of real time market data is for the purpose of principal trading. Category 2 Fees apply where a data recipient's non-display use of market data is for the purpose of broker/agency trading, i.e., trading-based activities to facilitate the recipient's customers' business. If a data recipient trades both on a principal and agency basis, then the data recipient must pay both categories of fees. Category 3 Fees apply where a data recipient's non-display use of market data is, in whole or in part, for the purpose of providing reference prices in the operation of one or more trading platforms, including but not limited to multilateral trading facilities, alternative trading systems, broker crossing networks, dark pools, and

[12] *See* Securities Exchange Act Release No. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131). At least one other Exchange also has noted such administrative challenges. In establishing a non-display usage fee for internal distributors of TotalView and OpenView, NASDAQ Stock Market LLC (''NASDAQ'') noted that as ''the number of devices increase, so does the administrative burden on the end customer of counting these devices.'' *See* Securities Exchange Act Release No. 61700 (Mar. 12, 2010), 75 FR 13172 (Mar. 18, 2010) (SR–NASDAQ–2010–034).

[13] *See* Securities Exchange Act Release Nos. 69315 (Apr. 5, 2013), 78 FR 21668 (Apr. 11, 2013) (SR–NYSEArca–2013–37); 69278 (Apr. 2, 2013), 78 FR 20973 (Apr. 8, 2013) (SR–NYSE–2013–25); 69285 (Apr. 3, 2013), 78 FR 21172 (Apr. 9, 2013) (SR–NYSEMKT–2013–32). The Exchange and its affiliates established fees for internal use and for managed non-display services. Under the latter, a data recipient's non-display applications must be hosted by a Redistributor approved by the respective exchange. The Exchange does not propose to establish fees for managed non-display services for options market data products at this time.

[14] ''Redistributor'' will be defined to mean a vendor or any other person that provides an NYSE Arca data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access. Although the text differs from the definition in n.7 *supra,* the Exchange does not believe there is any material difference in the definition.

systematic internalization systems.[15] A data recipient will not be liable for Category 3 Fees for those market data products for which it is also paying Category 1 and/or Category 2 Fees.

The fees for NYSE Arca Options non-display use per data recipient organization for each category will be as follows:

Category 1 trading as principal (per month)	Category 2 trading as broker/agency (per month)	Category 3 trading platform (per month)
$1,000	$1,000	$1,000

For non-display use, there will be no reporting requirements regarding non-display device counts, thus doing away with the administrative burdens described above. Data recipients will be required to declare the market data products used within their non-display trading applications by executing an NYSE Euronext Non-Display Usage Declaration.

Proposed Tiered Fee Structure for Display Usage by Professional End-Users

The Exchange proposes to introduce a tiered fee structure for display usage by Professional End-Users based on the number of users. Specifically, the Exchange proposes to charge the following monthly fees for Professional End-Users:

Professional end-users	Fee per professional end-user
1–50	$50
51–100	35
101+	20

Example

Broker-Dealer A obtains Arca Options Products directly from the Exchange for internal use. Broker-Dealer A trades both on a principal and agency basis and has (i) 80 individual persons who use 100 display devices and (ii) 50 non-display devices.

• Under the current fee schedule, Broker-Dealer A pays the Exchange the $3,000 access fee plus $50 for each of 80 individuals who use display devices, or $4,000, and $50 for each of the 50 non-display devices, or $2,500, for a total of $9,500 per month.

• Under the proposed fee schedule, Broker-Dealer A will pay the Exchange the $3,000 access fee, plus $50 for each of the first 50 Professional End-Users of display devices and $35 for the remaining 30 Professional End-Users of display devices, or $3,550, plus Category 1 and Category 2 fees for non-display use, or $2,000, for a total of $8,550 per month. The new fees will result in a $950 monthly savings.

No redistribution fee is charged in either case.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[16] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

As described in detail in the section ''Rationale for New Non-Display Usage Fee Structure'' above, which is incorporated by reference herein, technology has made it increasingly difficult to define ''device'' and to control who has access to devices. Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading, which have the potential to generate substantial profits. Indeed, data used in a single non-display device running a single trading algorithm can generate large profits. Market data technology and usage has evolved to the point where it is no longer practical, nor fair and equitable, to count non-display devices. The administrative costs and difficulties of establishing reliable counts and conducting an effective audit of non-display devices have become too burdensome, impractical, and non-economic for the Exchange, vendors, and data recipients. Rather, the Exchange believes that its proposed flat fee structure for non-display use is reasonable, equitable, and not unfairly discriminatory in light of these developments.

The Exchange and its affiliates already have established non-display fees for certain equity market data products.[18] Other exchanges also have established differentiated fees based on non-display usage, including a flat or enterprise fee, for options market data. For example, NASDAQ Options Market (''NOM'') offers a $2,500 per month ''Non-Display Enterprise License'' fee that permits distribution of Best of NASDAQ Options (''BONO'') or NASDAQ ITCH-to-Trade Options (''ITTO'') to an unlimited number of non-display devices within a firm without any per user charge.[19] In addition, NASDAQ OMX PHLX, Inc. (''Phlx'') offers an alternative $10,000 per month ''Non-Display Enterprise License'' fee that permits distribution to an unlimited number of internal non-display subscribers without incurring additional fees for each internal subscriber.[20] The Non-Display Enterprise License covers non-display subscriber fees for all Phlx proprietary direct data feed products and is in addition to any other associated distributor fees for Phlx proprietary direct data feed products. NASDAQ OMX BX, Inc. (''BX'') also offers an alternative non-display usage fee of $16,000 for its BX TotalView data feed.[21]

The Exchange believes that the new fee schedule, which could potentially result in certain data recipients with a small number of non-display devices paying more than they have previously, is fair and reasonable in light of market and technology developments. The current fee structure does not properly reflect the significant overall value that non-display data can provide in trading algorithms and other uses that provide

[15] The Exchange is not aware of any such trading platform for options products, but is including the category to maintain consistency with the structure of its internal non-display use fees for equities products. *See supra* n.13.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4), (5).

[18] *See supra* n.13.

[19] *See* NASDAQ Options Rules Chapter XV, Section 4. Alternatively, NOM charges each professional subscriber $5 per month for BONO and $10 per month for ITTO.

[20] *See* Section IX of the NASDAQ OMX PHLX LLC Pricing Schedule and Securities Exchange Act Release No. 68576 (Jan. 3, 2013), 78 FR 1886 (Jan. 9, 2013) (SR-Phlx-2012–145). Alternatively, Phlx charges each professional subscriber $40 per month.

[21] *See* NASDAQ OMX BX Rule 7023(a)(2). Alternatively, BX charges each professional subscriber $20 per month for BX TotalView for NASDAQ issues and $20 per month for BX TotalView for NYSE and regional issues.

professional users with the potential to generate substantial profits. The Exchange believes that it is equitable and not unfairly discriminatory to establish an overall monthly fee that better reflects the value of the data to the data recipients in their profit-generating activities and does away with the costs and administrative burdens of counting non-display devices. It will also result in a more consistent pricing structure between equities and options markets.

The Exchange also believes that the proposed tiered pricing structure for display usage by Professional End-Users is reasonable because other exchanges use tiered pricing for professional users. For example, professional subscribers pay a monthly fee for non-display usage based upon direct access to NASDAQ Level 2, NASDAQ TotalView, or NASDAQ OpenView ranging from $300 per month for 1–10 subscribers to $75,000 per month for 250+ subscribers.[22] In addition, the Consolidated Tape Association (''CTA'') historically has offered CTA Tape A Market Data, which includes consolidated last sale and bid-ask data, for a monthly fee for professional subscribers on a tiered, sliding scale basis under which subscribers pay less per device as the number of devices increases.[23]

The Exchange also believes that the proposed display fees are reasonable because the Exchange is not increasing its fees for any current data recipient, but rather lowering fees for data recipients with a large number of Professional End-Users. The Exchange believes that the proposed display fees and tiered pricing structure are equitable and not unfairly discriminatory because they will encourage customers to provide access to the Exchange's market data to a greater number of Professional End-Users. In addition, encouraging greater access through reduced fees for display use of the Exchange's market data will increase transparency of the market, which would benefit all market participants.

The Exchange also notes that purchasing Arca Options Products is entirely optional. Firms are not required to purchase them and have a wide variety of alternative options market data products from which to choose.[24] Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.'" [25] The Exchange believes that this is also true with respect to options markets.

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[26] In addition, the existence of alternatives to these data products, such as proprietary last sale data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach, and the Exchange incorporates by reference into this proposed rule change its analysis of this topic in another rule filing.[27]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary data products is constrained by actual competition for the sale of proprietary data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition. The market for proprietary options data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline to the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of options market data itself, providing virtually limitless opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market.

Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary market data. The U.S. Department of Justice has acknowledged the aggressive competition among exchanges, including for the sale of proprietary market data itself. In announcing that the bid for NYSE Euronext by NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. had been abandoned, Assistant Attorney General Christine Varney stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [28] Similarly, the options markets

[22] *See* NASDAQ Rule 7023.

[23] *See, e.g.,* Exhibit E of CTA Plan dated July 25, 2012, Securities Exchange Act Release No. 69157 (Mar. 18, 2013), 78 FR 17946 (Mar. 25, 2013) (SR–CTA/CQ–2013–01).

[24] *See supra* nn.19–21.

[25] *NetCoalition,* 615 F.3d at 535.

[26] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[27] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca-2010–97).

[28] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html.*

vigorously compete with respect to options data products.[29]

It is common for broker-dealers to further exploit this recognized competitive constraint by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. In addition, in the case of products that are distributed through market data vendors, the market data vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available the Arca Options Products unless their customers request it, and data recipients with Professional End-Users will not elect to purchase them unless they can be used for profit-generating purposes. All of these operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of their data products. The more trade executions a platform does, the more valuable its market data products become. Further, data products are valuable to many end-users only insofar as they provide information that end-users expect will assist them in making trading decisions. In that respect, the Exchange believes that the Arca Options Products will offer options market data information that is useful for professionals in making trading decisions based on both display and non-display usage, the latter of which includes, as described above, high frequency trading, automated order and quote generation and order pegging, and price referencing for the purposes of algorithmic trading and smart order routing.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange.

Other market participants have noted that the liquidity provided by the order book, trade execution, core market data, and non-core market data are joint products of a joint platform and have common costs.[30] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[31]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products. Thus, because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 11 self-regulatory organization (''SRO'') options markets. One of the 11 just launched operations in December 2012; another one of the 11 SROs has announced plans to launch a second options exchange,[32] which would bring the total number of options SROs to 12. The Exchange believes that these new entrants demonstrate that competition is robust.

Each SRO market competes to produce transaction reports via trade executions. Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low

[29] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[30] *See* Securities Exchange Act Release No. 62887 (Sept. 10, 2010), 75 FR 57092, 57095 (Sept. 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110); and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111) (''all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''); *see also* August 1, 2008 Comment Letter of Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX Group, Inc., Statement of Janusz Ordover and Gustavo Bamberger (''because market data is both an input to and a byproduct of executing trades on a particular platform, market data and trade execution services are an example of 'joint products' with 'joint costs.' ''), attachment at pg. 4, available at *www.sec.gov/comments/34–57917/3457917–12.pdf.*

[31] *See generally* Mark Hirschey, FUNDAMENTALS OF MANAGERIAL ECONOMICS, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' Quarterly Journal of Economics V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[32] Press Release, SEC Publishes ISE's Form 1 Application for a Second Options Exchange (Mar. 5, 2013), available at *http://www.ise.com/assets/documents/AboutISE/PressRelease/CompanyNews/2013/20130305$SEC_Publishes_ISEs_Form_1_Application_for_a_Second_Options_Exchange.pdf.*

prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange; NYSE MKT LLC; Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; International Securities Exchange, LLC; NASDAQ; Phlx; BX; BATS Exchange, Inc. (''BATS''); and Miami International Securities Exchange LLC. Because market data users can thus find suitable substitutes for most proprietary market data products,[33] a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. As noted above, the proposed non-display fees for NYSE Arca Options are generally lower than the maximum non-display fees charged by other exchanges such as NASDAQ, Phlx, and BX for comparable products.[34] The proposed display fees are being reduced for data recipients with relatively larger numbers of Professional End-Users.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. As noted above, a new options exchange launched in December 2012, and a 12th options exchange has filed for Commission approval to commence operations. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS, and Direct Edge. Today, BATS and Direct Edge provide certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[35]

Further, data products are valuable to certain end users only insofar as they provide information that end users expect will benefit them in their trading decisions. As noted above, non-display data can be particularly valuable for high frequency trading, automated order and quote generation and order pegging, and price referencing for the purposes of algorithmic trading and smart order routing, whereas display data can be used for monitoring real-time market conditions and trading activity. The Exchange believes the proposed fees will benefit customers by providing them with a clearer way to determine their fee liability for non-display devices and reduced prices for customers with larger numbers of display devices.

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange published draft Data Policies on its Web site on November 20, 2012. Among other things, the Data Policies addressed non-display use for certain market data products. The Exchange solicited comments on the Data Policies in the form of a survey. The Exchange received 12 comments relating to non-display use. Exhibit 2 contains a copy of the notice soliciting comment, the Data Policies, the 12 comments received in alphabetical order, and an alphabetical listing of such comments.

Nine commenters[36] requested greater clarity with respect to the definition and examples of non-display use. Specifically, the commenters requested that the Exchange provide a consistent definition of non-display use. As described above, the definition of non-display use will be accessing, processing or consuming an NYSE Arca data product delivered via direct and/or Redistributor data feeds, for a purpose other than in support of its display or further internal or external redistribution. The Exchange believes that this definition addresses the comments and will clearly describe the types of activities that will qualify for the proposed fee. The Exchange also provided examples for illustrative purposes, which are not exclusive.

Four commenters[37] also questioned whether price referencing, compliance, accounting or auditing activities, and derived data should be considered non-display use. The Data Policies listed price referencing, compliance, accounting or auditing activities, and derived data as examples of non-display usage; however, as discussed above, the Exchange has determined that price referencing for the purposes of algorithmic trading and/or smart order routing would be considered Non-Display Trading Activities, and applications that use the data product for non-trading activities, such as compliance, accounting or auditing activities, and derived data are not covered by the non-display fees and are subject to the current standard per-device fee structure.

Three commenters[38] asked for examples of how the Exchange would charge for customers that use both display and non-display devices. The Exchange believes that the pricing examples provided above are responsive to this request. One commenter[39] stated that the proposed fees are excessive. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory for the reasons discussed in Section 3(b) above.

[33] *See supra* nn.19–21.

[34] *Id.*

[35] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[36] Barclays, Brown Brothers Harriman, CMC Markets, Deutsche Bank, Flowtraders, Nomura, Threadneedle, Transtrend BV, and UBS.

[37] Barclays, CMC Markets, Transtrend BV, and UBS.

[38] Essex Radez LLC, Fidelity Market Data, and Lloyds TSB Bank plc.

[39] Essex Radez LLC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[40] of the Act and subparagraph (f)(2) of Rule 19b–4[41] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[42] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca 2013–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–47. 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–2013–47 and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11635 Filed 5–15–13; 8:45 am]

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[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(2).

[42] 15 U.S.C. 78s(b)(2)(B).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69552; File No. SR–CHX–2013–09]

Self Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule Governing the Anti-Money Laundering Compliance Program

May 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on May 2, 2013, the Chicago Stock Exchange, Inc. (''CHX'' or the ''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.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend its Anti-Money Laundering Compliance Program (the ''AMLCP''), effective May 2, 2013. The proposed rule change would clarify the frequency with which a Participant Firm must conduct independent testing of its AMLCP and would establish the qualifications of the person designated to perform AMLCP testing as well as provide guidelines for establishing the independence of the person performing the test. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm*, 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, CHX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

Financial institutions, including broker-dealers, must develop and implement Anti-Money Laundering (''AML'') programs pursuant to the Bank Secrecy Act (''BSA''),[3] as amended by Section 352 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''PATRIOT Act'').[4] Consistent with Department of Treasury regulation 31 CFR 103.120 under the BSA, Exchange Article 6, Rule 12 requires that each Participant Firm develop and implement a written AMLCP that specifies the minimum requirement for these programs.

The AMLCP must include the development of internal policies, procedures and controls; the designation of a person to implement and monitor the day-to-day operations and internal controls of the program

[3] 31 U.S.C. 5311 *et seq.*

[4] Public Law 107–56, 115 Stat. 272 (2001).

(commonly referred to as an ''AML Officer''); ongoing training for appropriate persons; and an independent testing function for overall compliance.

The Exchange proposes to change CHX Article 6, Rule 12 to clarify the language governing the frequency with which a Participant Firm must conduct independent testing of its AMLCP. Additionally, the Exchange proposes to add a new interpretation and policy to Article 6, Rule 12 that establishes qualifications of the person designated to perform AMLCP testing and guidelines for establishing the independence of the person performing the test.

Timeframes for Independent Testing

The proposed rule change would require that independent testing of AMLCPs be conducted, at a minimum, on an annual (calendar-year) basis by Participant Firms, unless the Participant Firm does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (*e.g.,* engages solely in proprietary trading, or conducts business only with other broker-dealers), in which case such independent testing is required every two years (on a calendar-year basis). The Exchange believes that these timeframes are reasonable in that they require more frequent testing of AMLCPs designed to monitor a business with customers from the general public, which may be more susceptible to money laundering schemes than a strictly proprietary business involving transactions with other broker-dealers. Furthermore, the one-year time frame for testing is consistent with standard industry practice in that it is similar to generally accepted guidelines for conducting tests in the context of, for instance, general audits and branch office visits. The proposed rule change establishes only a minimum requirement, and makes clear that Participants should undertake more frequent testing when circumstances warrant (*e.g.,* should the business mix of the Participant or Participant Firm materially change; in the event of a merger or acquisition; in light of systemic weaknesses uncovered via testing of the AMLCP; or in response to other ''red flags'').

Qualification and Independence Standards for Testing

Additionally, the Exchange proposes to add interpretations and policies .01 to Article 6, Rule 12 in order to establish qualifications for the person designated to perform AMLCP testing as well as guidelines for establishing the independence of the person performing the test. The proposed rule change would require the person conducting the independent test to have a working knowledge of the applicable BSA requirements and related regulations. Such person need not be an employee of the Participant or Participant Firm since the responsibility being delegated is essentially an auditing function and, as such, it would not be unusual or ineffective for it to be performed by an independent outside party.

The proposed rule change does not preclude an employee of the Participant or Participant Firm from conducting the required independent testing of the AMLCP; however the proposed ''independence'' standard would prohibit testing from being conducted by a person who performs the functions being tested, or by the designated AML Officer, or by a person that reports to either.

AML Officer

The proposed rule change would also clarify that the person responsible for implementing and monitoring the day-to-day operations and controls of the program must be an associated person of the Participant. This would not prohibit a Participant that is part of a diversified financial institution from designating an AML Officer that is employed by the Participant's parent company, sister company, or other affiliate. However, if such a person is designated as a Participant's AML Officer, the Exchange will consider that person to be an associated person of the Participant with respect to those activities performed on behalf of the Participant.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] in particular, in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, to remove impediments and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is designed to accomplish these ends by requiring Participants to conduct periodic tests of their AMLCPs and preserve the independence of their testing personnel.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization 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 rule change is designed to implement the amended AML policy in an equitable and non-discriminatory way, and in furtherance of the Bank Secrecy Act. The rule change requires Participant Firms that execute trades for customers or hold customer accounts conduct AML testing on an annual basis while other Participant Firms that engage solely in proprietary trading, or conduct business only with other broker-dealers may conduct an AML test on a biennial basis. However, the Exchange believes that the rule change does not impose a disparate burden on competition either among or between classes of market participants. The Exchange believes that these timeframes are reasonable in that they require more frequent testing of AMLCP designed to monitor a business with customers from the general public, which may be more susceptible to money laundering schemes than a strictly proprietary business involving transactions with other broker-dealers.

In addition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review its rules to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment by clearly outlining Participant Firms' obligations for AML testing while protecting investors with defined AML oversight in the specified scenarios.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes 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 Changes and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) [7] of the Act and Rule 19b–4(f)(6) thereunder.[8] Because the

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to provide the Commission with written notice of its intent to file

Continued

proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, 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) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative for 30 days after the date of 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, as it will allow the Exchange to immediately begin requiring Participants to conduct periodic tests of their AMLCP and preserve the independence of their testing personnel, and by making the Exchange's program requirements generally consistent with those at other exchanges and self-regulatory organizations.[11] For these reasons, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–CHX–2013–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2013–09. 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 Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the CHX's principal office and on its Internet Web site at *www.chx.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CHX–2013–09 and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11623 Filed 5–15–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69553; File No. SR–NYSEMKT–2013–40]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing Non-Display Usage Fees and Amending the Professional End-User Fees for NYSE Amex Options Market Data

May 10, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 1, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish non-display usage fees and to amend the Professional End-User fees for NYSE Amex Options market data, operative on May 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

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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] *See e.g.,* NYSE Arca Equities Rule 6.17, CBOE Rule 4.20 and FINRA Rule 3310.

[12] For purposes 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).

[13] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish non-display usage fees and to amend the Professional End-User fees for NYSE Amex Options market data, operative on May 1, 2013. The subsections below describe (1) the background on the current fees for these real-time products; (2) the rationale for creating the new non-display usage fee structure; (3) the proposed fee change for non-display usage by Professional End-Users; (4) the proposed fee change for display usage by Professional End-Users; and (5) an example comparing the current and proposed fees.

Background

On October 1, 2012, the Exchange began offering the following real-time options market data products: ArcaBook for Amex Options—Trades, ArcaBook for Amex Options—Top of Book, ArcaBook for Amex Options—Depth of Book, ArcaBook for Amex Options—Complex, ArcaBook for Amex Options—Series Status, and ArcaBook for Amex Options—Order Imbalance (collectively, ''Amex Options Products'').[4] Fees cover all six products.[5]

The Exchange charges an access fee of $3,000 per month and a redistribution fee of $2,000 per month for the Amex Options Products.

The Exchange charges Professional End-Users $50 per month for each ''User per Source'' for the receipt and use of the Amex Options Products.[6] A Professional End-User is a person or entity that receives market data from the Exchange or a Redistributor and uses that market data solely for its own internal purposes; a Professional End-User is not permitted to redistribute that market data to any person or entity outside of its organization. A ''Source'' is a Professional End-User-controlled source of data from a Redistributor,[7] such as a data feed; in this case, it is the Amex Options Products. An access identifier (''Access ID'') is a unique identifier that a Professional End-User has assigned to a natural person, application, or device (each, a ''User''),[8] which identifier the Professional End-User's Entitlement System uses to administer technical controls over access to market data.[9] The term ''device'' includes display and non-display devices.

In order to remove an Access ID from the reporting and fee obligations for the Amex Options Products, the Professional End-User must disable the ability of the Access ID to receive such data entirely. The Professional End-User must maintain an audit trail to evidence the disabling of an Access ID for any period. In the absence of an adequate audit trail, all Access IDs that connect to the server remain fee liable. If the Professional End-User cannot limit or track the number of Access IDs, it must report all Access IDs.

The following sections describe the unit-of-count for different types of access to and usage of Amex Options Products.

Redistributor Controlled Access

The unit-of-count for Redistributors of controlled accesses to market data, such as display devices and single-use application program interfaces (''APIs''), is each Access ID. Redistributors must ensure, by way of their agreements with clients, that Access IDs are not shared among Users. If a Professional End-User cannot or does not disclose in advance its restrictions relating to Access ID sharing, thereby enabling simultaneous access by multiple Users, the maximum number of potential accesses (i.e., the greatest number of natural persons, applications, and devices that can access the market data) is charged.

Internal Use

Professional End-Users using User per Source reporting may report the total number of natural persons per each Source rather than the number of Access IDs per Source. For example, if a natural person has two Access IDs receiving data from a single Redistributor's data feed, the Professional End-User may report a count of one. If a natural person has one Access ID receiving data from two Redistributors' data feeds, however, the Professional End-User must report a count of two. Likewise, if a natural person has two Access IDs receiving data feeds from two separate Redistributors, the Professional End-User must report a count of two.[10]

This aspect of User per Source reporting applies only to a Professional End-User's controlled internal distribution of data, and does not apply to Redistributor-controlled access as described above; therefore, a Professional End-User may not net internal Users against Access IDs for a Redistributor's controlled access, such as a device or API, as described in the preceding section.

Application Usage

Some internal distribution networks feature downstream applications that control access to market data without using a centralized Entitlement System. The Access IDs of each such application must be reported, and Professional End-Users must ensure that audit trails are maintained. Professional End-Users may report each of the Users of the application and not the Access IDs of these systems; however, Professional End-Users must ensure that all Users are reported across all Entitlement Systems and applications. For example, a User that has an Access ID from an Entitlement System and an Access ID from a downstream application, each receiving data from a single Redistributor source, would be reported once.

Counting Users in Closed Networks

In a Closed Network, a Professional End-User has an environment whereby market data is published on an intranet or subnet with no other access control such as an Entitlement System. In environments such as this, all assigned

[4] *See* Securities Exchange Act Release No. 67719 (Aug. 23, 2012), 77 FR 52767 (Aug. 30, 2012) (SR–NYSEMKT–2012–40).

[5] *See* SR–NYSEMKT–2013–35 (establishing a fee schedule) and Securities Exchange Act Release No. 68004 (Oct. 9, 2012), 77 FR 62582 (Oct. 15, 2012) (SR–NYSEMKT–2012–49) (establishing fees for Amex Options Products). Amex Options Products are not offered with separate fees for the individual underlying products.

[6] The Exchange notes that the User per Source reporting policy differs from the unit-of-count policy used for other Exchange market data products, such as NYSE MKT Trades and NYSE MKT BBO. *See* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex–2010–35).

[7] Under the current User per Source policy, a Redistributor is any entity that makes market data available to any person other than the Redistributor and its employees, directors, officers and partners, irrespective of the means of transmission or access. *See infra* n.13.

[8] An Access ID may be a User name, but is not limited to a User name. For example, it could be a host name, an Internet protocol (''IP'') address, or a MAC/network address. A User may have more than one Access ID assigned to control access to market data. Sharing of passwords and/or Access IDs among Users is prohibited, as is simultaneous access by multiple Users using the same Access ID. Simultaneous access by an individual User is allowed if the Professional End-User discloses in advance the technical and/or process controls that prohibit the sharing of Access IDs or other means of accessing data.

[9] The Exchange considers any mechanism that controls access to market data to constitute an Entitlement System. *See supra* n.5.

[10] The Professional End-User must identify the User associated with each Access ID. Where an Access ID cannot be associated to a natural person User (e.g., because it is associated with a non-display device), the Professional End-User must treat that Access ID as a User per Source.

IP addresses on the network range are considered a User per Source and are therefore reportable. In the case of a closed network in which physical access to the network determines a User's ability to access market data, the Professional End-User must report any device that has physical access to the network as a separate User per Source.

In closed networks that employ virtual devices, the Professional End-User must report all physical and virtual devices. (A virtual device can be either a display or non-display device.) For example, if a server provides five different market data products through five different IP addresses, each of which is capable of accessing market data, the Professional End-User must report all five IP addresses for each of the five products. That is, the Professional End-User must report virtual devices (in the form of IP addresses) as well as physical devices, and not just the physical server.[11]

Same User Name for Multiple Uses

Frequently, Users are assigned the same User name to log into multiple services and applications that do not share a common Entitlement System. For example, a natural person might elect to use the same User name to gain access to Redistributor A's services as it uses to gain access to Redistributor B's services. Or, he or she may use the same User name to access Redistributor A's Service X as he or she uses to gain access to Redistributor A's Service Y. Or, he or she may use the same User name to access Application A with Redistributor A's data as he or she may use to access Application B with Redistributor A's data. Despite the use of the same User name for multiple purposes, each use of a User name by a separate Entitlement System must be treated as a separate Access ID.

Simultaneous Access and Contention-Based Entitlement Systems

Simultaneous access is the capability of a single Access ID to be used concurrently on two or more devices identified on a network by their host name, IP address, or other system-level identifier for network access. Entitlement Systems must control and track the number of simultaneous accesses by a single Access ID.

Contention-Based Entitlement Systems are not consistent with User per Source reporting. Those are systems for which a limited number of ''tokens'' or ''accesses'' that control the number of simultaneous Users are shared among Users. As is the case if a Professional End-User cannot or does not disclose in advance its restrictions relating to Access ID sharing, thereby enabling simultaneous access by multiple Users, the maximum number of potential accesses (i.e., the greatest number of natural persons, applications, and devices that can access the market data) will be chargeable.

Rationale for New Non-Display Usage Fee Structure

As noted in a previous market data fee filing by the Exchange's affiliate, ''technology has made it increasingly difficult to define 'device' and to control who has access to devices, [and] the markets have struggled to make device counts uniform among their customers.'' [12] Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading. Additionally, market data feeds have become faster and contain a vastly larger number of quotes and trades. Today, a majority of trading is done by leveraging non-display devices consuming massive amounts of data. Some firms base their business models largely on incorporating non-display data into applications and do not require widespread data access by the firm's employees. Changes in market data consumption patterns have increased the use and importance of non-display data.

Applications that can be used in non-display devices provide added value in their capability to manipulate and spread the data they consume. Such applications have the ability to perform calculations on the live data stream and manufacture new data out of it. Data can be processed much faster by a non-display device than it can be by a human being processing information that he or she views on a data terminal. Non-display devices also can dispense data to multiple computer applications as compared with the restriction of data to one display terminal.

While the non-display data has become increasingly valuable to data recipients who can use it to generate substantial profits, it has become increasing difficult for them and the Exchange to accurately count non-display devices. The number and type of non-display devices, as well as their complexity and interconnectedness, have grown in recent years, creating administrative challenges for vendors, data recipients, and the Exchange to accurately count such devices and audit such counts. Unlike a display device, such as a Bloomberg terminal, it is not possible to simply walk through a trading floor or areas of a data recipient's premises to identify non-display devices. During an audit, an auditor must review a firm's entitlement report to determine usage. While display use is generally associated with an individual end user and/or unique user ID, a non-display use is more difficult to account for because the entitlement report may show a server name or IP address or it may not. The auditor must review each IP or server and further inquire about downstream use and quantity of servers with access to data; this type of counting is very labor-intensive and prone to inaccuracies.

For these reasons, the Exchange determined that its current fee structure, which in certain instances is based on counting non-display devices, does not adequately reflect market and technology developments and the value of the non-display data and its many profit-generating uses for subscribers. As such, the Exchange, in conjunction with its domestic and foreign affiliate exchanges, undertook a review of its market data policies with a goal of bringing greater consistency and clarity to its fee structure; easing administration for itself, vendors, and subscribers; and setting fees at a level that better reflects the current value of the data provided. As a result of this review, the Exchange has determined to amend its fee schedule.

Proposed Non-Display Usage Fees

The Exchange proposes to establish new monthly fees for non-display usage, which will be consistent with the structure of certain non-display fees established for certain equity market data products of the Exchange and its affiliates.[13] Non-display usage will

[11] If a physical or virtual device (including an IP address) is capable of receiving a market data product, the Professional End-User must report the device regardless of whether a User uses the device to gain access to the market data product.

[12] *See* Securities Exchange Act Release No. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131). At least one other Exchange also has noted such administrative challenges. In establishing a non-display usage fee for internal distributors of TotalView and OpenView, NASDAQ Stock Market LLC (''NASDAQ'') noted that as ''the number of devices increase, so does the administrative burden on the end customer of counting these devices.'' *See* Securities Exchange Act Release No. 61700 (Mar. 12, 2010), 75 FR 13172 (Mar. 18, 2010) (SR–NASDAQ–2010–034).

[13] *See* Securities Exchange Act Release Nos. 69285 (Apr. 3, 2013), 78 FR 21172 (Apr. 9, 2013) (SR–NYSEMKT–2013–32); 69315 (Apr. 5, 2013), 78 FR 21668 (Apr. 11, 2013) (SR–NYSEArca–2013–37); 69278 (Apr. 2, 2013), 78 FR 20973 (Apr. 8, 2013) (SR–NYSE–2013–25). The Exchange and its affiliates established fees for internal use and for

mean accessing, processing or consuming an NYSE Amex data product delivered via direct and/or Redistributor [14] data feeds, for a purpose other than in support of its display or further internal or external redistribution. The proposed non-display fees will apply to the non-display use of the data product as part of automated calculations or algorithms to support trading decision-making processes or the operation of trading platforms (''Non-Display Trading Activities''). They include, but are not limited to, high frequency trading, automated order or quote generation and/or order pegging, or price referencing for the purposes of algorithmic trading and/or smart order routing. Applications and devices that solely facilitate display, internal distribution, or redistribution of the data product with no other uses and applications that use the data product for other non-trading activities, such as the creation of derived data, quantitative analysis, fund administration, portfolio management, and compliance, are not covered by the proposed non-display fee structure and are subject to the current fee structure. The Exchange reserves the right to audit data recipients' use of NYSE Amex market data products in Non-Display Trading Activities in accordance with NYSE Amex's vendor and subscriber agreements.

The fee structure will have three categories, which recognize the different uses for the market data. Category 1 Fees apply where a data recipient's non-display use of real time market data is for the purpose of principal trading. Category 2 Fees apply where a data recipient's non-display use of market data is for the purpose of broker/agency trading, i.e., trading-based activities to facilitate the recipient's customers' business. If a data recipient trades both on a principal and agency basis, then the data recipient must pay both categories of fees. Category 3 Fees apply where a data recipient's non-display use of market data is, in whole or in part, for the purpose of providing reference prices in the operation of one or more trading platforms, including but not limited to multilateral trading facilities, alternative trading systems, broker crossing networks, dark pools, and systematic internalization systems.[15] A data recipient will not be liable for Category 3 Fees for those market data products for which it is also paying Category 1 and/or Category 2 Fees.

The fees for NYSE Amex Options non-display use per data recipient organization for each category will be as follows:

Category 1 trading as principal (per month)	Category 2 trading as broker/agency (per month)	Category 3 trading platform (per month)
$1,000	$1,000	$1,000

For non-display use, there will be no reporting requirements regarding non-display device counts, thus doing away with the administrative burdens described above. Data recipients will be required to declare the market data products used within their non-display trading applications by executing an NYSE Euronext Non-Display Usage Declaration.

Proposed Tiered Fee Structure for Display Usage by Professional End-Users

The Exchange proposes to introduce a tiered fee structure for display usage by Professional End-Users based on the number of users. Specifically, the Exchange proposes to charge the following monthly fees for Professional End-Users:

Professional End-Users	Fee per Professional End-User
1–50	$50
51–100	$35
101+	$20

Example

Broker-Dealer A obtains Amex Options Products directly from the Exchange for internal use. Broker-Dealer A trades both on a principal and agency basis and has (i) 80 individual persons who use 100 display devices and (ii) 50 non-display devices.

- Under the current fee schedule, Broker-Dealer A pays the Exchange the $3,000 access fee plus $50 for each of 80 individuals who use display devices, or $4,000, and $50 for each of the 50 non-display devices, or $2,500, for a total of $9,500 per month.
- Under the proposed fee schedule, Broker-Dealer A will pay the Exchange the $3,000 access fee, plus $50 for each of the first 50 Professional End-Users of display devices and $35 for the remaining 30 Professional End-Users of display devices, or $3,550, plus Category 1 and Category 2 fees for non-display use, or $2,000, for a total of $8,550 per month. The new fees will result in a $950 monthly savings.
- No redistribution fee is charged in either case.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[16] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

As described in detail in the section ''Rationale for New Non-Display Usage Fee Structure'' above, which is incorporated by reference herein, technology has made it increasingly difficult to define ''device'' and to control who has access to devices. Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading, which have the potential to generate substantial profits. Indeed, data used in a single non-display device running a single trading algorithm can generate large profits. Market data technology and usage has evolved to the point where it is no longer practical, nor fair and equitable, to count non-display devices. The administrative costs and difficulties of establishing reliable counts and

managed non-display services. Under the latter, a data recipient's non-display applications must be hosted by a Redistributor approved by the respective exchange. The Exchange does not propose to establish fees for managed non-display services for options market data products at this time.

[14] ''Redistributor'' will be defined to mean a vendor or any other person that provides an NYSE Amex data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access. Although the text differs from the definition in n.7 *supra,* the Exchange does not believe there is any material difference in the definition.

[15] The Exchange is not aware of any such trading platform for options products, but is including the category to maintain consistency with the structure of its internal non-display use fees for equities products. *See supra* n.13.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4), (5).

conducting an effective audit of non-display devices have become too burdensome, impractical, and non-economic for the Exchange, vendors, and data recipients. Rather, the Exchange believes that its proposed flat fee structure for non-display use is reasonable, equitable, and not unfairly discriminatory in light of these developments.

The Exchange and its affiliates already have established non-display fees for certain equity market data products.[18] Other exchanges also have established differentiated fees based on non-display usage, including a flat or enterprise fee, for options market data. For example, NASDAQ Options Market (''NOM'') offers a $2,500 per month ''Non-Display Enterprise License'' fee that permits distribution of Best of NASDAQ Options (''BONO'') or NASDAQ ITCH-to-Trade Options (''ITTO'') to an unlimited number of non-display devices within a firm without any per user charge.[19] In addition, NASDAQ OMX PHLX, Inc. (''Phlx'') offers an alternative $10,000 per month ''Non-Display Enterprise License'' fee that permits distribution to an unlimited number of internal non-display subscribers without incurring additional fees for each internal subscriber.[20] The Non-Display Enterprise License covers non-display subscriber fees for all Phlx proprietary direct data feed products and is in addition to any other associated distributor fees for Phlx proprietary direct data feed products. NASDAQ OMX BX, Inc. (''BX'') also offers an alternative non-display usage fee of $16,000 for its BX TotalView data feed.[21]

The Exchange believes that the new fee schedule, which could potentially result in certain data recipients with a small number of non-display devices paying more than they have previously, is fair and reasonable in light of market and technology developments. The current fee structure does not properly reflect the significant overall value that non-display data can provide in trading algorithms and other uses that provide professional users with the potential to generate substantial profits. The Exchange believes that it is equitable and not unfairly discriminatory to establish an overall monthly fee that better reflects the value of the data to the data recipients in their profit-generating activities and does away with the costs and administrative burdens of counting non-display devices. It will also result in a more consistent pricing structure between equities and options markets.

The Exchange also believes that the proposed tiered pricing structure for display usage by Professional End-Users is reasonable because other exchanges use tiered pricing for professional users. For example, professional subscribers pay a monthly fee for non-display usage based upon direct access to NASDAQ Level 2, NASDAQ TotalView, or NASDAQ OpenView ranging from $300 per month for 1–10 subscribers to $75,000 per month for 250+ subscribers.[22] In addition, the Consolidated Tape Association (''CTA'') historically has offered CTA Tape A Market Data, which includes consolidated last sale and bid-ask data, for a monthly fee for professional subscribers on a tiered, sliding scale basis under which subscribers pay less per device as the number of devices increases.[23]

The Exchange also believes that the proposed display fees are reasonable because the Exchange is not increasing its fees for any current data recipient, but rather lowering fees for data recipients with a large number of Professional End-Users. The Exchange believes that the proposed display fees and tiered pricing structure are equitable and not unfairly discriminatory because they will encourage customers to provide access to the Exchange's market data to a greater number of Professional End-Users. In addition, encouraging greater access through reduced fees for display use of the Exchange's market data will increase transparency of the market, which would benefit all market participants.

The Exchange also notes that purchasing Amex Options Products is entirely optional. Firms are not required to purchase them and have a wide variety of alternative options market data products from which to choose.[24] Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [25] The Exchange believes that this is also true with respect to options markets.

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[26] In addition, the existence of alternatives to these data products, such as proprietary last sale data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach, and the Exchange incorporates by reference into this proposed rule change its affiliate's

[18] *See supra* n.13.

[19] *See* NASDAQ Options Rules Chapter XV, Section 4. Alternatively, NOM charges each professional subscriber $5 per month for BONO and $10 per month for ITTO.

[20] *See* Section IX of the NASDAQ OMX PHLX LLC Pricing Schedule and Securities Exchange Act Release No. 68576 (Jan. 3, 2013), 78 FR 1886 (Jan. 9, 2013) (SR-Phlx-2012–145). Alternatively, Phlx charges each professional subscriber $40 per month.

[21] *See* NASDAQ OMX BX Rule 7023(a)(2). Alternatively, BX charges each professional subscriber $20 per month for BX TotalView for NASDAQ issues and $20 per month for BX TotalView for NYSE and regional issues.

[22] *See* NASDAQ Rule 7023.

[23] *See, e.g.,* Exhibit E of CTA Plan dated July 25, 2012, Securities Exchange Act Release No. 69157 (Mar. 18, 2013), 78 FR 17946 (Mar. 25, 2013) (SR–CTA/CQ–2013–01).

[24] *See supra* nn.19–21.

[25] *NetCoalition,* 615 F.3d at 535.

[26] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

analysis of this topic in another rule filing.[27]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary data products is constrained by actual competition for the sale of proprietary data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition. The market for proprietary options data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline to the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of options market data itself, providing virtually limitless opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market.

Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary market data. The U.S. Department of Justice has acknowledged the aggressive competition among exchanges, including for the sale of proprietary market data itself. In announcing that the bid for NYSE Euronext by NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. had been abandoned, Assistant Attorney General Christine Varney stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [28] Similarly, the options markets vigorously compete with respect to options data products.[29]

It is common for broker-dealers to further exploit this recognized competitive constraint by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. In addition, in the case of products that are distributed through market data vendors, the market data vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available the Amex Options Products unless their customers request it, and data recipients with Professional End-Users will not elect to purchase them unless they can be used for profit-generating purposes. All of these operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of their data products. The more trade executions a platform does, the more valuable its market data products become. Further, data products are valuable to many end-users only insofar as they provide information that end-users expect will assist them in making trading decisions. In that respect, the Exchange believes that the Amex Options Products will offer options market data information that is useful for professionals in making trading decisions based on both display and non-display usage, the latter of which includes, as described above, high frequency trading, automated order and quote generation and order pegging, and price referencing for the purposes of algorithmic trading and smart order routing.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange.

Other market participants have noted that the liquidity provided by the order book, trade execution, core market data, and non-core market data are joint products of a joint platform and have common costs.[30] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[31]

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[27] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca–2010–97).

[28] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html*.

[29] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[30] *See* Securities Exchange Act Release No. 62887 (Sept. 10, 2010), 75 FR 57092, 57095 (Sept. 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110); and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111) (''all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''); *see also* August 1, 2008 Comment Letter of Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX Group, Inc., Statement of Janusz Ordover and Gustavo Bamberger (''because market data is both an input to and a byproduct of executing trades on a particular platform, market data and trade execution services are an example of 'joint products' with 'joint costs.'''), attachment at pg. 4, available at www.sec.gov/comments/34–57917/3457917–12.pdf.

[31] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis.… Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' Quarterly Journal of Economics V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are

Continued

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products. Thus, because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 11 self-regulatory organization (''SRO'') options markets. One of the 11 just launched operations in December 2012; another one of the 11 SROs has announced plans to launch a second options exchange,[32] which would bring the total number of options SROs to 12. The Exchange believes that these new entrants demonstrate that competition is robust.

Each SRO market competes to produce transaction reports via trade executions. Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE Arca, Inc.; Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; International Securities Exchange, LLC; NASDAQ; Phlx; BX; BATS Exchange, Inc. (''BATS''); and Miami International Securities Exchange LLC. Because market data users can thus find suitable substitutes for most proprietary market data products,[33] a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. As noted above, the proposed non-display fees for NYSE Amex Options are generally lower than the maximum non-display fees charged by other exchanges such as NASDAQ, Phlx, and BX for comparable products.[34] The proposed display fees are being reduced for data recipients with relatively larger numbers of Professional End-Users.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. As noted above, a new options exchange launched in December 2012, and a 12th options exchange has filed for Commission approval to commence operations. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS, and Direct Edge. Today, BATS and Direct Edge provide certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[35]

Further, data products are valuable to certain end users only insofar as they provide information that end users expect will benefit them in their trading decisions. As noted above, non-display data can be particularly valuable for high frequency trading, automated order and quote generation and order pegging, and price referencing for the purposes of algorithmic trading and smart order routing, whereas display data can be used for monitoring real-time market conditions and trading activity. The Exchange believes the proposed fees will benefit customers by providing them with a clearer way to determine their fee liability for non-display devices and reduced prices for customers with larger numbers of display devices.

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary options data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange published draft Data Policies on its Web site on November 20, 2012. Among other things, the Data Policies addressed non-display use for certain market data products. The Exchange solicited comments on the Data Policies in the form of a survey. The Exchange received 12 comments relating to non-display use. Exhibit 2 contains a copy of the notice soliciting

jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[32] Press Release, SEC Publishes ISE's Form 1 Application for a Second Options Exchange (Mar. 5, 2013), available at *http://www.ise.com/assets/documents/AboutISE/PressRelease/CompanyNews/2013/20130305$SEC_Publishes_ISEs_Form_1_Application_for_a_Second_Options_Exchange.pdf.*

[33] *See supra* nn.19–21.

[34] *Id.*

[35] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

comment, the Data Policies, the 12 comments received in alphabetical order, and an alphabetical listing of such comments.

Nine commenters [36] requested greater clarity with respect to the definition and examples of non-display use. Specifically, the commenters requested that the Exchange provide a consistent definition of non-display use. As described above, the definition of non-display use will be accessing, processing or consuming an NYSE Amex data product delivered via direct and/or Redistributor data feeds, for a purpose other than in support of its display or further internal or external redistribution. The Exchange believes that this definition addresses the comments and will clearly describe the types of activities that will qualify for the proposed fee. The Exchange also provided examples for illustrative purposes, which are not exclusive.

Four commenters [37] also questioned whether price referencing, compliance, accounting or auditing activities, and derived data should be considered non-display use. The Data Policies listed price referencing, compliance, accounting or auditing activities, and derived data as examples of non-display usage; however, as discussed above, the Exchange has determined that price referencing for the purposes of algorithmic trading and/or smart order routing would be considered Non-Display Trading Activities, and applications that use the data product for non-trading activities, such as compliance, accounting or auditing activities, and derived data are not covered by the non-display fees and are subject to the current standard per-device fee structure.

Three commenters [38] asked for examples of how the Exchange would charge for customers that use both display and non-display devices. The Exchange believes that the pricing examples provided above are responsive to this request. One commenter [39] stated that the proposed fees are excessive. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory for the reasons discussed in Section 3(b) above.

[36] Barclays, Brown Brothers Harriman, CMC Markets, Deutsche Bank, Flowtraders, Nomura, Threadneedle, Transtrend BV, and UBS.

[37] Barclays, CMC Markets, Transtrend BV, and UBS.

[38] Essex Radez LLC, Fidelity Market Data, and Lloyds TSB Bank plc.

[39] Essex Radez LLC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [40] of the Act and subparagraph (f)(2) of Rule 19b–4 [41] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [42] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–40. 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–NYSEMKT–2013–40 and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11634 Filed 5–15–13; 8:45 am]

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[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f)(2).

[42] 15 U.S.C. 78s(b)(2)(B).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69556; File No. SR–DTC–2013–802])

Self-Regulatory Organizations; The Depository Trusts Company; Notice of Filing and No Objection To Advance Notice To Renew Its Existing Credit Facility

May 10, 2013.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 [1] (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934,[2] notice is hereby given that on April 22, 2013, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–DTC–2013–802 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared primarily by DTC. This publication serves as solicitation of comments on the Advance Notice from

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

interested persons and as notice of no objection to the Advance Notice.

I. Clearing Agency's Statement of the Terms of Substance for the Advance Notice

DTC is renewing its 364-day syndicated, revolving credit facility (''Renewal''), as described in additional detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.[3]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

Description of Change

As part of its liquidity risk management regime, DTC maintains a $1.9 billion, 364-day committed, revolving line of credit with a syndicate of commercial lenders (''Credit Facility''), which is renewed every year. The terms and conditions of the Renewal are specified in the Twelfth Amended and Restated Revolving Credit Agreement to be dated as of May 14, 2013, among DTC, National Securities Clearing Corporation (''NSCC''),[4] the lenders party thereto, and JPMorgan Chase Bank, N.A. as the administrative agent, and are substantially the same as the terms and conditions of the existing Credit Facility agreement dated as of May 15, 2012 among the same parties. Although the aggregate commitments being sought under the Renewal increased to $16 billion, the commitments to DTC as a borrower will remain at $1.9 billion as provided in the existing Credit Facility agreement. As of April 19, 2013, NSCC and DTC had received aggregate commitments of $10.121 billion towards the Renewal.

This agreement and its substantially similar predecessor agreements have been in place since the introduction of same-day funds settlement at DTC because DTC requires same-day liquidity resources to cover the failure-to-settle of its largest Participant or affiliated family of Participants. If a Participant fails to satisfy its end-of-day net settlement obligation, DTC may borrow under the Credit Facility to enable it, if necessary, to fund settlement among non-defaulting Participants. Any borrowing would be secured principally by securities that were intended to be delivered to the defaulting Participant upon payment of its net settlement obligation and securities previously designated by the defaulting Participant as collateral, was well as the portion of the Participant's deposit to the Participants Fund held as DTC Series A Preferred Stock.[5] The Credit Facility is built into DTC's primary risk management controls (i.e., the net debit cap and collateral monitor), which require that the end-of-day net funds settlement obligation of a Participant is fully collateralized and cannot exceed DTC's liquidity resources.

Anticipated Effect on and Management of Risk

DTC believes that the Credit Facility is a cornerstone of DTC risk management and its renewal is critical to the DTC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at DTC.

(B) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

No written comments were solicited or received with respect to the Advance Notice.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The clearing agency may implement the proposed change pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act if it has not received an objection to the proposed change within 60 days of the later of (i) the date that the Commission received the advance notice or (ii) the date the Commission receives any further information it requested for consideration of the notice.[6] The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.[7]

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.[8] A proposed change may be implemented in less than 60 days from the date of receipt of the advance notice, or the date the Commission receives any further information it requested, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.[9] The clearing agency shall post notice on its Web site of proposed changes that are implemented.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–DTC–2013–802 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–DTC–2013–802. 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

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] The Credit Facility provides for both DTC and NSCC as borrowers, with an aggregate commitment of $1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

[5] DTC maintains a Participants Fund to which each Participant is required to make a cash deposit, based on its historic settlement activity, which is partially allocated to an investment in shares of DTC Series A Preferred Stock up to 25% of the Participant's required cash amount. The cash portion of the Participants Fund additionally provides a liquidity resource for settlement and, to the extent invested in securities, repurchase agreements or deposits may be pledged to support a borrowing. *See* DTC's Rules, By-laws, Organization Certificate, Rules 4 and 4(A) (*http://dtcc.com/legal/rules_proc/dtc_rules.pdf*).

[6] 12 U.S.C. 5465(e)(1)(G).

[7] 12 U.S.C. 5465(e)(1)(F).

[8] 12 U.S.C. 5465(e)(1)(H).

[9] 12 U.S.C. 5465(e)(1)(I).

[10] 17 CFR 240.19b–4(n)(4)(i).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2013/dtc/SR-DTC-2013-802.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–DTC–2013–802 and should be submitted on or before June 6, 2013.

V. Commission Findings and Notice of No Objection

Although Title VIII does not specify a standard of review for advance notices, the Commission believes that the stated purpose of Title VIII is instructive.[11] The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities (''FMU'') [12] and providing an enhanced role for the Board of Governors of the Federal Reserve System (''Board of Governors'') in the supervision of risk management standards for systemically-important FMUs.[13]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator.[14] Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[15]

The Commission adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act on October 22, 2012 (''Clearing Agency Standards'').[16] The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[17] As such, it is appropriate for the Commission to review advance notices against the objectives and principles for risk management standards as described in Section 805(b), as well as the applicable Clearing Agency Standards promulgated under Section 805(a).

The Advance Notice is a proposal to enter into a renewed Credit Facility, as described above, which is designed to help mitigate the risk that DTC would be under collateralized in the event that a Participant would fail to satisfy its end-of-day net settlement obligation. Consistent with Section 805(b) of the Clearing Supervision Act,[18] the Commission believes the proposal promotes robust risk management, as well as the safety and soundness of DTC's operations, while reducing systemic risks and supporting the stability of the broader financial system, by maintaining a cornerstone to DTC's risk management system in a Credit Facility, in preparation for a possible failure-to-settle by a Participant.

Additionally, Commission Rule 17Ad–22(d)(11) regarding default procedures,[19] adopted as part of the Clearing Agency Standards,[20] requires that registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.'' [21] Here, as described above, the renewed Credit Facility should help DTC continue to meet its respective obligations in a timely fashion, in the event that a Participant fails-to-settle, thereby helping to contain losses and liquidity pressures from that failure.

As described in Item III above, Section 806(e)(1)(G) of the Clearing Supervision Act provides that a designated FMU may implement a change contained in an advance notice if it has not received an objection to the proposed change within the applicable 60 day period.[22] However, Section 806(e)(1)(I) allows the Commission to issue a non-objection prior to the 60th day.[23] If the Commission chooses to issue a non-objection prior to the 60th day, it must notify the designated FMU in writing that it does not object and authorize implementation of the change on an earlier date.[24] If the Commission chooses to object prior to the 60th day, it must similarly notify the designated FMU.[25]

In its filing with the Commission, DTC requested that the Commission notify DTC, under Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission has no objection to the Advance Notice no later than Friday, May 10, 2013, two business days before the existing Credit Facility is set to expire on Tuesday, May 14, 2013, to ensure that there is no period of time that DTC operates without the Credit Facility.

For the reasons stated above, the Commission does not object to the Advance Notice.

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[26] that the Commission *does not object* to the change described in advance notice SR–DTC–2013–802 and that DTC be and hereby is

[11] 12 U.S.C. 5461(b).

[12] DTC was designated as a systemically important FMU by the Financial Stability Oversight Council (''FSOC'') on July 18, 2012. FSOC 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.*

[13] 12 U.S.C. 5461(b).

[14] 12 U.S.C. 5464(a)(2).

[15] 12 U.S.C. 5464(b).

[16] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[17] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors governing the operations of designated FMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. *See* Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

[18] *See* 12 U.S.C. 5464(b).

[19] 17 CFR 240.17Ad–22(d)(11).

[20] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[21] 17 CFR 240.17Ad–22(d)(11).

[22] *See* 12 U.S.C. 5465(e)(1)(G).

[23] 12 U.S.C. 5465(e)(1)(I).

[24] *Id.*

[25] 12. U.S.C. 5465(e)(1)(E).

[26] 12 U.S.C. 5465(e)(1)(I).

authorized to implement the change as of the date of this notice.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11603 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69557; File No. SR–NSCC–2013–803]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and No Objection To Advance Notice To Renew Its Existing Credit Facility

May 10, 2013.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 [1] (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934,[2] notice is hereby given that on April 22, 2013, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–NSCC–2013–803 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared primarily by NSCC. This publication serves as solicitation of comments on the Advance Notice from interested persons and as notice of no objection to the Advance Notice.

I. Clearing Agency's Statement of the Terms of Substance for the Advance Notice

NSCC is renewing its 364-day syndicated, revolving credit facility (''Renewal''), as described in additional detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.[3]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

Description of Change

As part of its liquidity risk management regime, NSCC maintains a 364-day committed, revolving line of credit with a syndicate of commercial lenders (''Credit Facility''), which is renewed every year. Under the existing Credit Facility, NSCC may borrow up to $7.43 billion of an aggregate commitment of $9.33 billion.[4] The terms and conditions of the Renewal are specified in the Twelfth Amended and Restated Revolving Credit Agreement to be dated as of May 14, 2013, among NSCC, DTC, the lenders party thereto, and JPMorgan Chase Bank, N.A. as the administrative agent, and are substantially the same as the terms and conditions of the existing Credit Facility agreement dated as of May 15, 2012 among the same parties. However, the aggregate commitments being sought under the Renewal increased to $16 billion. As of April 19, 2013, NSCC and DTC had received aggregate commitments of $10.121 billion towards the Renewal, of which all but $1.9 billion would be the commitments to NSCC as a borrower.

This agreement and its substantially similar predecessor agreements have been in place since the introduction of same-day funds settlement at NSCC because NSCC requires same-day liquidity resources to cover the failure-to-settle of its largest Member or affiliated family of Members. If a Member defaults on its end-of-day settlement obligations, NSCC may borrow under the Credit Facility to enable it, if necessary, to fund settlement among non-defaulting Members. Any borrowing would be secured principally by (i) securities deposited by Members in NSCC's Clearing Fund (i.e., the Eligible Clearing Fund Securities, as defined in Rule 4 of NSCC Rules and Procedures,[5] pledged by Members to NSCC in lieu of cash Clearing Fund deposits); and (ii) securities cleared through NSCC's Continuous Net Settlement System that were intended for delivery to the defaulting Member upon payment of its net settlement obligation. NSCC's Clearing Fund, which operates as its default fund, addresses potential exposure through a number of risk-based component charges calculated and assessed daily. As integral parts of NSCC's risk management structure, NSCC believes that the Credit Facility and the Clearing Fund together help NSCC to have sufficient liquidity to complete end-of-day money settlement.

Anticipated Effect on and Management of Risk

NSCC believes that the Credit Facility is a cornerstone of NSCC risk management, and its renewal is critical to the NSCC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at NSCC.

(B) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

No written comments were solicited or received with respect to the Advance Notice.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The clearing agency may implement the proposed change pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act if it has not received an objection to the proposed change within 60 days of the later of (i) the date that the Commission received the advance notice or (ii) the date the Commission receives any further information it requested for consideration of the notice.[6] The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.[7]

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.[8] A proposed change may be implemented in less than 60 days from the date of receipt of the advance notice, or the date the Commission receives any further information it requested, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.[9] The

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] The Commission has modified the text of the summaries prepared by NSCC.

[4] The Credit Facility provides for both The Depository Trust Company (''DTC'') and NSCC as borrowers, with an aggregate commitment of $1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

[5] *See* NSCC Rules and Procedures, Rule 4 (*http://dtcc.com/legal/rules_proc/nscc_rules.pdf*).

[6] 12 U.S.C. 5465(e)(1)(G).

[7] 12 U.S.C. 5465(e)(1)(F).

[8] 12 U.S.C. 5465(e)(1)(H).

[9] 12 U.S.C. 5465(e)(1)(I).

clearing agency shall post notice on its Web site of proposed changes that are implemented.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NSCC–2013–803 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NSCC–2013–803. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2013/nscc/SR-NSCC-2013-803.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSCC–2013–803 and should be submitted on or before June 6, 2013.

V. Commission Findings and Notice of No Objection

Although Title VIII does not specify a standard of review for advance notices, the Commission believes that the stated purpose of Title VIII is instructive.[11] The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities (''FMU'') [12] and providing an enhanced role for the Board of Governors of the Federal Reserve System (''Board of Governors'') in the supervision of risk management standards for systemically-important FMUs.[13]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator.[14] Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[15]

The Commission adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act on October 22, 2012 (''Clearing Agency Standards'').[16] The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[17] As such, it is appropriate for the Commission to review advance notices against the objectives and principles for risk management standards as described in Section 805(b), as well as the applicable Clearing Agency Standards promulgated under Section 805(a).

The Advance Notice is a proposal to enter into a renewed Credit Facility, as described above, which is designed to help mitigate the risk that NSCC would be under collateralized in the event of a defaulting Member. Consistent with Section 805(b) of the Clearing Supervision Act,[18] the Commission believes the proposal promotes robust risk management, as well as the safety and soundness of NSCC's operations, while reducing systemic risks and supporting the stability of the broader financial system, by maintaining a cornerstone to NSCC's risk management system in a line of credit, in preparation for a possible Member default.

Additionally, Commission Rule 17Ad–22(d)(11) regarding default procedures,[19] adopted as part of the Clearing Agency Standards,[20] requires that registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.'' [21] Here, as described above, the renewed Credit Facility should help NSCC continue to meet its respective obligations in a timely fashion, in the event of a Member default, thereby helping to contain losses and liquidity pressures from that default.

Finally, Commission Rule 17Ad–22(b)(1) regarding measurement and management of credit exposure,[22] also adopted as part of the Clearing Agency Standards,[23] requires a central counterparty (''CCP''), of which NSCC is one, to establish, implement, maintain and enforce written policies and procedures reasonably designed to

[10] 17 CFR 240.19b–4(n)(4)(i).

[11] 12 U.S.C. 5461(b).

[12] NSCC was designated as a systemically important FMU by the Financial Stability Oversight Council (''FSOC'') on July 18, 2012. FSOC 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf*.

[13] 12 U.S.C. 5461(b).

[14] 12 U.S.C. 5464(a)(2).

[15] 12 U.S.C. 5464(b).

[16] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[17] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors governing the operations of designated FMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. *See* Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

[18] *See* 12 U.S.C. 5464(b).

[19] 17 CFR 240.17Ad–22(d)(11).

[20] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

[21] 17 CFR 240.17Ad–22(d)(11).

[22] 17 CFR 240.17Ad–22(b)(1).

[23] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions so that the operations of the CCP would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.[24] Here, as described above, NSCC's proposal to enter into a renewed Credit Facility should help to minimize disruption to its CCP operations, thereby limiting its and non-defaulting Members' exposures to potential losses from a defaulting Member.

As described in Item III above, Section 806(e)(1)(G) of the Clearing Supervision Act provides that a designated FMU may implement a change contained in an advance notice if it has not received an objection to the proposed change within the applicable 60 day period.[25] However, Section 806(e)(1)(I) allows the Commission to issue a non-objection prior to the 60th day.[26] If the Commission chooses to issue a non-objection prior to the 60th day, it must notify the designated FMU in writing that it does not object and authorize implementation of the change on an earlier date.[27] If the Commission chooses to object prior to the 60th day, it must similarly notify the designated FMU.[28]

In its filing with the Commission, NSCC requested that the Commission notify NSCC, under Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission has no objection to the Advance Notice no later than Friday, May 10, 2013, two business days before the existing Credit Facility is set to expire on Tuesday, May 14, 2013, to ensure that there is no period of time that NSCC operates without the Credit Facility.

For the reasons stated above, the Commission does not object to the Advance Notice.

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[29] that the Commission *does not object* to the change described in advance notice SR–NSCC–2013–803 and that NSCC be and hereby is *authorized* to implement the change as of the date of this notice.

[24] 17 CFR 240.17Ad–22(b)(1).

[25] *See* 12 U.S.C. 5465(e)(1)(G).

[26] 12 U.S.C. 5465(e)(1)(I).

[27] *Id.*

[28] 12. U.S.C. 5465(e)(1)(E).

[29] 12 U.S.C. 5465(e)(1)(I).

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11597 Filed 5–15–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13577 and #1357]

Tennessee Disaster #TN–00075

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Tennessee dated 05/10/2013.

Incident: Severe storms and flooding.

Incident Period: 04/26/2013 through 04/28/2013.

Effective Date: 05/10/2013.

Physical Loan Application Deadline Date: 07/09/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 02/10/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Stewart.

Contiguous Counties:

Tennessee: Benton, Henry, Houston, Montgomery.

Kentucky: Calloway, Christian, Trigg.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.750
Homeowners Without Credit Available Elsewhere	1.875
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 135776 and for economic injury is 135780.

The States which received an EIDL Declaration # are Tennessee, Kentucky.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 10, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–11716 Filed 5–15–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13569 and #13570]

Indiana Disaster #IN–00052

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Indiana dated 05/10/2013.

Incident: Severe Storms and Flooding.

Incident Period: 04/17/2013 through 04/23/2013.

Effective Date: 05/10/2013.

Physical Loan Application Deadline Date: 07/09/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 02/10/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Grant, Howard, Tipton.

Contiguous Counties:

Indiana: Blackford, Carroll, Cass, Clinton, Delaware, Hamilton, Huntington, Madison, Miami, Wabash, Wells.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13569 6 and for economic injury is 13570 0.

The State which received an EIDL Declaration # is Indiana.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 10, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–11718 Filed 5–15–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13567 and #13568]

Iowa Disaster #IA–00050

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–4114–DR), dated 05/06/2013.

Incident: Severe Winter Storm.

Incident Period: 04/09/2013 through 04/11/2013.

Effective Date: 05/06/2013.

Physical Loan Application Deadline Date: 07/05/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 02/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort WortH, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/06/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Dickinson, Lyon, Obrien, Osceola, Sioux.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13567B and for economic injury is 13568B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–11721 Filed 5–15–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13561 and #13562]

Minnesota Disaster #MN–00049

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Minnesota (FEMA–4113–DR), dated 05/03/2013.

Incident: Severe Winter Storm.

Incident Period: 04/09/2013 through 04/11/2013.

Effective Date: 05/03/2013.

Physical Loan Application Deadline Date: 07/02/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 02/04/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/03/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cottonwood, Jackson, Murray, Nobles, Rock.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13561B and for economic injury is 13562B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–11723 Filed 5–15–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8327]

Culturally Significant Objects Imported for Exhibition Determinations: ''Tomoaki Suzuki''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as

appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Tomoaki Suzuki,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Art Institute of Chicago, Chicago, IL, from on or about May 23, 2013, until on or about October 27, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 9, 2013.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–11813 Filed 5–15–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Ninth Meeting: RTCA Next Gen Advisory Committee (NAC)

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

ACTION: Notice of RTCA NextGen Advisory Committee (NAC).

SUMMARY: The FAA is issuing this notice to advise the public of the ninth meeting of the RTCA NextGen Advisory Committee (NAC).

DATES: The meeting will be held June 4, 2013 from 9:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be at RTCA Headquarters, NBAA/Colson Conference Rooms, 1150 18th Street NW., Suite 910, Washington DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, by telephone at (202) 833–9339, fax at (202) 833–9434, or the Web site at *http://www.rtca.org.* Alternately, contact Andy Cebula at (202) 330–0652, or email *acebula@rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a NextGen Advisory Committee meeting. The agenda will include the following:

June 4, 2013

- Opening of Meeting and Introduction of NAC Members—Chairman Bill Ayer, Chairman, Alaska Air Group
- Official Statement of Designated Federal Official—The Honorable Michael Huerta, FAA Administrator
- Review and approval of February 7, 2013 Meeting Summary
- Chairman's Report—Chairman Ayer
- FAA Report—Mr. Huerta
- FAA NextGen Performance SnapShots
- Featured PBN Implementation Location
- Data Sources for Measuring NextGen Fuel Impact
  - Report on data sources to track and analyze the impacts of NextGen developed by the Business Case and Performance Metrics Work Group
- Recommendation for Implementing Categorical Exclusion Contained in FAA Modernization Act of 2012
- Recommendation developed by CatEx2 Task Group for implementing new statutory authority for a streamlined environmental review process.
- Performance Based Navigation (PBN)
  - Recommendation identifying barriers to implementing PBN along with mitigation strategies developed by Operational Capabilities Work Group
- NAC Taskings Discussion
- Anticipated Issues for NAC consideration and action at the next meeting, September 30, 2013, Washington, DC
- Other Business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section. Members of the public may present a written statement to the committee at any time.

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

Paige L. Williams,

Management Analyst, Business Operations Group, ANG–A12, Federal Aviation Administration.

[FR Doc. 2013–11730 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the Atlanta to Charlotte Portion of the Southeast High Speed Rail Corridor

AGENCY: Federal Rail Administration (FRA), DOT.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: The FRA is issuing this Notice of Intent to advise the public that FRA, jointly with the Georgia Department of Transportation (GDOT), will prepare a Tier 1 Environmental Impact Statement (Study) to evaluate potential passenger rail improvements between Atlanta, GA and Charlotte, NC, along the Southeast High-Speed Rail Corridor (SEHSR) as designated by the USDOT. The Study is being advanced consistent with the federal High-Speed Intercity Passenger Rail (HSIPR) program and includes the development of a Passenger Rail Corridor Investment Plan (PRCIP). A PRCIP provides the data necessary to support an FRA decision to fund and implement major investments in a passenger rail corridor. A PRCIP is comprised of two components: A Tier 1 EIS and a Service Development Plan (SDP). The Tier 1 EIS will address documentation on a broad corridor-level basis and be developed in accordance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations, and FRA's Procedures for Considering Environmental Impacts. The SDP addresses the overall scope, alternatives, approach and business case for proposed service and improvements.

DATES: FRA invites the public, governmental agencies, and all other interested parties to comment on the scope of the EIS. Written comment(s) on the scope of the Tier 1 EIS should be provided to GDOT or FRA by June 7, 2013 at the addresses below. Federal, state and local agencies are invited to attend one (1) web-based Agency Scoping Meeting. Three (3) Public Open House Meetings will follow the Agency Scoping Meeting, one to be held in each of the three study area states (Georgia, North Carolina, and South Carolina). Dates, locations and times for meetings and related information can be found on the Project Web site: *www.dot.ga.gov/AtlantaCharlotteHSR.*

ADDRESSES: Comments related to the scope of the study may be mailed to Glenn Bowman, PE, State Environmental Administrator, 600 West Peachtree Street NW., Atlanta, GA

30308, telephone (404) 631–1101, *gbowman@dot.ga.gov,* or to John Winkle, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6067, *john.winkle@dot.gov*. If a member of the public wishes to participate and cannot attend the public open house meetings, and does not have access to the Internet, they can request an informational package and comment form by contacting Glenn Bowman at the above address, or directly at (404) 631–1101 or John Winkle at the above address.

FOR FURTHER INFORMATION CONTACT: John Winkle, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6067, *john.winkle@dot.gov*. Information and documents regarding the environmental review process will be made available through the following Web site: *http://www.dot.ga.gov/AtlantaCharlotteHSR*.

SUPPLEMENTARY INFORMATION: As part of the Tier 1 EIS, FRA will establish and evaluate a range of reasonable corridor-level Alternatives that terminate in Atlanta, GA and connect to the SEHSR corridor in the Charlotte, NC metropolitan area. The alternatives will also include a No Build Alternative. The No Build Alterative consists of already planned transportation improvements to the corridor, but would not advance any Build Alternative to implement high-speed rail. Build Alternatives will consist of an array of passenger rail alternatives, including the use of existing rail facilities and new facilities. Through previous studies, FRA has identified three possible corridors for evaluation as part of the Tier 1 EIS and SDP: The existing Norfolk Southern rail corridor, the existing I–85 corridor, and a general Greenfield corridor. FRA may also consider other reasonable alternatives.

FRA is issuing this NOI to alert the public and agencies about the preparation of the Tier 1 EIS and associated SDP, to solicit public and agency input into the development of the scope of the Tier 1 EIS, and to advertise that public outreach activities conducted by FRA and GDOT will be considered in preparation of the Tier 1 EIS. To ensure that significant issues are identified and considered, interested parties are invited to comment on the proposed scope of environmental review, purpose and need, alternatives to be considered, environmental effects to be considered and evaluated, and methodologies to be used for evaluating effects.

I. Environmental Review Process

The Tier 1 EIS will be developed in accordance with the CEQ regulations (40 CFR part 1500 *et. seq.*) for implementing NEPA (42 U.S.C. 4321 *et. seq.*), and FRA's Procedures for Considering Environmental Impacts (64 CFR part 101). The Study will consider passenger rail alternatives that could include the use of interstate right-of-way and thus the Tier 1 EIS will follow the USDOT Order 5610.1C; Federal Highway Administration (FHWA) environmental impact and related procedures (23 CFR part 771); USDOT, FHWA Advisory T6640.80, Guidance for Preparing and Processing Environmental Documents and Section 4(f) documents; Federal-Aid Policy Guide 23 CFR parts 770, 772, 777; Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU); Moving Ahead for Progress in the 21st Century Act (MAP–21); and other applicable state and federal regulations.

The Study involves a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. 470(f)). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the Tier 1 EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8. The Tier 1 EIS will comply with the 1990 Clean Air Act Amendments, Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations), Executive Order 11990 (Protection of Wetlands), and other applicable federal laws, rules, and regulations.

FRA and GDOT will use a tiered process, as provided for in 40 CFR 1508.28, in the completion of the environmental review. ''Tiering'' is a staged environmental review process applied to environmental reviews for complex projects. The Tier 1 EIS will address the first tier of broad corridor issues and alternatives. Subsequent project-level second tier NEPA evaluations will analyze site-specific projects based on the decisions made at the Tier 1 Level. The Tier 1 NEPA assessment will result in an EIS with the appropriate level of detail for corridor decisions and will address broad overall issues of concern, including but not limited to:

- Articulation and confirmation of the purpose and need for the proposed action;
- Definition of the study area appropriate to assess reasonable alternatives;
- Identification of a comprehensive set of goals and objectives for the corridor in conjunction with stakeholders. These goals and objectives will be crafted to allow comprehensive evaluation of aspects of the action necessary to achieve the goals, including train operations, vehicles, and infrastructure;
- Identification of the range of reasonable alternatives to be considered, consistent with the current and planned use of the corridor and the existing services within and adjacent to the study area, including changing the existing rail corridor from one track to two tracks, considering a fully grade-separated route, considering an alternative ''greenfield corridor'' between Atlanta and Charlotte, and considering a no build alternative;
- Development of alternative screening evaluation criteria to identify alternatives that meet the need and purpose of the proposed action;
- Identification of the general alignment(s) of the reasonable alternatives;
- Identification of the infrastructure and equipment investment requirements for the reasonable alternatives;
- Identification of the operational changes required for the reasonable alternatives;
- Description of the corridor-level environmental impacts associated with the proposed changes in passenger rail train frequency, speed, and on-time performance;
- Characterization of the corridor-level environmental consequences of the reasonable alternatives;
- Evaluation and consideration of the potential for environmental impacts associated with the reasonable alternatives;
- Identification of a preferred alternative for a corridor route alignment;
- Development of an incremental investment approach for evaluation of corridors;
- Establishment of independent actions and Tier 2 projects to implement the proposed action and maintain a state of good repair; and
- Establishment of appropriate timing and sequencing of Tier 2 projects.

The Tier 1 EIS will address broad corridor-level issues and alternatives for passenger rail development in the corridor. Subsequent, Tier 2 environmental reviews will be

completed to analyze site-specific component projects and alternatives based on the decisions made in Tier 1 and projects identified within the Tier 1 EIS and Record of Decision (ROD).

II. Background

The Atlanta–Charlotte Corridor faces mobility challenges. Transportation demand and travel growth is outpacing existing and planned roadway capacity in the area. If these challenges go unaddressed, they will negatively influence the local, regional, and national economy. The investment in passenger rail is an essential strategy to foster the Southeast region's multimodal transportation system and its ability to support population and economic growth throughout the SEHSR network.

Specifically, the preliminary purpose of the Study is to improve inter- and intrastate linkage, supplement capacity, improve travel time and reliability, provide another reliable mode choice, create jobs, reduce dependence on foreign oil, and support economic development. The Tier 1 EIS and SDP will consider feasible and reasonable alternatives and will comparatively evaluate the reasonable alternatives and service alternatives to select a preferred alternative for development of high-speed rail. Based on the 2008 Volpe Center Report *Evaluation of High-Speed Rail Options in the Macon-Atlanta-Greenville-Charlotte Rail Corridor* (2008 Volpe Center Report), three alternative corridors have been identified for further consideration: The existing Norfolk Southern Railroad corridor, the existing I–85 interstate highway corridor, and a general Greenfield corridor. Technology options ranging from 90 mile per hour (mph) diesel-electric operations to 200 mph electrified operations in a fully grade-separated route, as identified in the 2008 Volpe Center Report, will be evaluated in the Tier 1 EIS and SDP.

The Tier 1 EIS will evaluate the identified, preliminary alternatives set forth in the 2008 Volpe Center Report and include a No Build Alternative and other potentially reasonable Build Alternatives. The No Build Alternative will serve as the baseline for comparison of alternatives. The No Build Alternative represents the existing transportation network including the physical characteristics and capacities of all transportation modes as they exist at the time of the Tier 1 EIS, with planned and funded improvements that will be in place at the time the service would become operational. The Build Alternatives will be developed at a corridor level and will address travel markets, services, operations, general alignments and station locations.

III. Scoping and Comments

FRA encourages broad participation in the Tier 1 EIS process during scoping and review of the resulting environmental documents. To ensure that the full range of issues related to this proposed action are addressed and that significant issues are identified, comments and suggestions are invited from all interested parties. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts. Public agencies with jurisdiction are requested to advise FRA and GDOT of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Study. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Study and if they wish to cooperate in the preparation of the EIS. Public scoping will be scheduled and is an important component of the scoping process for both the State and Federal environmental review. The scoping meetings described in this NOI will also be the subject of additional public notification.

FRA is seeking participation and input of interested Federal, State, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS.

Issued in Washington, DC, on May 13, 2013.

Corey Hill,

Director, Office of Passenger and Freight Programs.

[FR Doc. 2013–11701 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0029]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document received on March 19, 2013, the North Shore Railroad Company (NSHR) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223, Safety Glazing Standards–Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA–2013–0029.

NSHR petitioned FRA to grant a waiver of compliance from the safety glazing provisions of 49 CFR 223.15, *Requirements for existing passenger cars.* NSHR seeks this relief for a 1953 M500-type coach car, Number ORRX 4885, which is being purchased from a private owner, Ontario Rail (ORRX). NSHR intends to use ORRX 4885 in excursion, VIP, and shipper service on tracks owned by the Susquehanna Economic Development Authority–Council of Governments (SEDA–COG) Joint Rail Authority, and the Union County Industrial Railroad. The component railroads in SEDA–COG include the Nittany and Bald Eagle Railroad (72 miles), the Lycoming Valley Railroad (34 miles), the North Shore Railroad Company (NSHR, 38 miles), and the Shamokin Valley Railroad (25 miles). NSHR intends to operate on two additional lines: approximately 5 miles on the Milton Branch owned by the West Shore Railroad Corporation, and approximately 10 miles that the Lewisburg and Buffalo Creek Railroad owns on the Winfield Branch. The ORRX 4885 will be operated at a maximum timetable track speed authorized by each of the railroads mentioned above, but not to exceed 50 mph.

ORRX 4885 has 24 side windows and no end windows. Sixteen side windows are 28″ × 66″ and eight are 28″ × 26″. Each window has dual-pane-style laminated safety glazing (plated outside and laminated inside). None of the windows open; however, the two emergency exit windows on each end of the car are clearly marked and have hammers mounted on them to break out glazing under emergency conditions. ORRX 4885 is also equipped with flashlights, other battery-powered lighting, and an axe.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in

connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 1, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as is practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on May 13, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–11700 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research & Innovative Technology Administration

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Passenger Origin-Destination Survey Report

AGENCY: Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting a sample of airline passenger itineraries with the dollar value of the passenger ticket. Certificated air carriers that operated scheduled passenger service with at least one aircraft having a seating capacity of over 60 seats or operates an international route report these data. Comments are requested concerning whether: (a) The collection is still needed by the Department of Transportation; (b) BTS accurately estimates the reporting burden; (c) there are other ways to enhance the quality, utility and clarity of the information collected; and (d) there are ways to minimize reporting burden, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted by July 15, 2013.

FOR FURTHER INFORMATION CONTACT: James Bouse, Office of Airline Information, RTS–42, Room E34–441, RITA, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4876, Fax Number (202) 366–3383 or EMAIL *james.bouse@dot.gov.*

Comments: Comments should identify the associated OMB approval #2139–0001 and Docket ID Number RITA 2008–0002. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2139–0001, Docket—RITA 2008–0002. The postcard will be date/time stamped and returned.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2139–0001.

Title: Passenger Origin-Destination Survey Report.

Form No.: None.

Type of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers that provide scheduled passenger service or operate an international route.

Number of Respondents: 30 certificated air carriers.

Number of Responses: 120.

Estimated Time per Response: 210 hours.

Total Annual Burden: 25,200 hours.

Needs and Uses: Survey data are used in monitoring the airline industry, negotiating international agreements, reviewing requests for the grant of anti-trust immunity for air carrier alliance agreements, selecting new international routes, selecting U.S. carriers to operate limited entry foreign routes, and modeling the spread of contagious diseases.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on May 9, 2013.

William J. Chadwick,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2013–11728 Filed 5–15–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning election, revocation, termination, and tax effect of subchapter S status.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Katherine Dean, at (202) 622–3186, or at Internal Revenue Service, room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election, Revocation, Termination, and Tax Effect of Subchapter S Status.

OMB Number: 1545–1308.

Regulation Project Number: PS–260–82 (TD 8449—final).

Abstract: Section 1362 of the Internal Revenue Code provides for the election, termination, and tax effect of subchapter S status. Sections 1.1362–1 through 1.1362–7 of this regulation provides the specific procedures and requirements necessary to implement Code section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 133.

Estimated Time per Respondent: 2 hours, 25 minutes.

Estimated Total Annual Burden Hours: 322.

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 6, 2013.

R. Joseph Durbala,

OMB Reports Clearance Officer.

[FR Doc. 2013–11726 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–19

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 Revenue Procedure 2004–19, Probable or Prospective Reserves Safe Harbor.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed Katherine Dean, (202) 622–3186, or at Internal Revenue Service, Room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Katherine.b.dean@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Probable or Prospective Reserves Safe Harbor.

OMB Number: 1545–1861.

Revenue Procedure Number: Revenue Procedure 2004–19.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under § 611 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Annual Average Time per Respondent: 30 minutes.

Estimated Total Annual Hours: 50.

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 6, 2013.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2013–11715 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–C

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 1120–C, U.S. Income Tax Return for Cooperative Associations.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, 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 Katherine Dean, (202) 622–3186, at Internal Revenue Service, Room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Cooperative Associations.

OMB Number: 1545–2052.

Form Number: 1120–C.

Abstract: IRS Code section 1381 requires subchapter T cooperatives to file returns. Previously, farmers' cooperatives filed Form 990–C and other subchapter T cooperatives filed Form 1120. If the subchapter T cooperative does not meet certain requirements, the due date of their return is two and one-half months after the end of their tax year which is the same as the due date for all other corporations. The due date for income tax returns filed by subchapter T cooperatives who meet certain requirements is eight and one-half months after the end of their tax year. Cooperatives who filed their income tax returns on Form 1120 were considered to be late and penalties were assessed since they had not filed by the normal due date for Form 1120. Due to the assessment of the penalties, burden was placed on the taxpayer and on the IRS employees to resolve the issue. Proposed regulations (Reg–149436–04) published in the **Federal Register** (71 FR 43811), proposes that all subchapter T cooperatives will file Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

Current Actions: Beginning with tax year 2011, Schedule A previously found at the top of page 2 has been deleted. This schedule has been replaced with the stand alone Form 1125–A. Schedule E previously found on page 3 has been deleted. This schedule has been replaced with the stand alone Form 1125–E. Old lines 25, 26a, 26b, 26c, and 26d have been reformatted into new lines 25a, 25b, 25c, 26a, 26b, and 26c. These changes are based on comments we received from the National Council of Farmer Cooperatives.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 3000.

Estimated Time per Respondent: 111 hours, 54 minutes.

Estimated Total Annual Burden Hours: 335,700.

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 6, 2013.

R. Joseph Durbala,

OMB Reports Clearance Officer.

[FR Doc. 2013–11724 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 26, 2013.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227 or (515) 564–6638.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, June 26, 2013 at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or (515) 564–6638 or write: TAP Office, 210 Walnut Street, Stop 5115, Des Moines, IA 50309 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: May 10, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–11616 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 11, 2013.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Tuesday, June 11, 2013, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact Ms. Donna Powers at 1–888–912–1227 or (954) 423–7977, or write TAP Office, 1000 S Pine Island Road, Plantation, FL 33324, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: May 10, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–11619 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, June 20, 2013.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley or Patti Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, June 20, 2013 at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley or Ms. Patti Robb. For more information please contact Ms. Smiley or Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include issues dealing with various avenues of taxpayer communications.

Dated: May 10, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–11618 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 12, 2013.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, June 12, 2013 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–834–2203, or write TAP Office, 2 MetroTech Center, 100 Myrtle Avenue, 7th Floor, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: May 10, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–11615 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, June 12, 2013.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, June 12, 2013, at 12

p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on installment agreement letters, and other issues related to written communications from the IRS.

Dated: May 10, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–11617 Filed 5–15–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA's Homeless Providers Grant and Per Diem Program (VANS)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for assistance to acquire vans in order to facilitate transportation of veteran participants for currently operational Grant and Per Diem grantee projects funded under VA's Homeless Providers Grant and Per Diem Program and demonstrate an occupancy rate of 65 percent or better for the period of October 1, 2012, through March 31, 2013. This Notice of Funding Availability (NOFA) contains information concerning the program, funding priorities, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Program Office by 4:00 p.m. Eastern Time on Friday, June 28, 2013. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/HOMELESS/GPD.asp* or *http://www.grants.gov/.* Questions should be referred to the Grant and Per Diem Program at (toll-free) (877) 332–0334. For additional information on VA's Homeless Providers Grant and Per Diem Program, see Title 38, Code of Federal Regulations (CFR) part 61.

Submission of Application: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA's Homeless Providers Grant and Per Diem Program Office, 10770 North 46th Street, Suite C–200, Tampa, Florida 33617. Applications must be received in the Grant and Per Diem Program Office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery L. Quarles, Director, VA's Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 North 46th Street, Suite C–200, Tampa, Florida 33617; (toll-free) (877) 332–0334.

SUPPLEMENTARY INFORMATION: This NOFA announces the availability of capital funds under VA's Homeless Providers Grant and Per Diem Program for current operational Grant and Per Diem grantees seeking to purchase a van(s) to facilitate transportation of veteran participants. Only one application for funding per operational grant project number may be awarded. However, in the one allowable application, if the grantee has 50 or more beds associated with that project number, 2 vans may be requested. Please refer to 38 CFR part 61 for detailed program information.

Purpose: VA is pleased to issue this NOFA for VA's Homeless Providers Grant and Per Diem Program as a part of the effort to increase the availability of transportation to veteran participants in Grant and Per Diem funded programs by providing funding to purchase a van(s).

Definitions: 38 CFR 61.1 contains definitions of terms used in VA's Homeless Providers Grant and Per Diem Program. The District of Columbia, Commonwealth of Puerto Rico, and any territory or possession of the United States, may be considered eligible entities under the definition of ''State'' in 38 CFR 61.1.

Authority: Funding applied for under this Notice is authorized by title 38 U.S.C. 2011, 2012, 2013, and 2061. VA implements this statutory authority in 38 CFR part 61. Funds made available under this NOFA are subject to the requirements of those regulations.

Inspections and Monitoring Requirements: VA places a great deal of emphasis on the responsibility and accountability of grantees. VA will request the purchase documents, a copy of the title, and insurance upon completion of the purchase. VA may also inspect the van(s) upon completion of the purchase to determine if it was accomplished in accordance with the application submitted and meets all appropriate regulations. Applicants agree to submit reasonable assurances with respect to receipt of a capital grant under this part that:

(1) The van(s) will be used principally to furnish veterans the level of care for which VA awarded the applicant the original grant under the VA's Homeless Providers Grant and Per Diem Program; that not more than 25 percent of participants at any one time will be non-veterans; and that such services will meet the requirements of 38 CFR 61.1–61.82;

(2) The recipient will keep records and submit reports as VA may reasonably require, within the time frames required and give VA, upon demand, access to the records upon which such information is based;

(3) The applicant has agreed to comply with the applicable requirements of 38 CFR part 61 and other applicable laws and has demonstrated the capacity to do so;

(4) The applicant does not have an outstanding obligation to VA that is in arrears, and does not have an overdue or unsatisfactory response to an audit; and

(5) The applicant is not in default by failing to meet requirements for any previous assistance from VA.

Allocation: Approximately $2 million is available for grant awards under this NOFA. The amount awarded will not exceed 65 percent of the estimated total cost of the van(s) as stated in the van application. The maximum amount of the van(s) award will be the lesser of the approved van(s) award amount, and the actual cost of the van(s) not to exceed $35,000.00 per van. As applicants are already operating, they should take note that if the application is successful and van(s) funding is awarded under this NOFA, they will be subject to the

recapture provisions of 38 CFR 61.67(f) for this award and the disposition requirements of 38 CFR 49.34 and 43.32. Applicants should become familiar with the amount of time the van(s) will have to operate as based on the amount of funding awarded. Operational time for these grants will begin upon van(s) purchase. Grantees will be required to support their request for the van(s) (see Application Requirements).

Payments: Under this NOFA, VA will make payments in a method consistent with VA policy. Payments will be paid only for allowable costs as specified under the Office of Management and Budget Circulars for Grants Management and for the activities outlined in this NOFA. All payment specifics will be given to the grantee at the time of award.

Application: Applicants should be careful to complete the proper application package. Submission of an incorrect or incomplete application package may result in the application being rejected at threshold. The package will consist of two parts. The first part will be the standard forms required for van grants to include all required forms and certifications and will be provided by VA on the Grant and Per Diem Web site. They are:

Application for Federal Assistance (Standard Form 424)
Application Receipt Form (VA Form 10–0361A)
General Assurances (VA Form 10–0361 VAN)
Certification Regarding Debarment, Suspension and other Responsibility Matters —Primary Transactions (VA Form 10–0361)
Certification Regarding Debarment, Suspension and other Responsibility Matters —Lower Tier Transactions (VA Form 10–0361)
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary —Exclusion Lower Tier Covered Transactions (VA Form 10–0361)
Certification Drug Free Workplace (VA Form 10–0361)
Certification Regarding Lobbying (VA Form 10–0361)
Standard Form 424A, Non-Construction Budget
Standard Form 424B, Non-Construction Assurances

The second part of the application will be provided by applicants and consist of a project narrative and supporting documentation for purchase (see Application Requirements). Selections will be made based on the criteria described in the application, VA regulations, and NOFA. Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other Grant and Per Diem applicants.

Application Requirements: This section sets forth provisions for obtaining a van capital grant under 38 U.S.C. 2011. In addition to being an eligible entity, an applicant already must have received a grant under VA's Homeless Providers Grant and Per Diem Program and that grant must currently be operational. In addition, the project must demonstrate an occupancy rate of 65 percent or better for the period of October 1, 2012, through March 31, 2013. Potential applicants may contact the Grant and Per Diem Program Office to determine if this requirement is met prior to application.

Project Narrative and Supporting Documentation: Applicants will be required to provide an Internal Revenue Service (IRS) 501(c) Determination Letter and a letter from a Certified Public Accountant (CPA) or letter from the United Way stating they are a member in good standing. Applicants must also submit a narrative responding to the items and questions in this section of the NOFA. The responses should be labeled with the same titles and order of this NOFA. This is to be completed in a normal business format on not more than 15 double-spaced typed, single-sided pages in Arial 12 font. The narrative should address the following:

Budget Summary: **Note:** The estimated total costs of purchasing the van(s) may include the purchase price, sales taxes, title, and licensing fees.

(a) The *Total Cost* of the Van(s). This is the amount requested from VA plus the remaining balance of funds required to complete acquisition.

(b) Sixty-Five Percent of Total Cost Requested from VA. This is the amount of VA participation.

(c) Thirty-Five Percent Matching Funds. Provide the cash value of documented cash and in-kind resources from other public (including Federal and State) and private sources that are committed to the acquisition of the van(s), i.e., applicant cash, third party cash, third party non-cash.

Supporting Documentation of Match: Applicants must document matching resources on the appropriate organization letterhead stationary in the following format.

(a) *Applicant Cash Resources:* If this proposal is funded, applicant will commit $____ of its own funds for ____ to be made available to VA's Homeless Providers Grant and Per Diem program. The funds will be available on ____.

(b) *Third Party Cash:* If this proposal is funded, ____ will commit $____ to ____ for ____ to be made available to VA's Homeless Providers Grant and Per Diem program. These funds will be made available on ____.

(c) *Third Party Non-Cash:* If this proposal is funded, ____ will commit to make available ____ valued at $____ to VA's Homeless Providers Grant and Per Diem program proposed by ____. These resources will be made available to VA's Homeless Providers Grant and Per Diem program from ____ to ____.

Timeline: Please provide the number of estimated days and from execution of the grant agreement that it will take for the van(s) acquisition to occur.

Description of Need: The information you provide here will assist in the rating of your project. Identify the need for this van(s), by providing a short and descriptive narrative responding to each of the following items:

(a) Identify other sources of alternate public transportation available to homeless veterans in your project.

(b) Project location (e.g., is the project you are requesting a van or vans for located on medical center grounds? If yes, explain how the van(s) will be used to link homeless veterans with services off of the VA property in the community).

(c) Is this van(s) replacing a van(s) due to expired life use of current van(s)?

(d) Is this van(s) for special disabled individual transportation?

Description of Activity: Describe how the van(s) will facilitate service to homeless veteran participants. Include the following:

(a) Frequency of use.

(b) Type of use (e.g., describe how frequently the van or vans will be used for outreach versus used as an appointment shuttle and or greater access to neighborhood activities, services, and institutions).

(c) Type of van(s) (e.g., passenger van, justification for wheelchair lift, or other modifications. Include all options and or extra equipment that will be added to the van(s)).

Describe Operator Qualification: Provide a job description for the van operator that details the following:

(a) Requirements of the position, and

(b) Training that will be provided to the driver.

Methodology: VA will review all capital grant applications in response to this NOFA as follows: VA will group the applicants into the funding priority categories as applicable. Applicants will then be ranked within their respective funding category based on score and any ranking criteria set forth in that funding category, only if the applicant scores at least 80 cumulative points under the criteria in 38 CFR 61.18(d)(1–3).

The highest-ranked application for which funding is available, within the highest funding category, will be conditionally selected in accordance with their ranked order until VA reaches the projected amount of funding for each category. If funds are still available after selection of those applications in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in 38 CFR 61.14.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Interim Chief of Staff, Department of Veterans Affairs, approved this document on May 9, 2013 for publication.

Dated: May 10, 2013.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–11585 Filed 5–15–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under VA's Homeless Providers Grant and Per Diem Program (Rehabilitation)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for assistance to rehabilitate currently operational Grant and Per Diem grantee facilities originally funded under VA's Homeless Providers Grant and Per Diem Program (see funding priorities). This Notice of Funding Availability (NOFA) contains information concerning the program, funding priorities, application process, and amount of funding available.

DATES: An original completed and collated grant application (plus three completed collated copies) for assistance under VA's Homeless Providers Grant and Per Diem Program must be received in the Grant and Per Diem Program Office by 4:00 p.m. Eastern Time on Friday, June 28, 2013. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, *this deadline is firm as to date and hour,* and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/HOMELESS/GPD.asp* or *http://www.grants.gov/.* Questions should be referred to the Grant and Per Diem Program at (toll-free) (877) 332–0334. For additional information on VA's Homeless Providers Grant and Per Diem Program, see Title 38, Code of Federal Regulations (CFR) Part 61.

Submission of Application: An original completed and collated grant application (plus three copies) must be submitted to the following address: VA's Homeless Providers Grant and Per Diem Program Office, 10770 North 46th Street, Suite C–200, Tampa, Florida 33617. Applications must be received in the Grant and Per Diem Program Office by the application deadline. This includes applications submitted through Grants.gov. Applications must arrive as a complete package. Materials arriving separately *will not* be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery L. Quarles, Director, VA's Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 North 46th Street, Suite C–200, Tampa, Florida 33617; (toll-free) (877) 332–0334.

SUPPLEMENTARY INFORMATION: This NOFA announces the availability of rehabilitation funds under VA's Homeless Providers Grant and Per Diem Program for current operational Grant and Per Diem grantees to rehabilitate their Grant and Per Diem facility. Only one application for funding per operational project number may be awarded. Applicants that have multiple grant projects located at the *same facility* need only to submit one application with all the affected projects numbers listed. Applicants that have multiple facilities *under a single project number* only need to submit one application for all of the affected facilities. For example, one project, at one building (facility) = one application. Multiple projects, at one building (facility) = one application. Multiple buildings (facilities), under one project number = one application. Potential applicants may contact the Grant and Per Diem Program Office to determine the number of applications needed.

All potential grantees are advised should they be awarded and accept a capital rehabilitation grant under this NOFA; the real property rehabilitated may be subject to the real property disposition requirements of 38 CFR 49.32.

Previously awarded grant projects that have not exceeded the maximum years of operation listed in 38 CFR 61.67 and Per Diem Only (PDO) Transition in Place projects are not eligible for this funding.

Purpose: VA is pleased to issue this NOFA for VA's Homeless Providers Grant and Per Diem Program as a part of the effort to increase the useful life of the facilities of grantees previously funded under the program. By providing funding to rehabilitate these existing operational grantee facilities, VA expects current Grant and Per Diem grantees may rehabilitate their currently funded Grant and Per Diem project location in order to meet the safety, security, and privacy issues associated with the homeless Veteran populations they serve. VA expects awardees to complete the rehabilitation within 18 months of the award.

Definition: 38 CFR 61.1 contains definitions of terms used in VA's Homeless Providers Grant and Per Diem Program. The District of Columbia, Commonwealth of Puerto Rico, and any territory or possession of the United States, may be considered eligible entities under the definition of ''State'' in 38 CFR 61.1.

Authority: Funding applied for under this Notice is authorized by title 38 U.S.C. §§ 2011, 2012, 2013, and 2061. VA implements this statutory authority in 38 CFR part 61. Funds made available under this NOFA are subject to the requirements of those regulations.

Inspections and Monitoring Requirements: VA places a great deal of emphasis on the responsibility and accountability of grantees. VA will inspect the facility upon completion of the rehabilitation to determine it was accomplished in accordance with the

application submitted and meets all appropriate codes. All grantees are required to ensure that facilities rehabilitated under this NOFA meet the Life Safety Code of the National Fire and Protection Association. Please note, typically the Life Safety Code is more stringent than local or state codes. Each rehabilitation funded program will submit quarterly reports to the Grant and Per Diem Project Development Specialist in a standard business format. These reports may contain current status of the rehabilitation project and estimated times to completion of milestone dates.

Allocation: Approximately $22 million is available for rehabilitation grant awards under this NOFA. All of the funding will begin with the first funding priority and then should not enough eligible projects be funded under the first funding priority, those funds not expended will fall to the second funding priority, and subsequently the third funding priority until all funds are expended. When VA reaches the funding priority where it will expend all of the funding, VA will only then fund applicants in that final funding priority at a percentage of their request. For example, if the first and second priority requests are funded at 100 percent and only $3 million of funding remains and the third funding priority has $6 million in requests, then applicants in the third funding priority would only receive 50 percent of what they requested (see Methodology).

The amount awarded will be not more than 65 percent of the estimated total cost of the rehabilitation activity as stated in the rehabilitation application (this may include architectural fees and engineering fees). The maximum amount of the rehabilitation award will be the lesser of the approved rehabilitation activity award amount and the actual costs to complete the rehabilitation and may not exceed $250,000.00 per project. VA reserves the right to fund only those projects or portions of projects based on the percentage of use by VA and/or based on the actual need of the rehabilitation as determined by VA subject matter experts. As applicants are already operating and have met or exceeded the length of operation from the original grant award they should take note that if the application is successful and rehabilitation funding is awarded under this NOFA they will be subject to the recapture provisions of 38 CFR 61.67(b). Applicants should become familiar with the amount of time the rehabilitated project will have to operate as based on the amount of funding awarded. Operational time for these grants will begin upon rehabilitation completion as verified by VA. Grantees will be required to support their request for rehabilitation funding with detailed rehabilitation plans and budgets for the project (see Application Requirements).

Funding Priorities: VA establishes the following funding priorities in order to support its oldest active original capital and PDO facilities: (1) Operational capital grantees with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and have exceeded the maximum operational time requirements of 38 CFR 61.67 on their previous capital grant; (2) Operational PDO grantees originally funded in 2002, 2003, and 2004 with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and are willing to meet the 7-year operational time requirements of 38 CFR 61.67 for this capital grant; (3) Operational PDO grantees originally funded in 2007, 2008, and 2010 with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and are willing to meet the 7-year operational time requirement of 38 CFR 61.67 for this capital grant. For all grantees, the operational time for this grant will begin upon VA verification that the rehabilitation is complete.

Potential applicants may use the chart below or contact the VA National Grant and Per Diem Program Office to determine if the operational time requirement for the previous capital grant has been met prior to application and/or to determine the new amount of operational time required. For capital grantees, the years of operation begin on the date the original grant was awarded per diem. For PDO grantees, as there was no original operational time commitment under these awards, the years of operation will begin upon VA verification of the successful completion of the rehabilitation.

Grant amount (dollars in thousands)	Years of operation
0–250	7
251–500	8
501–750	9
751–1,000	10
1,001–1,250	11
1,251–1,500	12
1,501–1,750	13
1,751–2,000	14
2,001–2,250	15
2,251–2,500	16
2,501–2,750	17
2,751–3,000	18
Over 3,000	20

For those applicants that have multiple projects in the same facility, the project number with the largest number of beds will be used to determine the funding priority and occupancy rate under this NOFA.

For those applicants that have a capital grant that has not yet exceeded the maximum operational time listed in 38 CFR 61.67(b) but also have a PDO grant not subject to recapture in the same site, the applicant should apply under the PDO. However, VA would only pay for rehabilitation specific to the PDO beds and prorate common areas (kitchen, roof) used by both.

Funding priority 1. VA is offering the opportunity for rehabilitation funding to operational capital grantees with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and have exceeded the operational time requirements of 38 CFR 61.67 on their previous capital grant and are willing to meet the 7-year operational time requirement of 38 CFR 61.67 for this capital grant. Should not enough eligible projects be funded under the first funding priority, funds not expended in this priority will fall to the second funding priority.

Funding priority 2. VA is offering the opportunity for rehabilitation funding to operational PDO grantees originally funded in 2002, 2003, and 2004 with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and are willing to meet the 7-year operational time requirements of 38 CFR 61.67 for this capital grant. Should not enough eligible projects be funded under the second funding priority, funds not expended in this priority will fall to the third funding priority.

Funding priority 3. VA is offering the opportunity for rehabilitation funding to operational PDO grantees originally funded in 2007, 2008, and 2010 with a minimum 65-percent occupancy rate in the last 6 months (October 1, 2012, through March 31, 2013) and are willing to meet the 7-year operational time requirements of 38 CFR 61.67 for this capital grant. Should funding still be available, the third priority will be funded until funding is expended (approximately $22 million).

Scope of Rehabilitation: VA will allow for the following rehabilitation activities that increase the useful life of the facility:

1. *Emergent Need Activities:* Those applications that document and demonstrate the overall proposed rehabilitation will correct a condition of the facility that may immediately affect

the health or safety of participants such as:

a. Remedies for Americans with Disabilities Compliance (e.g., access ramps, wider doors and hallways, bedrooms, and restrooms).

b. Remedies for Life/Safety (e.g., egress, smoke barrier, fire walls/doors, fire alarms, seismic improvements, and fire suppression systems).

2. *Significant Need Activities:* Those applications that document and demonstrate the overall proposed rehabilitation will correct a condition of the facility that may significantly affect the immediate privacy, health, or safety of participants such as:

a. Building Systems—Utilities and Features (e.g., electrical, heating, ventilation, air conditioning (HVAC), boiler, roof, elevators, locks, security fencing, security monitoring systems, and energy efficient items such as windows).

b. Clinical/Participant Support Facilitation (e.g., kitchens, dining facilities, laundry, counseling facilities, bedrooms, and bathrooms).

3. *Operational Need:* Those applications that document and demonstrate the overall proposed rehabilitation of a condition of the facility will increase the operational capability of the grantee to address the privacy, health, or safety of participants such as: General Rehabilitations (e.g., minor repairs or improvements such as painting, flooring, or other aesthetical enhancements to the facility).

Rehabilitation Activities Not Allowed Under this NOFA: Landscaping, fencing, equipment other than allowed above, and furniture. Those rehabilitation activities deemed outside of the Scope of Rehabilitation by VA subject matter experts will not be funded.

Payments: Under this NOFA, VA will make rehabilitation payments in a method consistent with VA policy. Rehabilitation payments will be paid only for allowable costs as specified under the Office of Management and Budget Circulars for Grants Management for the rehabilitation activities outlined in this NOFA. All payment specifics will be given to the grantee at the time of award.

Application: Applicants should be careful to complete the proper application package. Submission of the incorrect or incomplete application package will result in the application being rejected at threshold. The package will consist of two parts. The first part will be the standard forms required for rehabilitation grants to include all required forms and certifications and will be provided by VA on the Grant and Per Diem Web site at *http://www.va.gov/HOMELESS/GPD.asp.* They are as follows:

Application for Federal Assistance (Standard Form 424)
Application Receipt Form (VA Form 10–0361A)
General Assurances (VA Form 10–0361 GC)
Certification Regarding Debarment, Suspension and other Responsibility Matters—Primary Transactions (VA Form 10–0361)
Certification Regarding Debarment, Suspension and other Responsibility Matters—Lower Tier Transactions (VA Form 10–0361)
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (VA Form 10–0361)
Certification Drug Free Workplace (VA Form 10–0361)
Certification Regarding Lobbying (VA Form 10–0361)
Standard Form 424C, Construction Budget
Standard Form 424D, Construction Assurances

The second part of the application will be provided by applicants and consist of a project narrative and rehabilitation supporting documentation (see Application Requirements). Selections will be made based on the criteria described in the application, VA regulations, and NOFA. Applicants who are conditionally selected will be notified of any additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other grant and per diem applicants.

Application Requirements

(a) This section sets forth provisions for obtaining a rehabilitation capital grant under 38 U.S.C. 2011. In addition to being an eligible entity, an applicant must have previously received a grant under VA's Homeless Providers Grant and Per Diem Program, be operational, and meet the requirements of the funding priorities above.

(b) As to be eligible under this NOFA, applicants must be operational and therefore have previously provided documentation of Accounting System Certification and Evidence of Private Non-Profit Status. Therefore, VA will use the applicants existing documentation for this purpose.

Project Narrative and Supporting Documentation: Applicants will be required to provide a narrative of the proposed project rehabilitation. The responses should be labeled with the same titles and order of this NOFA. This is to be completed in a normal business format on not more than 15 double-spaced typed single sided pages in Arial 12 font.

The narrative should address the following:

a. Original grant project number or number(s) affected by the proposed rehabilitation;

b. Address of the site(s) to rehabilitated;

c. Budget and matching costs of the renovation:

(1) Total rehabilitation cost (this is the amount requested from VA *plus* the remaining balance of funds required to complete rehabilitation);

(2) Cost for any areas to be rehabilitated that are not Grant and Per Diem specific (unallowable to VA costs);

(3) Amount requested to VA for Grant and Per Diem rehabilitation (may not exceed 65 percent of the cost of the total Grant and Per Diem areas to be renovated);

(4) Amounts and type of matching funds as applicable, including:

(i) Applicant Cash;

(ii) Third Party Cash;

(iii) Third Party Non-Cash;

(iv) Volunteer Time; and

(v) Total of All Matching Funds.

(5) Supporting Documentation of Match: Applicants must provide firm documentation of matching resources at the time of application on their letterhead and donors must use their appropriate organization letterhead stationary in the following format. Failure to have your match at the time of application will result in your application be determined ineligible for funding.

(i) *Applicant Cash Resources:* If this proposal is funded, applicant will commit $_____ of its own funds for _____ to be made available to VA's Homeless Providers Grant and Per Diem program. The funds will be available on _____.

(ii) *Third Party Cash:* If this proposal is funded, _____ will commit $_____ to _____ for _____ to be made available to VA's Homeless Providers Grant and Per Diem program. These funds will be made available on _____.

(iii) *Third Party Non-Cash:* If this proposal is funded, _____ will commit to make available_____ valued at $_____ to VA's Homeless Providers Grant and Per Diem program proposed by _____. These resources will be made available to VA's Homeless Providers

Grant and Per Diem program from _____ to _____.

(iv) *Volunteer Time:* If this proposal is funded, _____ will commit to provide _____ hours of volunteer time to provide _____ to VA's Homeless Providers Grant and Per Diem program proposed by _____. The value of these services is $_____ based on a rate of _____.

(v) *Contributed Materials:* If this proposal is funded, _____ commits _____ for VA's Homeless Providers Grant and Per Diem program. The estimated value of this material is $_____.

d. The current condition of the proposed area or item to be rehabilitated; narrative description coupled with color photos;

e. Specifics on the rehabilitation work to be performed;

f. Urgency of the rehabilitation (how soon does it need to be accomplished);

g. Adequacy of the rehabilitation (is this the best method to complete the rehabilitation and why);

h. Benefit of the rehabilitation to the facility and to program participants;

i. Feasibility of the rehabilitation as compared to moving to another site;

j. Justification on why the work needs to be performed;

k. Major Milestones (Timeline) to completion; and

l. The following documents to support the narrative:

i. Plan: A plan from an architect, contractor, or other building professional that provides estimated costs for the proposed design;

ii. Schematics: Submit one set of line drawings showing the basic layout of the existing area to be rehabilitated and the area as it would be following the rehabilitation. Show total floor and room areas, designation of all spaces, and size of all areas and rooms. It is not necessary to show mechanical systems detail in the schematic drawings.

iii. When Plans Not Needed: In those cases where the rehabilitation proposed does not involve the creation of plans, i.e., changing or installing locks or painting. Items (i) and (ii) are not required. If applicants have questions they should contact the VA National Grant and Per Diem Program Office.

Application Scoring: Applications under this NOFA will not be scored. Rather VA will provide funding to all eligible applicants as described in the Methodology section of this NOFA until funding is expended.

Methodology: VA will review the rehabilitation grant applications in response to this NOFA as follows: VA will group the applicants into the funding priorities categories as applicable. VA will review to ensure the proposed rehabilitation activities meet the Scope of Rehabilitation activities as stated in the NOFA. VA will request further information and provide a time for delivery of that information from the applicant as needed in order to ensure the rehabilitation meets the governing laws, regulations, and NOFA. Funding will begin with the first funding priority and then should not enough eligible projects be funded under the first funding priority, those funds not expended will fall to the second funding priority, and subsequently the third funding priority until all funds are expended. When VA reaches the funding priority where it will expend all of the funding, VA will only then fund applicants in that final funding priority at a percentage of their request. For example, if the first and second priority requests are funded at 100 percent and only $3 million of funding remains and the third funding priority has $6 million in requests, then applicants in the third funding priority would only receive 50 percent of what they requested.

Prior to executing a funding agreement, VA will contact the applicants and make known the amount of proposed funding, verify the applicant still would like the funding, and verify the match documentation. Once VA verifies the match documentation, VA will execute an agreement and make payments to the grant recipient in accordance with 38 CFR 61.61 and other applicable provisions of this NOFA.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Interim Chief of Staff, Department of Veterans Affairs, approved this document on May 9, 2013 for publication.

Dated: May 10, 2013.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.

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Part II

Department of Education

34 CFR Part 685
William D. Ford Federal Direct Loan Program; Interim Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

[Docket ID ED–2013–OPE–0066]

RIN 1840–AD13

William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Interim final rule; request for comments.

SUMMARY: The Secretary amends the William D. Ford Federal Direct Loan Program (Direct Loan Program) regulations to reflect changes made to the program by the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141. Specifically, these interim final regulations reflect the provisions in MAP–21 that amended the Higher Education Act of 1965, as amended (HEA) to extend the 3.4 percent interest rate on Direct Subsidized Loans from July 1, 2012, to July 1, 2013, and to ensure that a borrower may not receive Direct Subsidized Loans for more than 150 percent of the published length of the educational program in which the borrower is enrolled. Under the changes made by MAP–21, if the borrower exceeds this Direct Subsidized Loan limit, the borrower also becomes responsible for the accruing interest on the Direct Subsidized Loans.

DATES: These interim final regulations are effective May 16, 2013. We must receive your comments on or before July 1, 2013.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. Please submit your comments only once in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID 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 This Site.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these interim final regulations, address them to Nathan Arnold, U.S. Department of Education, 1990 K Street NW., Room 8084, Washington, DC 20006–8542.

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: Nathan Arnold, U.S. Department of Education, 1990 K Street NW., Room 8084, Washington, DC 20006–8542. Telephone: (202) 219–7134 or via Internet at: *Nathan.Arnold@ed.gov*.

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

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action: On July 6, 2012, the President signed into law MAP–21, which, among other things, made two changes to section 455 of the HEA. First, the law extended for an additional year the 3.4 percent interest rate that had applied to Direct Subsidized Loans made to undergraduate students since July 1, 2011. Second, the law placed a limit on Direct Subsidized Loan eligibility for new borrowers on or after July 1, 2013. Specifically, the statute provides that a new borrower on or after July 1, 2013, becomes ineligible to receive additional Direct Subsidized Loans if the period during which the borrower has received such loans exceeds 150 percent of the published length of the borrower's educational program. The borrower also becomes responsible for accruing interest during all periods as of the date the borrower exceeds the 150 percent limit. The purpose of the statutory changes is to encourage students to complete their academic programs in a timely manner. Timely completion of programs will allow borrowers to reap the benefits of a postsecondary degree or credential and avoid incurring unnecessary student loan debt. This interim final rule implements the required statutory changes.

Summary of the Major Provisions of This Regulation:

Action: This interim final rule incorporates the statutory changes made by MAP–21 by—

- Providing that a Direct Subsidized Loan first disbursed on or after July 1, 2012, and before July 1, 2013, has an interest rate of 3.4 percent.
- Establishing new Direct Loan Program regulations that provide that a new borrower on or after July 1, 2013, is no longer eligible to receive additional Direct Subsidized Loans if the period during which the borrower has received such loans meets or exceeds 150 percent of the published length of the program in which the borrower is currently enrolled. These borrowers may still receive Direct Unsubsidized Loans for which they are otherwise eligible.
- Establishing new Direct Loan Program regulations that provide that new borrowers who are ineligible for Direct Subsidized Loans as a result of these provisions and enroll in a program for which the borrower would otherwise be eligible for a Direct Subsidized Loan become responsible for accruing interest on all previously received Direct Subsidized Loans during all future periods, beginning on the date of the triggering enrollment.
- Prorating periods of Direct Subsidized Loan receipt during part-time enrollment for purposes of the limit on Direct Subsidized Loan eligibility.
- Establishing special rules for applying the limit on Direct Subsidized Loan eligibility for borrowers enrolled in preparatory coursework required for enrollment in an undergraduate or a graduate or professional program and teacher certification coursework necessary for a State teaching credential for which the institution awards no academic credential. These special rules limit the borrower's responsibility for accruing interest in certain circumstances.
- Modifying existing entrance- and exit-counseling requirements to provide borrowers with information regarding the 150 percent limit on Direct Subsidized Loans.

Please refer to the *Significant Proposed Regulations* section of this preamble for a detailed discussion of the major provisions contained in this interim final rule.

Chart 1 summarizes the interim final regulations and related benefits, costs, and transfers that are discussed in more detail in the *Regulatory Impact Analysis* of this preamble. The Department estimates that approximately 62,000 borrowers will be affected by these interim final regulations in the 2013 loan cohort, with the number of borrowers affected increasing in each cohort to approximately 578,000 borrowers in the 2023 loan cohort. The benefits of these interim final regulations include reduced loan balances and lower payments for borrowers receiving Direct Subsidized Loans between July 1, 2012, and July 1, 2013, and the creation of incentives for first-time borrowers on or after July 1, 2013, to complete academic programs in

a timely manner. The net budget impact of the interim final regulations is −$3.9 billion over the 2013 to 2023 loan cohorts.

CHART 1—SUMMARY OF THE PROPOSED REGULATIONS

Issue and key features	Benefits	Cost/transfers
Interest rate reduction, limitations on eligibility for Direct Subsidized Loans, and responsibility for accruing interest for first-time borrowers on or after July 1, 2013 (34 CFR part 685)		
Reduction of interest rate on Direct Subsidized Loans to 3.4 percent after July 1, 2011, and before July 1, 2013.	Reduced loan balance and lower payments for borrowers.	
Limitation on Direct Subsidized Loan eligibility for borrowers who receive such loans for 150 percent of the published length of the educational program and borrower responsibility for accruing interest for enrollment after meeting or exceeding this limit.	Create incentives for students to complete academic programs in a timely manner and avoid incurring unnecessary loan debt.	
Prorating periods of Direct Subsidized Loan receipt during part-time enrollment.	Account for differing enrollment levels for borrower equity.	Estimated net budget impact of −$3.9 billion over the 2013–2023 loan cohort.
Specialized treatment for borrowers enrolled in preparatory coursework required for enrollment in an eligible program and teacher certification coursework necessary for a State teaching credential for which the institution awards no academic credential.	Limit borrower responsibility for accruing interest to encourage completion.	
Modified entrance- and exit-counseling requirements to provide borrowers with information regarding the 150 percent limit on Direct Subsidized Loans.	Provide borrowers with information on eligibility limitations and potential responsibility for accruing interest.	Estimated cost of $4.21 million in increased burden to institutions and borrowers.

Invitation to Comment

We invite you to submit comments regarding these interim final regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the interim final regulations that each of your comments addresses and to arrange your comments in the same order as the interim final regulations. We will consider these comments in determining whether to revise these interim final regulations.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these interim final regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Direct Loan Program.

During and after the comment period, you may inspect all public comments about these interim final regulations by accessing www.regulations.gov. You may also inspect the comments in person in room 8083, 1990 K Street, NW., Washington, DC, between 8:30 a.m. and 4:00 p.m. Washington, DC time, Monday through Friday of each week, except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these interim final regulations. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

On July 6, 2012, the President signed MAP–21 into law. MAP–21 included two changes to the Direct Loan Program. First, MAP–21 amended section 455 of the HEA to extend the 3.4 percent fixed interest rate that applies to Direct Subsidized Loans made to undergraduate students before July 1, 2013. Second, the law placed a limit on Direct Subsidized Loan eligibility for new borrowers on or after July 1, 2013. Specifically, a new borrower on or after July 1, 2013 is no longer eligible to receive additional Direct Subsidized Loans if the period during which the borrower has received such loans exceeds 150 percent of the published length of the borrower's educational program. Additionally, the borrower becomes responsible for accruing interest on any Direct Subsidized Loan made to the borrower on or after July 1, 2013 if he or she is enrolled in an undergraduate program after reaching this 150 percent limit. These restrictions apply to a ''first-time borrower'' on or after July 1, 2013; a first-time borrower is one who on that date has no outstanding balance of principal or interest on a Direct Loan Program or FFEL Program loan.

The amendments to section 455 of the HEA that limit eligibility for Direct Subsidized Loans require implementing regulations. Under MAP–21 these regulations are not subject to the requirements in sections 482 and 492 of the HEA for negotiated rulemaking and publication of regulations in accordance with the master calendar provisions. These interim final regulations contain the provisions necessary to implement the amendments to section 455 of the HEA.

The Department will be making significant changes to its student financial aid systems to implement the new statutory requirements. Those changes are described in more detail at the conclusion of this preamble. The Department will be responsible for the following: tracking borrowers' Direct Subsidized Loan borrowing in greater detail; informing institutions of the number of periods a borrower has received Direct Subsidized Loans; and informing borrowers when they exceed the eligibility limit and become responsible for accruing interest. Institutions will not be required to track this information or inform borrowers of their status on a continual basis. However, for the Department to ensure the integrity of the Direct Loan Program and compliance with the new statutory

and regulatory requirements, institutions will be required to report certain additional program and borrower enrollment information to the Department.

Significant Regulations

We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not address regulatory provisions that are technical or otherwise minor in effect.

Part 685—William D. Ford Federal Direct Loan Program Extension of the 3.4 Percent Fixed Interest Rate on Direct Subsidized Loans until July 1, 2013 (§ 685.202(a)(1)(v)(E))

Statute: MAP–21 amended section 455(b)(7)(D) of the HEA to extend, until July 1, 2013, the period during which the fixed interest rate on new Direct Subsidized Loans will be 3.4 percent. The interest rate on new loans was scheduled to increase to a fixed interest rate of 6.8 percent beginning with loans first disbursed on or after July 1, 2012. The increase in the interest rate to 6.8 percent is now scheduled to begin with loans first disbursed on or after July 1, 2013.

Current Regulations: Under current § 685.202(a)(1)(v)(E) of the regulations, the interest rate on a Direct Subsidized Loan first disbursed on or after July 1, 2011, and before June 30, 2012, is 3.4 percent. Under § 685.202(a)(1)(iv), the interest rate on Direct Subsidized Loans disbursed on or after July 1, 2012, is 6.8 percent. Direct Subsidized Loans are only available to undergraduate borrowers.

New Regulations: We are revising § 685.202(a)(1)(v)(E) of the Direct Loan regulations to reflect that the unpaid balance on a Direct Subsidized Loan first disbursed on or after July 1, 2011, and before July 1, 2013, has an interest rate of 3.4 percent.

Reasons: This change reflects the amendment to section 455(b)(7)(D) of the HEA.

Application of the 150 Percent Direct Subsidized Loan Limit to First-Time Borrowers on or After July 1, 2013 (§ 685.200(f)(1)(i))

Statute: MAP–21 added section 455(q)(1) to the HEA, which provides that any borrower who is a new borrower on or after July 1, 2013, is subject to the revised eligibility requirements that limit the borrower's receipt of Direct Subsidized Loans to 150 percent of the published length of the borrower's educational program.

Current Regulations: There are no existing regulations.

New Regulations: Section 685.200(f)(1)(i) defines the term ''first-time borrower'' as an individual who has no outstanding balance of principal or interest on a loan made under the Direct Loan Program or the FFEL Program (regardless of loan type) on July 1, 2013, or on the date the borrower obtains a Direct Loan after July 1, 2013.

The limitation on Direct Subsidized Loan eligibility only applies to a ''first-time borrower'' on or after July 1, 2013. A borrower who has an outstanding loan balance as of that date is not subject to the 150 percent Direct Subsidized Loan eligibility limit. If the borrower had such a loan balance prior to July 1, 2013, and paid off that balance in full, and then received a new Direct Loan on or after July 1, 2013, the borrower is considered a ''first-time borrower'' and subject to the Direct Subsidized Loan eligibility limit.

A borrower who has an outstanding balance on a Direct Loan or a FFEL program loan prior to July 1, 2013, and who consolidates those loans on or after July 1, 2013, does not become a ''first-time borrower'' for this purpose by consolidating the loans. Finally, we do not consider a borrower's outstanding balance on a Federal Perkins loan in the determination of whether a borrower is a first-time borrower who will be subject to the Direct Subsidized loan eligibility limit.

Reasons: We have defined the term ''first-time borrower'' to reflect the provision of MAP–21 that applies the 150 percent Direct Subsidized Loan eligibility limit to first-time borrowers on or after July 1, 2013. The definition of ''first-time borrower'' for this purpose is consistent with how we have treated similarly situated borrowers for other purposes elsewhere in the Direct Loan and FFEL program regulations (see, e.g., §§ 685.209(a)(1) and 685.217(a)(1)).

Limitations on Eligibility for Direct Subsidized Loans (§ 685.200(a)(2), § 685.200(f)(2))

Statute: MAP–21 added section 455(q)(1) to the HEA. Section 455(q)(1) of the HEA provides that any borrower who is a new Direct Loan borrower on or after July 1, 2013, is not eligible for a Direct Subsidized Loan if the period of time for which the borrower has received Direct Subsidized Loans, in the aggregate, exceeds 150 percent of the published length of the borrower's educational program. Such a borrower may still receive any Direct Unsubsidized Loan for which the borrower is otherwise eligible.

Current Regulations: There are no existing regulations.

New Regulations: Section 685.200(f)(2) provides that a first-time borrower loses eligibility for new Direct Subsidized Loans when the borrower has no remaining eligibility period, as defined in § 685.200(f)(1)(iv) (this and other defined terms are discussed in the next section of the preamble). The interim final regulations also provide that such a borrower may still receive a Direct Unsubsidized Loan for which the borrower is otherwise eligible. In addition, we have updated § 685.200(a)(2)(i) to reflect that, in addition to demonstrating financial need in accordance with Title IV, part F of the HEA, a first-time borrower must also not have met or exceeded the limitations on receipt of Direct Subsidized Loans described in § 685.200(f).

Reasons: Section 685.200(f)(2) reflects section 455(q)(1) of the HEA, which places a limit on eligibility for Direct Subsidized Loans if a first-time borrower on or after July 1, 2013, receives Direct Subsidized Loans in excess of 150 percent of the published length of the borrower's educational program. We are including a cross reference to § 685.200(f) in § 685.200(a)(2)(i) to ensure that first-time borrowers understand that eligibility for Direct Subsidized Loans depends on meeting the eligibility requirements in § 685.200(f).

Calculation of a Borrower's Maximum Eligibility Period, Subsidized Usage Period, and Remaining Eligibility Period (§ 685.200(f)(1)(ii)–(f)(1)(iv))

Statute: Under section 455(q) of the HEA a borrower is no longer eligible for additional Direct Subsidized Loans if the period of time for which the borrower has received Direct Subsidized Loans exceeds the aggregate period of enrollment described in section 455(q)(3). Section 455(q)(3) defines the term ''aggregate period of enrollment'' as the lesser of: (1) a period equal to 150 percent of the published length of the educational program in which the student is enrolled; or (2) in the case of a borrower who was previously enrolled in one or more other educational programs that began on or after July 1, 2013, a period of time equal to the difference between 150 percent of the published length of the longest educational program in which the borrower was, or is, enrolled and any periods of enrollment in which the borrower received a Direct Subsidized Loan.

Current Regulations: There are no existing regulations.

New Regulations: Section 685.200(f)(1)(ii) defines the term

''maximum eligibility period'' and describes how we will calculate it for a borrower. The ''maximum eligibility period'' is the regulatory term we have adopted to refer to the ''aggregate period of enrollment'' described in section 455(q)(1) and (q)(3)(A) of the HEA. Section 685.200(f)(1)(ii) provides that a borrower's maximum eligibility period for Direct Subsidized Loans is equal to 150 percent of the length of the educational program, as published by the institution, in which the borrower is currently enrolled. Therefore, we will calculate a borrower's ''maximum eligibility period'' by multiplying the published length of the borrower's current educational program by 1.5.

Section 685.200(f)(1)(iii) defines the term ''subsidized usage period'' and provides that we will calculate it by dividing the number of days in the borrower's loan period for a Direct Subsidized Loan by the number of days in the academic year for which the borrower receives the Direct Subsidized Loan. The interim final regulations provide that this time period will be measured in academic years, which we will calculate using the information provided by the institution (this reporting requirement is discussed in more detail in the section of this preamble covering operational issues). A borrower's ''subsidized usage period'' includes only those periods of time for which the borrower received a Direct Subsidized Loan, rather than all of the periods that a borrower is enrolled in one or more educational programs.

Section 685.200(f)(1)(iii) also specifies that the number of years in a borrower's subsidized usage period will be rounded down to the nearest quarter of a year. For example, a subsidized usage period of 0.53 years would be rounded to 0.5 years and a subsidized usage period of 0.88 years would be rounded to 0.75 years.

Section 685.200(f)(1)(iv) of the interim final regulations defines the term ''remaining eligibility period'' and provides that it is calculated as the difference, measured in academic years, between the borrower's maximum eligibility period and the sum of the borrower's subsidized usage periods. When the difference between a borrower's maximum eligibility period and the sum of the borrower's subsidized usage periods is zero, the borrower has no remaining eligibility period. As provided in § 685.200(f)(2), a first-time borrower who has no remaining eligibility period is no longer eligible for additional Direct Subsidized Loans. A borrower's ability to regain eligibility for Direct Subsidized Loans is discussed later in this preamble.

A borrower's maximum eligibility period and remaining eligibility period are calculated in the same manner regardless of whether the borrower graduates, transfers, or withdraws from the program. However, the interim final regulations treat a borrower who graduates from his or her program in a timely manner differently for purposes of borrower responsibility for the accruing interest (see the preamble discussion of § 685.200(f)(3)).

Section 685.200(f)(1)(ii) provides that we will calculate a borrower's maximum eligibility period based on the published length of the educational program in which the borrower is currently enrolled. Therefore, if a borrower subsequently enrolls in a program that is shorter or longer than the borrower's current program, we will recalculate the borrower's maximum eligibility period based on the length of the new program. Because § 685.200(f)(1)(iv) provides that a borrower's remaining eligibility period is based (in part) on the sum of the borrower's subsidized usage periods, subsidized usage periods accrued during previously-enrolled programs count against the maximum eligibility period of the program in which the borrower is currently enrolled.

Examples 1 through 5 illustrate how we will calculate a borrower's maximum eligibility period, subsidized usage period, and remaining eligibility period:

Example 1: A borrower enrolls in a two-year undergraduate program and receives Direct Subsidized Loans for one academic year. The program's academic year is comprised of 30 weeks (or 210 days) of instructional time.

	Years
Maximum eligibility period	3 academic years
Subsidized usage period	$\frac{210\ days\ in\ the\ loan\ period}{210\ days\ in\ the\ academic\ year} = 1\ academic\ year$
Remaining eligibility period	2 academic years

The borrower's maximum eligibility period is 150 percent of the two-year program, or three academic years. Because the borrower has already received a Direct Subsidized Loan for one academic year, the borrower's subsidized usage period is one academic year. The difference between the borrower's maximum eligibility period (three academic years) and the sum of the borrower's subsidized usage periods (one academic year) is the borrower's remaining eligibility period (two academic years). (For purposes of simplicity and clarity, subsequent examples will not include the conversion from days to years for a borrower's subsidized usage period for each loan and will refer to an ''academic year'' as a ''year'' unless necessary to illustrate the operation of a specific regulatory provision.)

Example 2: A borrower enrolls in a four-year program and receives Direct Subsidized Loans for each of the four years.

	Year 1	Year 2	Year 3	Year 4
Maximum eligibility period for program	6 years	6 years	6 years	6 years.
Subsidized usage period	1 year	1 year	1 year	1 year.
Sum of all subsidized usage periods	1 year	2 years	3 years	4 years.

	Year 1	Year 2	Year 3	Year 4
Remaining eligibility period at end of year	5 years	4 years	3 years	2 years.

The borrower's program has a published length of four years and a maximum eligibility period of six years (150 percent of the four-year program) and the borrower received Direct Subsidized Loans for four years. The subsidized usage period for each year is one year and the sum of the subsidized usage periods is four years. At the end of the fourth year, the borrower's remaining eligibility period is two years, which is the difference between the borrower's maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods (four years).

Example 3: A borrower enrolls in a two-year program and receives Direct Subsidized Loans for two years. The borrower then transfers to a four-year program, but has not yet received any Direct Subsidized Loans for attendance in the four-year program.

	After year 2 of two-year program	Upon transfer to four-year program
Maximum eligibility period for program	3 years	6 years.
Sum of all subsidized usage periods	2 years	2 years.
Remaining eligibility period	1 years	4 years.

The borrower's original two-year program had a maximum eligibility period of three years. Because the borrower received Direct Subsidized Loans for each of the two years of enrollment, the sum of the borrower's subsidized usage periods is two years. When the borrower enrolls in the four-year program, the borrower's maximum eligibility period is recalculated to six years (150 percent of the four-year program). The borrower's prior subsidized usage periods in the two-year program count against the borrower's new maximum eligibility period. Therefore, the borrower's remaining eligibility period is four years, which is the difference between the borrower's new maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods (two years). (Subsequent examples will only detail the sum of all of a borrower's subsidized usage periods unless necessary to clarify the application of the interim final regulations.)

Example 4: A borrower enrolls in a four-year program and receives Direct Subsidized Loans for two years. The borrower then withdraws before completing the four-year program, and subsequently enrolls in a two-year program. The borrower has not yet received any Direct Subsidized Loans for attendance in the two-year program.

Maximum eligibility period for two-year program.	3 years.
Sum of all subsidized usage periods.	2 years.
Remaining eligibility period	1 year.

The borrower's four-year program has a maximum eligibility period of six years. When the borrower enrolls in the two-year program, the borrower's maximum eligibility period is recalculated as three years (150 percent of the two-year program). The borrower's prior subsidized usage periods (two years) in the four-year program count against the borrower's new maximum eligibility period in the two-year program. Therefore, the borrower's remaining eligibility period is one year, which is the difference between the borrower's maximum eligibility period (three years) and the sum of the borrower's subsidized usage periods (two years).

Example 5: A borrower enrolls in a four-year program and receives Direct Subsidized Loans for three years. The borrower completes the degree program at the end of the fourth year, but does not receive any Direct Subsidized Loans for that year. The borrower then enrolls in a different four-year undergraduate program, but has not yet received any Direct Subsidized Loans in the new program.

Maximum eligibility period	6 years.
Sum of the subsidized usage periods.	3 years.
Remaining eligibility period	3 years.

The borrower's original four-year program has a maximum eligibility period of six years. The borrower received Direct Subsidized Loans for three years. The borrower's maximum eligibility period in the second four-year program is also six years, and the borrower's prior subsidized usage periods count against the borrower's maximum eligibility period in the second program. Therefore, the borrower's remaining eligibility period is three years, which is the difference between the borrower's maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods (three years). The borrower's fourth year of enrollment in the original program has no effect on the borrower's remaining eligibility period because the borrower did not receive any Direct Subsidized Loans for that year.

In addition to the standard calculations described above, we note that § 685.301(a)(10) and (c) continue to apply and effectively limit the length of time a borrower may receive loans under the interim final regulations.

Specifically, § 685.301(a)(10) describes the minimum permissible length of a loan period. If the borrower's remaining eligibility period (as calculated under § 685.200(f)(1)(iv)) is less than the minimum permissible loan period associated with the borrower's program of study, then the institution may not disburse a Direct Subsidized Loan to that borrower.

Under § 685.301(c), borrowers enrolled in clock-hour, non-term, or certain non-standard term programs are not eligible for a new annual loan limit until they complete either the weeks of instructional time or clock hours required. Thus, students enrolled in these types of programs are effectively limited to receiving Direct Subsidized Loans for 100 percent of the length of the program, notwithstanding the 150 percent maximum eligibility period of the program as calculated under section 455(q) of the HEA. As a result, the 150 percent limit does not affect a borrower enrolled in such a program unless the borrower subsequently enrolls in another educational program (whether a standard-term, non-standard-term, or non-term program).

The requirements of § 685.301(a)(10) are summarized in Table 1, below. Examples 6 and 7 illustrate the effect on

the 150 percent limitations of § 685.301(a)(10) and (c), respectively.

TABLE 1—MINIMUM LOAN PERIODS FOR DIFFERING PROGRAM TYPES

Type of program	Minimum loan period
Credit hour, standard term program	One term.
Credit hour, non-standard term program with terms substantially equal and at least nine weeks of instructional time.	One term.
Credit hour, non-standard term program without terms substantially equal or at least nine weeks of instructional time.	Lesser of the length of the program or the program's academic year.
Credit hour, non-term program	Lesser of the length of the program or the program's academic year.
Clock hour program	Lesser of the length of the program or the program's academic year.

Example 6: The borrower is enrolled in a 22-week (or 154-day), 800-clock-hour certificate program that defines its academic year as 26 weeks (or 182 days) of instructional time. The borrower receives a Direct Subsidized Loan that covers the length of the program. Upon completing the certificate program, the borrower enrolls in a two-year associate's degree program that defines its academic year as 30 weeks (or 210 days) of instructional time, and that uses credit hours and semesters. In each of the borrower's first two years in the associate's degree program, the borrower receives a Direct Subsidized Loan for the academic year. The borrower has not yet completed the associate's degree program, and is requesting loans for the third year.

	After Certificate program	After year 1 in the two-year program	After year 2 in the two-year program
Maximum eligibility period of program	1.27 years	3 years	3 years.
Subsidized usage period	0.85 years, rounded down to 0.75 years	1 year	1 year.
Sum of all subsidized usage periods	0.75 years	1.75 years	2.75 years.
Remaining eligibility period at end of the year.	0.52 years	1.25 years	0.25 years.

The borrower's 22-week certificate program, which is the equivalent of 0.85 academic years

$$\left(\frac{154\ days\ in\ program}{182\ days\ in\ academic\ year}\right),$$

has a maximum eligibility period of 1.27 academic years (0.85 academic years multiplied by 150 percent). The borrower's subsidized usage period for the certificate program is the same as the length of the program, 0.85 academic years

$$\left(\frac{154\ days\ in\ loan\ period}{182\ days\ in\ academic\ year}\right),$$

which is rounded down to the nearest quarter-year, or 0.75 years. Upon transferring to the two-year program, the borrower's maximum eligibility period is three years. After two years in the two-year program, during which the borrower receives Direct Subsidized Loans equaling two years, the sum of the borrower's subsidized usage periods is 2.75 years (two years from the two-year program plus 0.75 years from the certificate program). After two years in the two-year program, the borrower's remaining eligibility period is 0.25 years (the difference between the two-year program's maximum eligibility period (three years) and the sum of the borrower's subsidized usage periods (2.75 years)). The borrower has a remaining eligibility period of 52.5 days (0.25 years × 210 days in an academic year). Because the borrower is enrolled in a program that uses credit hours and semesters, under § 685.301(a)(10), the minimum loan period for this borrower is one term. Because the borrower's remaining eligibility period of 52.5 days is less than the length of a semester (generally 98–112 days, or 14–16 weeks), the institution cannot disburse a Direct Subsidized Loan to this borrower, even though the borrower's remaining eligibility period is greater than zero.

Example 7: The borrower is enrolled in a one-year, 900 clock hour certificate program that defines its academic year as 26 weeks (or 182 days) of instructional time. The institution disburses a Direct Subsidized Loan to the borrower for the academic year. The borrower completes only 700 clock hours of instructional time during the academic year.

Maximum eligibility period	1.5 years.
Subsidized usage period	1 year.
Remaining eligibility period	0.5 years, subject to the limitation below.

The borrower's one-year program has a maximum eligibility period of 1.5 years and the borrower's subsidized usage period is one year. The borrower's remaining eligibility period is 0.5 years (the difference between the borrower's maximum eligibility period (1.5 years) and the sum of the borrower's subsidized usage periods (one year)). Because the program is a clock hour program, and because the borrower has only completed 700 clock hours of instructional time, the borrower may not progress to the next academic year. Because § 685.301(c) applies, this borrower is not eligible to receive an additional Direct Subsidized Loan in this program, notwithstanding the borrower's remaining eligibility period of 0.5 years.

Example 7 illustrates that borrowers in clock-hour, non-term, and certain non-standard term programs are effectively limited to receiving Direct Subsidized Loans for 100 percent of the

length of the program. Borrowers in such programs are not able to receive Direct Subsidized Loans for their remaining eligibility period unless they subsequently enroll in another program, as illustrated in example 6.

Reasons: MAP–21 added section 455(q)(3)(A) to the HEA, which provides the method by which a borrower's eligibility for Direct Subsidized Loans is determined. To implement this provision, it is necessary to issue regulations that describe the statutory calculations with greater specificity.

Section 685.200(f)(1)(ii) implements section 455(q)(3) of the HEA and establishes the rule for determining a borrower's maximum eligibility period for Direct Subsidized Loans. To avoid potentially misleading borrowers, we elected to use the term ''maximum eligibility period'' rather than the statutory term ''aggregate period of enrollment.'' Because the 150 percent limit on eligibility is measured by the period for which a borrower receives Direct Subsidized Loans, rather than the period of time that a borrower is enrolled, using the statutory term could cause borrower confusion.

Section 685.200(f)(1)(ii) bases the calculation of a borrower's maximum eligibility period on the published length of the program in which the borrower is currently enrolled because failing to do so would result in inequitable treatment of similarly situated borrowers. For example, if enrolling in a new, shorter educational program did not result in recalculating a borrower's maximum eligibility period, transfer and non-transfer students would have significantly divergent remaining eligibility periods simply by virtue of enrollment in a different program. Suppose a borrower is enrolled in a four-year program, receives a Direct Subsidized Loan for one year, and then transfers to a two-year program. If we did not recalculate the borrower's maximum eligibility period, that borrower would be eligible for five additional years of Direct Subsidized Loans. In contrast, a borrower who had been enrolled in the two-year program from the beginning and also received a Direct Subsidized Loan for one year would only have two years of eligibility remaining. Without recalculating a borrower's maximum eligibility period when the borrower enrolls in a different program, otherwise-equivalent borrowers would have inconsistent and inequitable eligibility periods. To treat all borrowers who receive Direct Subsidized Loans equitably, regardless of whether they have previously enrolled in programs of differing durations for which they received Direct Subsidized Loans, we are determining eligibility for Direct Subsidized Loans in this manner.

Section 685.200(f)(1)(iii) of the interim final regulations, which defines the term ''subsidized usage period,'' is necessary to implement the requirement in section 455(q)(1) of the HEA that the borrower not receive Direct Subsidized Loans for a period in excess of the borrower's maximum eligibility period. This provision provides a method to calculate the period for which a borrower has received Direct Subsidized Loans to ensure the statutory maximum is not exceeded. We chose to round borrowers' subsidized usage periods down to the nearest quarter year to make it easier for borrowers and institutions to understand and communicate a borrower's eligibility for Direct Subsidized Loans. In addition, we chose to round down to ensure that borrowers were not denied eligibility for Direct Subsidized Loans solely on the basis of rounding.

Because section 455(q)(3)(A) of the HEA does not explicitly provide a method for calculating a borrower's remaining eligibility period, we needed to issue regulations to establish rules for calculation of that period. Section 685.200(f)(1)(iv) provides that a borrower's ''remaining eligibility period'' is defined as the difference, measured in academic years, between the borrower's maximum eligibility period and the sum of the borrower's subsidized usage periods with certain exceptions as discussed in the next paragraph. The remaining eligibility period will inform borrowers of the period they have remaining before becoming ineligible for Direct Subsidized Loans.

Finally, as explained above, § 685.200(f)(1)(iv) is subject to the existing provisions of § 685.301(a)(10) and (c), which govern the minimum length of loan periods for students enrolled in clock hour, non-term, or certain non-standard term programs. Because MAP–21 did not include any changes to the statutory provisions reflected in § 685.301(a)(10) and (c), the calculations specified under § 685.200(f)(1) must be consistent with those existing regulatory requirements.

Exceptions to the Calculation of the 150 Percent Limit for Students Enrolled on Less Than a Full-Time Basis or Who Receive the Full Annual Loan Limit for a Loan Period of Less Than an Academic Year (§ 685.200(f)(4))

Statute: MAP–21 added section 455(q)(3)(B) to the HEA, which directs the Department to specify in regulations how the aggregate period of enrollment will be calculated with respect to borrowers who are enrolled on less than a full-time basis. While section 428(b)(1)(A) of the HEA permits borrowers to receive an amount equal to the full annual loan limit for periods of less than an academic year, revised section 455(q) of the HEA does not provide a specific rule for applying the 150 percent limit to these borrowers.

Current Regulations: There are no existing regulations.

New Regulations: The interim final regulations provide two exceptions to the rules for the calculation of a borrower's subsidized usage period in § 685.200(f)(1)(iii).

The first exception applies to borrowers who receive the full Direct Subsidized Loan annual loan limit for a period of enrollment that is less than an academic year. Section 685.200(f)(4)(i) provides that, in this circumstance, a borrower's subsidized usage period is one year notwithstanding the subsidized usage period calculated under § 685.200(f)(1)(iii).

The second exception applies to borrowers who are enrolled in an educational program on less than a full-time basis. Section 685.200(f)(4)(ii) of the interim final regulations provides that, except as provided in § 685.200(f)(4)(i) (the exception described in the preceding paragraph), the Secretary will prorate the subsidized usage period for borrowers enrolled on a half-time or three-quarter-time basis. This proration is done by multiplying the borrower's subsidized usage period by 0.5 (for half-time) or 0.75 (for three-quarter-time), respectively.

Examples 8 through 11 illustrate the calculation of a borrower's maximum eligibility period, subsidized usage period, and remaining eligibility period if the borrower receives a Direct Subsidized Loan in the amount of the full annual loan limit for a period less than an academic year, for less than full-time enrollment, or both.

Example 8: A first-year borrower is enrolled in a four-year, semester-based program and has received a Direct Subsidized Loan in the amount of $3,500 (the full annual loan limit) that covers the fall semester. The borrower does not enroll in the spring semester.

Maximum eligibility period	6 years.
Subsidized usage period	1 year.
Remaining eligibility period	5 years.

The borrower's four-year program has a maximum eligibility period of six years. The borrower received a Direct Subsidized Loan in the amount of the full annual loan limit for one term. Under § 685.200(f)(1)(iii), the borrower's

subsidized usage period would be 0.5 years

$$\frac{\text{105 days in the loan period}}{\text{210 days in the academic year}}$$

However, because the borrower received a Direct Subsidized Loan in the amount of a full annual loan limit for a period of less than a full academic year, § 685.200(f)(4)(i) applies, and the borrower's subsidized usage period is one year, notwithstanding the subsidized usage period calculated under § 685.200(f)(1)(iii). Therefore, the borrower's remaining eligibility period is five years, which is the difference between the borrower's maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods (one year).

Example 9: A borrower enrolls on a half-time basis for two years of a four-year program and receives Direct Subsidized Loans for each of the two academic years.

Maximum eligibility period	6 years.
Sum of the subsidized usage periods.	2 years.
Applicable Proration	0.5.
Prorated subsidized usage period	1 year.
Remaining eligibility period	5 years.

The borrower's four-year program has a maximum eligibility period of six years. Because the borrower was enrolled on a half-time basis, each of the borrower's subsidized usage periods is prorated by multiplying the subsidized usage period by 0.5, resulting in two separate 0.5-year subsidized usage periods, for a total subsidized usage period of one year. Therefore, the borrower's remaining eligibility period is five years, the difference between the borrower's maximum eligibility period (six years) and the sum of the borrower's prorated subsidized usage periods (one year).

Example 10: A borrower enrolls in a four-year program and receives Direct Subsidized Loans for all four academic years. The borrower is enrolled full time during the first academic year, half time during the second and third academic years, and three-quarter time during the fourth year.

	Year 1	Year 2	Year 3	Year 4
Maximum eligibility period for program.	6 years	6 years	6 years	6 years
Subsidized usage period	1 year	1 year	1 year	1 year
Applicable Proration	N/A	0.5	0.5	0.75
Prorated subsidized usage period (if applicable).	1 year (not prorated)	0.5 years	0.5 years	0.75 years
Remaining eligibility period at end of year.	5 years	4.5 years	4 years	3.25 years

The borrower's maximum eligibility period for the four-year program is six years. Because the borrower had varying enrollment levels during the four years, prorated subsidized usage periods must be determined and then added together to determine the borrower's remaining eligibility period. As the table above shows, in the first year, the borrower's subsidized usage period is not prorated because the borrower is enrolled full time. In the second and third years, however, the borrower's subsidized usage period is prorated by 0.5 because the borrower is enrolled half time. In the fourth year, the borrower's subsidized usage period is prorated by 0.75 because the borrower is enrolled three-quarter time. If the borrower had been enrolled full time during all four academic years, and received Direct Subsidized Loans for each of those years, the sum of the borrower's subsidized usage periods would be four years at the end of the four academic years. However, because the borrower was not enrolled on a full-time basis during all four academic years, and has subsidized usage periods that are prorated, the sum of the borrower's subsidized usage periods is 2.75 years. As a result, the borrower's remaining eligibility period is 3.25 years, which is the difference between the borrower's maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods (2.75 years).

Example 11: Two first-year borrowers are enrolled in a two-year, semester-based program. Both borrowers are enrolled on a half-time basis. Borrower 1 receives a Direct Subsidized Loan for the fall term in the amount of $3,500, which is the full annual loan limit. Borrower 2 receives a Direct Subsidized Loan for the fall term in the amount of $3,000. Neither borrower enrolls in the spring semester.

	Borrower 1	Borrower 2
Maximum eligibility period	3 years	3 years.
Subsidized usage period	1 year	0.5 years.
Applicable proration	N/A	0.5.
Prorated usage period	N/A	0.25 years.
Remaining eligibility period	2 years	2.75 years.

The two-year program in which the borrowers are enrolled has a maximum eligibility period of three years. Borrower 1 received a Direct Subsidized Loan in the amount of the full annual loan limit for one term. Borrower 2 received a Direct Subsidized Loan for one term, but for less than the amount of the full annual loan limit. Both borrowers were enrolled on a half-time basis.

For Borrower 1, the calculated subsidized usage period under § 685.200(f)(1)(iii) would be 0.5 years

$$\frac{\text{105 days in the loan period}}{\text{210 days in the academic year}}$$

However, because Borrower 1 received a subsidized loan in the amount of the full annual loan limit for a period of less than a full academic year, § 685.200(f)(4)(i) applies. Therefore, the borrower's subsidized usage period is one year and is not prorated.

For Borrower 2, the calculated subsidized usage period is 0.5 years

$$\frac{\text{105 days in the loan period}}{\text{210 days in the academic year}}$$

Because the borrower's loan amount is for less than the full annual loan limit, § 685.200(f)(4)(i) does not apply. Therefore, in accordance with

§ 685.200(f)(4)(ii), Borrower 2's subsidized usage period is prorated based on the borrower's half-time enrollment status. Because Borrower 2 is enrolled on a half-time basis, the borrower's subsidized usage period of 0.5 years is multiplied by 0.5, resulting in a prorated subsidized usage period of 0.25 years.

For Borrower 1, the remaining eligibility period is two years, which is the difference between the borrower's maximum eligibility period (three years) and the sum of the borrower's subsidized usage periods (one year). For Borrower 2, the remaining eligibility period is 2.75 years, which is the difference between the borrower's maximum eligibility period (three years) and the sum of the borrower's subsidized usage periods (0.25 years).

Reasons: Section 685.200(f)(4)(i) provides the first exception to the definition of the term ''subsidized usage period'': If a first-time borrower receives a Direct Subsidized Loan in an amount that is equal to the annual loan limit for a loan period that is less than a full academic year in length, the subsidized usage period is one year.

Under current law and regulations, a borrower can receive a Direct Subsidized Loan in an amount equal to the full annual loan limit for a period that is as short as a term (e.g., a semester). Absent § 685.200(f)(4)(i), a borrower would be able to partially circumvent the limitations on Direct Subsidized Loan eligibility enacted by MAP–21: An institution could double a borrower's Direct Subsidized Loan eligibility by disbursing the full annual Direct Subsidized Loan limit for a single term of the academic year (e.g., one semester). If this pattern were extended for the duration of the program, the borrower's subsidized usage period would be only 0.5 years for each academic year and the borrower would have effectively doubled his or her eligibility for Direct Subsidized Loans. Section 685.200(f)(4)(i) prevents this type of circumvention of MAP–21's limitations on Direct Subsidized Loan eligibility.

Section 685.200(f)(4)(ii) provides the second exception to the definition of the term ''subsidized usage period'': If a first-time borrower is enrolled on a half-time or three-quarter-time basis, the borrower's subsidized usage period is prorated by multiplying the borrower's subsidized usage period, as determined in accordance with § 685.200(f)(1)(iii), by 0.5 or 0.75, respectively. Section 685.200(f)(4)(ii) implements revised section 455(q)(3)(B)(i) of the HEA, which directs the Secretary to specify in regulation how a borrower's subsidized usage period will be calculated when the borrower is enrolled on less than a full-time basis. Unlike other Federal student aid programs, such as the Federal Pell Grant Program, Direct Loans are not prorated based on the borrower's enrollment status. Thus, if a borrower who is enrolled on a part-time basis has the same costs and financial need as a borrower who is enrolled on a full-time basis, then both borrowers will be eligible for a Direct Subsidized Loan in the same amount (assuming the borrowers' years in school are equivalent). Because borrowers may decide to enroll on less than a full-time basis for many different reasons, we believe it is unlikely that failing to prorate such borrowers' subsidized usage periods would provide a sufficient incentive for such borrowers to enroll on a full-time basis. Furthermore, we believe that not prorating a borrower's subsidized usage period based on the borrower's enrollment status would unfairly punish borrowers who choose to enroll on a part-time basis, by further limiting such borrower's eligibility for Direct Subsidized Loans. Finally, prorating a borrower's subsidized usage period will not result in these borrowers receiving significantly higher levels of Direct Subsidized Loan funds than borrowers who are enrolled full time, because many borrowers who take out Direct Subsidized Loans in significant amounts will reach the aggregate Direct Subsidized Loan limit of $23,000 prior to reaching their maximum eligibility period under these provisions.

Borrower Responsibility for Accruing Interest on Existing Direct Subsidized Loans for Borrowers Who Continue Enrollment After Reaching the 150 Percent Subsidized Loan Limit (§ 685.200(f)(3))

Statute: Section 455(q)(2) of the HEA, added by MAP–21, provides that interest accrues on all Direct Subsidized Loans disbursed to certain borrowers on or after July 1, 2013. A borrower is responsible for the accruing interest on these loans if the borrower is ineligible for additional Direct Subsidized Loans because of the 150 percent limitation and is enrolled in a program that would otherwise qualify the borrower for a Direct Subsidized Loan. Section 455(q)(2) further provides that interest on a Direct Subsidized Loan is paid and capitalized in the same manner as interest on a Direct Unsubsidized Loan.

Current Regulations: There are no existing regulations.

New Regulations: Section 685.200(f)(3)(i) describes the circumstances under which a first-time borrower becomes responsible for accruing interest on his or her existing Direct Subsidized Loans. Notwithstanding any other provision in the regulations that limits the borrower's responsibility for accruing interest, the borrower exceeds the eligibility limit and becomes responsible for accruing interest on all Direct Subsidized Loans if the borrower: (1) has no remaining eligibility period; and (2) attends any undergraduate program or preparatory coursework on at least a half-time basis at an eligible institution that participates in the Title IV, HEA programs. (**Note:** throughout this preamble the terms enrollment and attendance are used interchangeably to describe a borrower taking courses at a program.)

Attendance in an eligible undergraduate program causes a borrower to become responsible for accruing interest even if the borrower does not request or receive a new loan. A borrower's enrollment in graduate or professional programs, enrollment on less than a half-time basis, or enrollment in programs at an institution that does not participate in the Title IV loan programs will not result in borrower responsibility for accruing interest because borrowers in those programs are not eligible for Direct Subsidized Loans. In addition, if a borrower has a Direct Consolidation Loan that repaid a Direct Subsidized Loan, and then the borrower subsequently becomes responsible for accruing interest, interest that accrues on that portion of the Direct Consolidation Loan is the responsibility of the borrower.

There are three circumstances in which a borrower becomes responsible for accruing interest on all Direct Subsidized Loans. The first is when a borrower who has no remaining eligibility period for Direct Subsidized Loans continues enrollment in the program for which the borrower received the loans. The second is when a borrower has no remaining eligibility period for a program and, after withdrawing or transferring, enrolls in a different program that is equal to or shorter in duration than the prior program. The third is when a borrower who previously received Direct Subsidized Loans and who still has some remaining eligibility period for that program withdraws or transfers from that program to a program of a shorter duration than the prior program. In some cases, enrolling in another program results in the sum of the borrower's subsidized usage periods equaling or exceeding the new program's maximum eligibility period. In such cases, the borrower's enrollment

in the shorter program causes the borrower to have no remaining eligibility period (which causes a loss of eligibility for additional Direct Subsidized Loans) and to become responsible for accruing interest on the outstanding loans.

Under § 685.200(f)(3)(i), a borrower becomes responsible for accruing interest on his or her outstanding loans from the date that the conditions of § 685.200(f)(3)(i)(A) and (B) are both met. The borrower is responsible for accruing interest when the borrower is enrolled at least half time at an eligible institution, during the grace period, during deferment periods, or during certain periods when the borrower is repaying Direct Loans under the Pay As You Earn or Income-Based Repayment plans (existing regulations governing those repayment plans provide that under certain circumstances borrowers are not responsible for accruing interest).

Section 685.200(f)(3)(ii) provides that, if a borrower previously became responsible for accruing interest on a Direct Subsidized Loan and then receives a Direct Consolidation Loan that repays that loan, the borrower continues to be responsible for the accruing interest on the portion of that Direct Consolidation Loan that repaid the Direct Subsidized Loan.

Section 685.200(f)(3)(iii) provides that, for any outstanding Direct Subsidized Loans for which the borrower becomes responsible for accruing interest, interest that accrued prior to the date on which the borrower became responsible for accruing interest does not become the borrower's responsibility; rather, the borrower is responsible only for the interest that accrues after the borrower meets both conditions specified in § 685.200(f)(3)(i)(A) and (B) (we use the term ''accruing interest'' in this preamble to indicate this distinction). Borrowers have the option of paying the interest portion or allowing interest to be capitalized. Unpaid interest is capitalized in the same manner as it is on a Direct Unsubsidized Loan.

Section 685.200(f)(3)(iv) specifies the effect on a borrower's responsibility for accruing interest caused by attendance in a subsequent program if the borrower completes his or her current program in a timely manner. If a borrower completes an undergraduate program without becoming responsible for accruing interest, attendance in a subsequent program will not cause borrower responsibility for accruing interest on previously received loans, even if the borrower has no remaining eligibility period.

Examples 12 through 16 illustrate how a borrower becomes responsible for accruing interest under § 685.200(f)(3):

Example 12: A borrower enrolls in a four-year program, but takes six years to complete the program and receives Direct Subsidized Loans for each of those six years. The borrower then continues to be enrolled in the same program for a seventh year.

Maximum eligibility period	6 years.
Subsidized usage period	6 years.
Remaining eligibility period	0 years.
Borrower responsibility for accruing interest	The borrower becomes responsible for accruing interest upon enrollment in the seventh year.

The maximum eligibility period for the four-year program is six years. The borrower received Direct Subsidized Loans for all six years, meaning that the borrower is no longer eligible for additional Direct Subsidized Loans. Because the borrower continues enrollment in the same program after losing eligibility for additional Direct Subsidized Loans, the borrower becomes responsible for accruing interest on all of his or her outstanding Direct Subsidized Loans, regardless of whether he or she requests or receives additional Federal student aid. If the borrower had graduated or discontinued enrollment before the seventh year, the borrower would not have become responsible for accruing interest on his or her Direct Subsidized Loans.

Example 13: A borrower enrolls in a four-year program, receives Direct Subsidized Loans for four years, but discontinues enrollment before completing the program. The borrower then enrolls in a two-year program, but does not request Federal student aid of any kind.

Maximum eligibility period for 2-year program	3 years.
Subsidized usage period	4 years.
Remaining eligibility period	−1 years.
Borrower responsibility for accruing interest	The borrower becomes responsible for accruing interest upon enrollment in the two-year program.

The borrower's four-year program has a maximum eligibility period of six years. The borrower receives Direct Subsidized Loans for the four years the borrower is enrolled in that program. Upon withdrawing from that program, the borrower would have been eligible for Direct Subsidized Loans for an additional two years if he or she had remained in that program. However, when the borrower enrolls in the two-year program, the borrower's maximum eligibility period is recalculated as three years. Furthermore, the period during which the borrower previously received Direct Subsidized Loans counts against the borrower's new maximum eligibility period. The borrower is ineligible for additional Direct Subsidized Loans because the borrower has no remaining eligibility period (the borrower's maximum eligibility period upon enrollment in the two-year program (three years) is less than the sum of the borrower's subsidized usage periods (four years)). The borrower's enrollment in the shorter program causes the borrower to become ineligible for additional Direct Subsidized Loans and to become responsible for accruing interest on all previously received Direct Subsidized Loans.

We note that, although the calculations in example 13 arithmetically result in a remaining eligibility period that is a negative number, the effect is the same as if the borrower had a remaining eligibility period of zero years and then enrolled in a program of equal or shorter duration. A negative remaining eligibility period does not require that the borrower or institution return any portion of previously disbursed Direct Subsidized Loan.

Example 14: A borrower enrolls in a four-year undergraduate program and receives Direct Subsidized Loans for six years. The borrower then enrolls in a two-year master's degree program.

Maximum eligibility period	Not applicable.
Subsidized usage period	6 years.
Remaining eligibility period	Not applicable.
Borrower responsibility for accruing interest	The borrower is not responsible for accruing interest.

The borrower's four-year program has a maximum eligibility period of six years. The borrower received Direct Subsidized Loans for six years. When the borrower enrolls in the graduate program, the borrower is not eligible for additional Direct Subsidized Loans because graduate students are not eligible for Direct Subsidized Loans. Under § 685.200(f)(3)(i)(B), enrollment in such programs does not result in a borrower becoming responsible for accruing interest. Therefore, enrollment in the master's degree program does not cause the borrower to become responsible for accruing interest on Direct Subsidized Loans.

Example 15: A borrower enrolls in a four-year undergraduate program, receives Direct Subsidized Loans for four years, and graduates on time. The borrower then enrolls in a two-year undergraduate program.

Maximum eligibility period	3 years.
Subsidized usage period	4 years.
Remaining eligibility period	−1 years.
Borrower responsibility for accruing interest	The borrower is not responsible for accruing interest.

The borrower's four year program had a maximum eligibility period of six years and the borrower received Direct Subsidized Loans for four years in that program. When the borrower enrolls in the two-year program, the borrower's maximum eligibility period is recalculated as three years. The sum of the borrower's subsidized usage periods (four years) exceeds the borrower's maximum eligibility period (three years); the borrower has no remaining eligibility period and is therefore no longer eligible for Direct Subsidized Loans. Under § 685.200(f)(3)(i), because the borrower had no remaining eligibility period upon enrollment in an undergraduate program, the borrower would normally become responsible for accruing interest. However, under § 685.200(f)(3)(iv), because the borrower graduated from the four-year program before becoming responsible for accruing interest, enrollment in the two-year program does not result in the borrower becoming responsible for accruing interest on any loans.

Example 16: A borrower enrolls in a two-year program and receives Direct Subsidized Loans for two years. The borrower does not complete that program, but transfers to a four-year program and receives four years of Direct Subsidized Loans, graduating on time. The borrower then enrolls in a one-year certificate program.

	After year 2 of two-year program	Upon completion of four-year program	Upon attendance in the one-year program
Maximum eligibility period for program.	3 years	6 years	1.5 years.
Sum of all subsidized usage periods.	2 years	6 years	6 years.
Remaining eligibility period	1 year	0 years	−4.5 years.
Borrower responsibility for accruing interest.	Borrower not responsible for accruing interest.	Borrower not responsible for accruing interest.	Borrower not responsible for accruing interest.

The borrower transferred to the four-year program before becoming responsible for accruing interest in the two-year program. When the borrower transferred, the borrower's maximum eligibility period was recalculated as six years, resulting in a remaining eligibility period of four years. The borrower completed the four-year program before becoming responsible for accruing interest. Therefore, under § 685.200(f)(3)(iv), upon enrollment in the one-year certificate program, the borrower does not become responsible for accruing interest on any of the borrower's previously received Direct Subsidized Loans. However, the borrower is not eligible to receive Direct Subsidized Loans while attending the one-year certificate program.

Reasons: MAP–21 added section 455(q)(2) to the HEA, which provides that if a borrower is no longer eligible for Direct Subsidized Loans and is enrolled in a program of education or training for which the borrower is otherwise eligible to receive Direct Subsidized Loans, interest will accrue on all of the borrower's Direct Subsidized Loans that were disbursed to the borrower on or after July 1, 2013. We believe that the limit on subsidy duration in MAP–21 was meant to encourage timely completion.[1] We have therefore drafted implementing regulations consistent with that goal.

Section 685.200(f)(3) provides that a borrower becomes responsible for accruing interest on all Direct Subsidized Loans only if the borrower has no remaining eligibility period and then enrolls at least half time in an eligible undergraduate program or preparatory coursework at an institution that participates in the Title IV, HEA programs. This is consistent with the requirements of section 455(q) of the HEA. Specifically, the statute provides a progression of actions and consequences

[1] The Senate Appropriations Committee's report on the 2013 Appropriations bill funding the Department states that limiting ''subsidy duration will encourage borrowers to complete their educational program in a timelier manner.'' S.Rpt. 112–176, 112th Cong. 2d Sess. at 190 (2012).

for Direct Subsidized Loan borrowers which ultimately results in a borrower becoming responsible for accruing interest. First, section 455(q)(3)(A) of the HEA provides that a borrower may not receive Direct Subsidized Loans in excess of the borrower's maximum eligibility period. Second, section 455(q)(1) of the HEA provides that such borrowers lose eligibility for Direct Subsidized Loans if the borrower meets or exceeds his or her maximum eligibility period. Finally, section 455(q)(2) of the HEA provides that, if the borrower is enrolled in a program of education or training after having lost eligibility for Direct Subsidized Loans, interest on the borrower's Direct Subsidized Loans disbursed on or after July 1, 2013 accrues, notwithstanding any other provision of law that would relieve the borrower of the obligation to pay interest.

A consequence of § 685.200(f)(3)(i) is that a borrower will become responsible for accruing interest on outstanding Direct Subsidized Loans by enrolling in an undergraduate program that is shorter than the program for which the borrower previously received Direct Subsidized Loans, even if the borrower does not receive new Direct Subsidized Loans. For the reasons articulated in the preamble discussion of § 685.200(f)(1)(ii)–(iv), the interim final regulations require that a borrower's maximum eligibility period changes to reflect the length of the program in which the borrower is currently enrolled. If a borrower had previously borrowed for a longer program (even if the borrower had a remaining eligibility period greater than zero for that program), then, by virtue of the previous borrowing, it is possible for the borrower to have no remaining eligibility period for the shorter program even if the borrower does not receive any Direct Subsidized Loans for the shorter program. By enrolling in the shorter program, the borrower immediately satisfies the condition of section 455(q)(3)(A) of the HEA (that the borrower is no longer eligible for Direct Subsidized Loans) as well as the condition of section 455(q)(2) of the HEA (that the borrower is enrolled after losing eligibility for additional Direct Subsidized Loans). Therefore, to implement section 455(q) of the HEA, the interim final regulations require that enrollment in a shorter program after meeting or exceeding the borrower's maximum eligibility period will result in the borrower becoming responsible for accruing interest on all outstanding Direct Subsidized Loans.

We recognize that under this framework, a borrower could become responsible for accruing interest on his or her Direct Subsidized Loans by enrolling in a program of equal or shorter duration even if the borrower completed a prior program in a timely manner. Because we believe that MAP–21 was intended to encourage borrowers to complete their programs in a timely manner, § 685.200(f)(3)(iv) specifies that such a circumstance will not result in borrower responsibility for accruing interest (see examples 15 and 16). Absent such treatment, borrowers who complete their programs in a timely manner, consistent with the statutory intent, could still become responsible for accruing interest. In addition, without this treatment, the regulations would create a disincentive for borrowers who completed their programs on time but are nevertheless unemployed or underemployed and need to return to a short-term educational program for job retraining. For these reasons, we have specified in regulation that borrowers who complete their programs in a timely manner do not become responsible for accruing interest, consistent with the intent of MAP–21.

Section 685.200(f)(3)(i) also specifies that borrowers who become responsible for accruing interest on outstanding Direct Subsidized Loans will be responsible for such interest for the life of the loans, including periods of in-school status, grace periods, deferment periods, and certain periods of repayment under the Income-Based Repayment and Pay As You Earn Repayment plans. Section 455(q)(2) of the HEA provides that the borrower is responsible for accruing interest on outstanding Direct Subsidized Loans ''notwithstanding subsection (f)(1)(A) or any other provision of this title.'' Section 455(f)(1)(A) of the HEA provides that during periods of eligible deferments, interest does not accrue and is not paid by the borrower. Therefore, under section 455(q)(2) a borrower who becomes responsible for accruing interest does so even during periods of deferment. The interim final regulations implement this statutory requirement by providing that, when a borrower becomes responsible for accruing interest on Direct Subsidized Loans, interest accrues and is the responsibility of the borrower even during periods of deferment. Similarly, section 455(a)(2) of the HEA requires that the borrower becomes responsible for accruing interest during similar periods when interest would not otherwise be the responsibility of the borrower. The interim final regulations therefore require that, when repaying Direct Subsidized Loans under the Pay As You Earn or Income-Based Repayment plans, a borrower who would otherwise not be responsible for accruing interest during certain periods of repayment will become responsible for such interest if the borrower meets the conditions of § 685.200(f)(3).

Finally, § 685.200(f)(3)(i)(B) reflects section 455(q)(2) of the HEA, which provides that a borrower becomes responsible for accruing interest if the borrower is enrolled in a program for which the borrower is otherwise eligible to receive a Direct Subsidized Loan.

Regaining Eligibility for Direct Subsidized Loans (§ 685.200(f)(5))

Statute: MAP–21 added section 455(q)(1) to the HEA to provide that a borrower loses eligibility for Direct Subsidized Loans if the period of time for which the borrower has received Direct Subsidized Loans exceeds the aggregate period of enrollment as described in section 455(q)(3) of the HEA.

Current Regulations: There are no existing regulations.

New Regulations: Section 685.200(f)(5) provides that a first-time borrower who had previously lost eligibility to receive additional Direct Subsidized Loans may regain eligibility for Direct Subsidized Loans if the borrower attends an educational program that is longer than the prior educational program in which the borrower was enrolled. This provision applies even if the borrower has become responsible for accruing interest on previously received Direct Subsidized Loans under § 685.200(f)(3). Example 17 illustrates this regulatory provision:

Example 17: A borrower enrolls in a two-year program and receives Direct Subsidized Loans for the maximum eligibility period of three years. The borrower is no longer eligible for further Direct Subsidized Loans in this program. Then, the borrower enrolls in a four-year undergraduate program.

Maximum eligibility period for 4-year program.	6 years.
Subsidized usage period	3 years.
Remaining eligibility period	3 years.

The borrower's two-year program had a maximum eligibility period of three years and the borrower received Direct Subsidized Loans for three years for that program. Because the borrower had no remaining eligibility period in that program, the borrower becomes ineligible for additional Direct Subsidized Loans. However, when the borrower enrolls in the four-year program the borrower's maximum

eligibility period is 6 years. Since the borrower has used three years of eligibility, the borrower now becomes eligible for an additional three years of Direct Subsidized Loans. Therefore, the borrower has regained eligibility by enrolling in a program of greater duration than the borrower's previous program.

Reasons: Section 685.200(f)(5) incorporates the calculations of section 455(q)(3) of the HEA into the interim final regulations. Specifically, this regulatory provision provides that a borrower may regain eligibility for Direct Subsidized Loans if the borrower attends an educational program longer than the program in which the borrower was previously enrolled. A borrower enrolling in such a program would have a new, longer eligibility period and would regain eligibility for additional Direct Subsidized Loans.

Failing to allow a borrower to regain eligibility in this manner would result in inequitable treatment of similarly situated borrowers. For example, if enrolling in a new, longer educational program did not expand a borrower's maximum eligibility period, students enrolling in two different programs would have significantly reduced Direct Subsidized Loan eligibility compared to borrowers who only enrolled in the longer program. Suppose a borrower is enrolled in a two-year program and receives Direct Subsidized Loans for three years. If the borrower then transfers to a four-year program and if the borrower's maximum eligibility period were not adjusted to six years, then the borrower would not be eligible for any additional Direct Subsidized Loans. In contrast, a borrower who had been enrolled in the four-year program from the beginning and who had also received Direct Subsidized Loans for three years would have three years of eligibility remaining. Therefore, to provide equal treatment to these and similar borrowers, under these interim final regulations, borrowers who attend programs of greater duration can regain eligibility for Direct Subsidized Loans.

Treatment of Preparatory Coursework Required for Enrollment in a Degree or Certificate Program (§ 685.200(f)(6))

Statute: MAP–21 added section 455(q)(3)(B) to the HEA. This section directs the Secretary to specify in regulation how the 150 percent limit on Direct Subsidized Loans applies to students who are enrolled in coursework necessary for admission into a degree or certificate program. Section 484(b)(3)(B) of the HEA authorizes an otherwise-eligible student to receive a Direct Loan for one 12-month period in a course of study necessary for enrollment in a degree or certificate program.

Current Regulations: Current 34 CFR 668.32(a)(1)(ii) reflects the requirements of section 484(b)(3)(B) of the HEA. Section 685.203(a)(6) provides that, for one 12-month period, a student may receive a Direct Loan up to an annual loan limit of $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and up to an annual loan limit of $5,500 for coursework necessary for a graduate or professional degree or certificate program. There are no current regulations that address the application of the 150 percent Direct Subsidized Loan limit on borrowers enrolled in coursework necessary for a graduate or professional program.

New Regulations: The interim final regulations provide that the provisions of § 685.200(f), which govern the 150 percent limit on Direct Subsidized Loan eligibility, do not supersede the existing 12-month maximum period of loan eligibility limitation imposed by § 668.32(a)(1)(ii). Section 685.200(f)(6) of the interim final regulations establishes rules for determining the eligibility for Direct Subsidized Loans received for preparatory coursework necessary for enrollment in undergraduate or graduate or professional programs. Section 685.200(f)(6) treats coursework required for an undergraduate degree or certificate program differently than coursework required for a graduate or professional program. However, § 685.200(f)(6)(i) specifies that Direct Subsidized Loans received for either type of preparatory coursework are included in the calculation of a borrower's subsidized usage period.

Section 685.200(f)(6)(ii) provides that the maximum eligibility period for Direct Subsidized Loans for students completing preparatory coursework required for enrollment in an undergraduate program is the maximum eligibility period applicable to the undergraduate program for which the preparatory coursework is required. Enrollment in preparatory coursework does not increase the borrower's maximum eligibility period. Furthermore, § 685.200(f)(6)(iv) provides that for undergraduate preparatory coursework, the borrower becomes responsible for accruing interest if the borrower has no remaining eligibility period in the program for which the coursework is required. This occurs if the maximum eligibility period of the undergraduate program for which the preparatory coursework is required is less than the sum of the borrower's subsidized usage periods based on the borrower's prior enrollment in one or more educational programs.

Section 685.200(f)(6)(iii) provides that the maximum eligibility period for preparatory coursework required for enrollment in a graduate or professional program is the maximum eligibility period for the undergraduate program for which the borrower most recently received a Direct Subsidized Loan. A borrower with no remaining eligibility period based on the maximum eligibility period for that undergraduate program may not receive Direct Subsidized Loans to complete the required coursework; however, the borrower may receive Direct Unsubsidized Loans.

Section 685.200(f)(6)(v) provides that enrollment in preparatory coursework required for enrollment in a graduate or professional program does not result in the borrower becoming responsible for accruing interest on previously received Direct Subsidized Loans. Examples 18 through 22 illustrate the regulatory treatment of preparatory coursework:

Example 18: A borrower enrolls in preparatory coursework required for enrollment in an undergraduate program and receives Direct Subsidized Loans for one year. The borrower then enrolls in a four-year degree program for which the preparatory coursework was required.

Maximum eligibility period	6 years.
Subsidized usage period	1 year.
Remaining eligibility period	5 years.

Under § 685.200(f)(6)(ii), the borrower's maximum eligibility period is calculated as 150 percent of the four-year program, which results in a maximum eligibility period of six years. The borrower received Direct Subsidized Loans for one year of preparatory coursework; under § 685.200(f)(6)(i), this period counts toward the borrower's maximum eligibility period for the four-year program for which the preparatory coursework was required. The difference between the maximum eligibility period (six years) and the sum of the borrower's subsidized usage periods from the preparatory coursework (one year) results in a remaining eligibility period of five years for the four-year program.

Example 19: A borrower enrolls in preparatory coursework for enrollment in a two-year undergraduate program and receives Direct Subsidized Loans for one year. The borrower then enrolls in the two-year undergraduate program for which the preparatory coursework

was required and receives Direct Subsidized Loans for two years. The borrower then enrolls in a four-year program.

	After preparatory coursework	After 2-year program	Upon enrollment in 4-year program
Maximum eligibility period of the program	3 years	3 years	6 years.
Sum of subsidized usage periods	1 year	3 years	3 years.
Remaining eligibility period	2 years	0 years	3 years.

When the borrower enrolled in the preparatory coursework, the borrower's maximum eligibility period under § 685.200(f)(6)(ii) was the maximum eligibility period for the two-year program for which the coursework is required, or three years. The borrower received Direct Subsidized Loans for one year of preparatory coursework and had two years of eligibility remaining. The borrower then enrolled in the two-year program. The borrower received Direct Subsidized Loans for two years and, after two years, had no remaining eligibility for Direct Subsidized Loans. When the borrower enrolls in the four-year program, the borrower's maximum eligibility period under § 685.200(f)(1)(ii) is calculated as 150 percent of the four-year program, or six years. Under §§ 685.200(f)(1)(iii) and 685.200(f)(6)(i), the period in which the borrower previously received Direct Subsidized Loans, including the loan received for the preparatory coursework, count against the borrower's new six-year maximum eligibility period. The sum of the borrower's subsidized usage periods upon enrollment in the four-year program is three years. The borrower has three years of Direct Subsidized Loan eligibility remaining—the difference between six years and three years.

Example 20: A borrower enrolls in a two-year program and receives Direct Subsidized Loans for the maximum eligibility period of three years. The borrower withdraws and wants to enroll in another two-year program, but is required to complete preparatory coursework for enrollment in that program.

Maximum eligibility period	3 years.
Subsidized usage period	3 years.
Remaining eligibility period	0 years.
Borrower responsibility for accruing interest	The borrower is responsible for accruing interest.

When the borrower enrolled in the initial two-year program, the borrower's maximum eligibility period was three years. The borrower received Direct Subsidized Loans for the three-year maximum eligibility period. The borrower wants to enroll in another two-year program but is required to complete preparatory coursework for admission to that program. Under § 685.200(f)(6)(ii), the borrower's maximum eligibility period for the preparatory coursework is three years—the maximum eligibility period for the new two-year program. Upon enrollment in the preparatory coursework for the new two-year program, the borrower does not have any remaining eligibility period because the borrower has already received Direct Subsidized Loans for three years. In addition, under § 685.200(f)(6)(iv), enrollment in the undergraduate preparatory coursework causes the borrower to become responsible for accruing interest on all of the borrower's previously received Direct Subsidized Loans, because the borrower has no remaining eligibility period. Finally, § 685.200(f)(3)(iv) does not apply because the borrower did not complete the initial two-year program.

Example 21: A borrower enrolls in a four-year undergraduate program and receives Direct Subsidized Loans for five years. The borrower wants to enroll in a graduate degree program, but is required to complete preparatory coursework for enrollment in that program.

Maximum eligibility period	6 academic years.
Subsidized usage period	5 academic years.
Remaining eligibility period	1 academic year, subject to the limitation below.

Under § 685.200(f)(1)(ii), the borrower's maximum eligibility period for the four-year program is six academic years (150 percent of the four-year undergraduate program). The borrower received Direct Subsidized Loans for five years. Under § 685.200(f)(6)(iii), the borrower's eligibility for Direct Subsidized Loans for preparatory coursework necessary for enrollment in a graduate program is based on the borrower's most recent undergraduate program of study in which the borrower received a Direct Subsidized Loan. The borrower has a remaining eligibility period of one academic year based on the six academic year maximum eligibility period for the prior undergraduate program, but § 668.32(a)(1)(ii) limits loan eligibility for preparatory coursework to one consecutive 12-calendar month period. The borrower therefore has a remaining eligibility period of one academic year, but must use that eligibility during one consecutive 12 calendar month period.

Example 22: A borrower enrolls in a four-year undergraduate program and receives Direct Subsidized Loans for the maximum eligibility period of six years. The borrower wants to enroll in a graduate program, but is required to complete preparatory coursework for enrollment in that program.

Maximum eligibility period	6 years.
Subsidized usage period	6 years.

Remaining eligibility period	0 years.
Borrower responsibility for accruing interest	The borrower is not responsible for accruing interest.

Under § 685.200(f)(1)(ii), the borrower's maximum eligibility period for the four-year program is six years. The borrower received Direct Subsidized Loans for the maximum eligibility period of six years. Under § 685.200(f)(6)(iii), the borrower's eligibility for Direct Subsidized Loans for preparatory coursework for enrollment in a graduate program is based on the borrower's most recent undergraduate program of study in which the borrower received a Direct Subsidized Loan. In this case, the borrower used the six years of maximum eligibility for the four-year undergraduate program and has no remaining eligibility period in the preparatory coursework necessary for enrollment in the graduate program. Although the borrower has lost eligibility for Direct Subsidized Loans, § 685.200(f)(6)(v) provides that the borrower's enrollment in the preparatory coursework does not result in the borrower becoming responsible for accruing interest on the borrower's previously received Direct Subsidized Loans.

Reasons: Section 685.200(f)(6) of the interim final regulations implements section 455(q)(3)(B)(ii) of the HEA, which requires the Secretary to promulgate regulations that address how the 150 percent limitations apply to borrowers enrolled in coursework necessary for enrollment in an eligible undergraduate program or a graduate or professional program.

We chose to treat Direct Subsidized Loans received for preparatory coursework as part of the borrower's related undergraduate program for purposes of the 150 percent limit. This approach is consistent with the statutory goal of creating an incentive for borrowers to complete their programs in a timely manner. We also believe the maximum eligibility period calculated under the 150 percent limit will generally allow borrowers to receive Direct Subsidized Loans while completing 12 calendar months of preparatory coursework and the undergraduate program for which the preparatory coursework is intended. Furthermore, borrowers in such preparatory coursework that are ineligible for further Direct Subsidized Loans would still be eligible for Direct Unsubsidized Loans to complete their preparatory coursework.

The interim final regulations treat preparatory coursework for enrollment in a graduate or professional program differently than coursework required for an undergraduate program. Section 685.200(f)(6)(iii) limits a borrower's Direct Subsidized Loan eligibility for graduate or professional preparatory coursework to the maximum eligibility period applicable to the undergraduate program for which the borrower most recently received a Direct Subsidized Loan.

We chose this approach because preparatory coursework for graduate or professional programs is considered baccalaureate in nature for Direct Loan purposes and is therefore subject to undergraduate loan limits under current § 685.203. Such coursework is also limited to one 12-calendar month period and is a series of specified courses required for admission to a program rather than a stand-alone program of study. An alternative we considered was to treat this coursework as a one-year stand-alone program; however, we rejected this approach because it would cause all borrowers with subsidized usage periods of 1.5 years or more from their prior undergraduate enrollment to become ineligible for Direct Subsidized Loans to complete this preparatory coursework (see example 13 and discussion in the related reasons section).

In addition to addressing borrower eligibility for Direct Subsidized Loans during preparatory coursework, the interim final regulations also address the possibility that a borrower will become responsible for accruing interest that could result from enrollment in such coursework after a borrower reaches the 150 percent limit and is no longer eligible for additional Direct Subsidized Loans. For enrollment in preparatory coursework necessary for enrollment in an undergraduate program, § 685.200(f)(6)(iv) provides that a borrower would become responsible for accruing interest only if the borrower had no remaining eligibility period in the program for which the coursework is required. We believe that this provision will be inapplicable to most borrowers because borrowers rarely enroll in preparatory coursework for an undergraduate program after having already received a significant number of Direct Subsidized Loans. In addition, such borrowers will ultimately become responsible for accruing interest by enrolling in the undergraduate program for which the preparatory coursework is required. Therefore, preventing borrower responsibility for accruing interest during the related preparatory coursework would only delay borrower responsibility for accruing interest for a short period.

In contrast, under § 685.200(f)(6)(v), a borrower's enrollment in preparatory coursework required for a graduate or professional program does not result in the borrower becoming responsible for accruing interest on previously received loans. Borrowers enrolling in graduate or professional preparatory coursework often have borrowed Direct Subsidized Loans during undergraduate programs. Borrower responsibility for accruing interest caused by enrollment in such preparatory coursework could have a significant impact on borrowers who then enroll in a graduate or professional program—such borrowers would be responsible for interest that accrues during all the years of the graduate or professional program. If this were to occur, the costs of borrowing for graduate or professional programs would increase significantly. For example, suppose a borrower with no remaining eligibility period and $23,000 in Direct Subsidized Loan principal (the aggregate loan limit) enrolled in one year of preparatory coursework for a two-year master's degree program. Assuming an interest rate of 6.8% on the borrower's loans, the borrower would be responsible for more than $5,000 in capitalized interest that accrued during those three years of enrollment. Without § 685.200(f)(6)(v), we believe such increased costs of borrowing could deter borrowers who require preparatory coursework from pursuing graduate- or professional-level study.

Furthermore, without § 685.200(f)(6)(v), borrowers who require preparatory coursework for graduate or professional programs would otherwise be treated inequitably compared to those who do not need such preparatory coursework. Because enrollment in graduate and professional programs does not result in borrower responsibility for accruing interest, without § 685.200(f)(6)(v), borrowers who need such preparatory coursework would become responsible for accruing interest while those who do not need preparatory coursework would not. This would result in significantly divergent and inequitable principal balances at the conclusion of the graduate or professional coursework. For these

reasons, the interim final regulations prevent enrollment in such preparatory coursework from resulting in borrower responsibility for accruing interest.

Treatment of Teacher Certification Coursework for Which the Institution Awards No Academic Credential (§ 685.200(f)(7))

Statute: MAP–21 added section 455(q)(3)(B) to the HEA. This section directs the Secretary to specify in regulations how the 150 percent Direct Subsidized Loan eligibility limit will apply to borrowers at an eligible institution who are enrolled in coursework required for a professional State credential or certification necessary for employment as an elementary or secondary school teacher, but for which the institution awards no academic credential. Section 484(b)(4) of the HEA authorizes a student to receive Title IV student loans for such coursework.

Current Regulations: Current 34 CFR 668.32(a)(1)(iii) reflects section 484(b)(4) of the HEA, which provides that students are eligible for Direct Loans if they are enrolled in teacher certification coursework that does not lead to an academic credential awarded by an institution, but which is required for certification by the State to teach in an elementary or secondary school. Current § 685.203(a)(7) provides that a student may receive up to an annual Direct Subsidized Loan limit of $5,500 for such coursework. There are no current regulations that specify the treatment of students enrolled in teacher certification coursework for purposes of the 150 percent Direct Subsidized Loan limit. (Throughout the preamble to this interim final regulation, any reference to ''teacher certification coursework'' only includes teacher certification coursework for which the institution awards no academic credential, unless otherwise specified.)

New Regulations: Section 685.200(f)(7)(i) of the regulations provides that the maximum eligibility period for a first-time borrower enrolled in teacher certification coursework is calculated as 150 percent of the published length of the teacher certification coursework in which the borrower is currently enrolled.

Section 685.200(f)(7)(ii) provides that, when determining a borrower's remaining eligibility period for teacher certification coursework, only periods in which a borrower received Direct Subsidized Loans for such teacher certification coursework are included in the borrower's subsidized usage period.

Section 685.200(f)(7)(iii) provides that, when determining a borrower's remaining eligibility period for any program or coursework other than teacher certification coursework, periods in which a borrower received Direct Subsidized Loans for such teacher certification coursework are excluded.

Together, these latter two paragraphs provide that we treat the sum of the borrower's subsidized usage periods accrued during teacher certification coursework separately from the borrower's subsidized usage periods accrued during all other undergraduate programs or coursework in which the borrower may have enrolled. Direct Subsidized Loans received for teacher certification coursework count only against the maximum eligibility period for the borrower's teacher certification coursework.

Finally, § 685.200(f)(7)(iv) provides that enrollment in teacher certification coursework for which an academic credential is not awarded by the institution does not cause a borrower to become responsible for accruing interest on the borrower's outstanding Direct Subsidized Loans, including any Direct Subsidized Loans received for periods of undergraduate study.

The provisions of § 685.200(f)(7) cover teacher certification coursework for which an institution does not award an academic credential. Teacher preparation programs for which an institution awards an academic credential are governed by § 685.200(f)(1)–(f)(6), similar to other undergraduate or graduate programs.

Examples 23 through 25 illustrate the treatment of borrowers enrolled in teacher certification coursework.

Example 23: A borrower completes a four-year baccalaureate degree program and receives four years of Direct Subsidized Loans for that program. The borrower then enrolls in teacher certification coursework that is one year in duration.

Maximum eligibility period for the teacher certification coursework.	1.5 years.
Subsidized usage period	0 years.
Remaining eligibility period	1.5 years.

The borrower received Direct Subsidized Loans for four years before enrolling in the teacher certification coursework. When the borrower enrolls in the one year of teacher certification coursework, the calculation of the borrower's maximum eligibility period, subsidized usage period, and remaining eligibility period are unaffected by the borrower's prior enrollment or borrowing. The borrower therefore has 1.5 years of eligibility for Direct Subsidized Loans remaining.

Example 24: A borrower enrolls in one year of teacher certification coursework and receives Direct Subsidized Loans for one year. The borrower then enrolls in separate teacher certification coursework for two years.

Maximum eligibility period for the teacher certification coursework.	3 years.
Subsidized usage period	1 year.
Remaining eligibility period	2 years.

The borrower received Direct Subsidized Loans for one year of teacher certification coursework, and has a remaining eligibility period of 0.5 years after the first year. When the borrower enrolls in the separate two years of teacher certification coursework, the borrower's maximum eligibility period is three years (150 percent of the two years of coursework), but the borrower's previous subsidized usage period of one year counts against the borrower's new maximum eligibility period. Therefore, the borrower has a remaining eligibility period of two years.

Example 25: A borrower enrolls in a two-year undergraduate degree program and receives Direct Subsidized Loans for three years. The borrower then enrolls in two years of teacher certification coursework, receives Direct Subsidized Loans for three years, and is therefore not eligible for more Direct Subsidized Loans. The borrower continues enrollment in the teacher certification coursework.

Maximum eligibility period for the teacher certification coursework	3 years.
Subsidized usage period	3 years.
Remaining eligibility period	0 years.
Borrower responsibility for accruing interest	The borrower does not become responsible for accruing interest on loans for the undergraduate program or teacher certification coursework.

After completing the two-year undergraduate program, the borrower enrolled in two years of teacher certification coursework and received Direct Subsidized Loans for three years. When the borrower enrolled in the teacher certification coursework, the borrower's maximum eligibility period and remaining eligibility period were both three years because the borrower's previous undergraduate borrowing does not count against the teacher certification maximum eligibility period. The borrower subsequently used all three years of Direct Subsidized Loan eligibility for the teacher certification coursework and therefore has no remaining eligibility period for Direct Subsidized Loans in the teacher certification coursework. When the borrower continues enrollment in the teacher certification coursework, this does not result in the borrower becoming responsible for accruing interest on his or her existing Direct Subsidized Loans, either those received for the undergraduate degree program or those received for the teacher certification coursework.

Reasons: Section 685.200(f)(7) implements section 455(q)(3)(B)(ii) of the HEA, which requires the Secretary to promulgate regulations that address how the 150 percent Direct Subsidized Loan eligibility limitations apply to borrowers enrolled in teacher certification coursework for which the institution awards no academic credential. The interim final regulations reflect the unique characteristics of this coursework within the general requirements of section 455(q)(3)(A) of the HEA.

We chose to calculate the 150 percent subsidized limit for teacher certification coursework in a manner similar to the approach used to calculate the limit for undergraduate degree programs. However, in calculating the remaining eligibility period, we chose to exclude Direct Subsidized Loans borrowed for earlier undergraduate programs. Borrowers enrolled in teacher certification coursework required for licensure or certification have already completed baccalaureate degree programs for which they may have received numerous Direct Subsidized Loans. Because this teacher certification coursework is typically one or two years in duration, counting earlier undergraduate loans would likely cause numerous borrowers to lose eligibility for further Direct Subsidized Loans and to become responsible for accruing interest upon enrollment (see example 13). This may discourage students from pursuing education to become teachers. Therefore, we chose to treat borrowing and enrollment in this coursework separately from the borrowing and enrollment in undergraduate programs.

The Secretary believes that individuals should be encouraged to become teachers and to continue teaching. The Secretary also believes that teacher certification coursework is an important national resource for teacher preparation and continued professional development. Treating borrowing during teacher certification coursework separately for purposes of the 150 percent limit preserves sufficient Direct Subsidized Loan eligibility for most borrowers who have financial need while preventing such borrowers from having unlimited Direct Subsidized Loan eligibility for teacher certification coursework. Allowing unlimited eligibility for such coursework would be contrary to the intent of MAP–21, which established a time limit on eligibility for Direct Subsidized Loans and we believe was intended to provide incentives for timely completion.

In addition to treating Direct Subsidized Loans borrowed for teacher certification coursework as separate from prior undergraduate Direct Subsidized Loan borrowing, § 685.200(f)(7)(iv) also provides that a borrower will not be responsible for accruing interest on prior loans based on subsequent enrollment in teacher certification coursework. Many States have certification standards that require teachers to take teacher certification coursework to continue teaching in the State. For these teachers, enrollment in this coursework is legally required for continued employment, not an option that a borrower can exercise. Therefore, we have determined that enrollment in this coursework should not result in the borrower becoming responsible for accruing interest on all of the borrower's outstanding loans.

New Entrance and Exit Counseling Requirements (§ 685.304(a)(6)(xiii), § 685.304(b)(4)(xii))

Statute: Section 485(l) of the HEA requires an eligible institution to provide entrance counseling to first-time borrowers at or prior to disbursement of a Direct Subsidized Loan or a Direct Unsubsidized Loan. The counseling may be provided in person, on a separate written form provided to and signed and returned by the borrower, or online with the borrower acknowledging receipt. The entrance counseling must include:

- Information on the terms and conditions of the loan;
- The borrower's responsibilities under the loan;
- The effects of the loan on other student aid eligibility;
- An explanation of the use of the master promissory note;
- An explanation of interest accrual and capitalization;
- The borrower's option to pay the accruing interest while in school;
- The consequences of not maintaining half-time enrollment;
- The borrower's responsibility to contact the institution if the borrower withdraws;
- Sample monthly repayment amounts;
- Information on the National Student Loan Data System (NSLDS);
- The borrower's obligation to repay the loan regardless of program completion or completion within the regular timeframe for completion;
- The consequences of default; and
- The name and contact information for a person the borrower may contact if the borrower has any questions.

Section 485(b) of the HEA requires eligible institutions to provide exit counseling to Direct Subsidized Loan or Direct Unsubsidized Loan borrowers prior to the borrower completing the course of study or at the time the borrower departs from, or drops below half-time enrollment at, the institution. The exit counseling must provide:

- Information on the available repayment plans and their features;
- Debt management strategies to facilitate loan repayment;
- Loan forgiveness and cancellation provisions with a description of their terms and conditions;
- Forbearance provisions and their terms and conditions;
- The consequences of default;
- The effects of loan consolidation;
- The types of tax benefits that may be available; and
- The availability of NSLDS and how it can be used by borrowers to access their records and obtain information on the repayment status of their loans.

Current Regulations: Current § 685.304(a)(6) and (b)(4) of the Department's regulations reflect the borrower entrance and exit counseling requirements contained in the HEA. The information that institutions are required to provide to borrowers during entrance and exit counseling does not currently include information on the Direct Subsidized Loan eligibility limits and the potential borrower responsibility for accruing interest.

New Regulations: The regulations governing entrance and exit counseling requirements are being amended to require that institutions inform borrowers of the 150 percent Direct Subsidized Loan eligibility limitations

and possible borrower responsibility for accruing interest.

We have added § 685.304(a)(6)(xiii) of the Direct Loan regulations to require that the information provided as part of entrance counseling include:

- The possible loss of eligibility for additional Direct Subsidized Loans;
- How a borrower's maximum eligibility period, remaining eligibility period, and subsidized usage period are determined;
- The potential for a borrower becoming responsible for all accruing interest on Direct Subsidized Loans during in-school periods, grace periods, and periods of authorized deferment; and
- The impact of borrower responsibility for accruing interest on the borrower's total debt.

We have also amended § 685.304(b)(4)(xii) of the Direct Loan regulations governing required exit counseling to require, in addition to the information required as part of entrance counseling, that information be provided to the borrower on:

- The sum of the borrower's subsidized usage periods at the time of the exit counseling;
- How to get information from NSLDS on whether he or she has become responsible for accruing interest on any of his or her Direct Subsidized Loans and whether the borrower is eligible to receive additional Direct Subsidized Loans;
- The possible consequences of receiving additional Direct Subsidized Loans for additional undergraduate programs; and
- The potential for a borrower becoming responsible for all accruing interest on Direct Subsidized Loans during in-school periods, grace periods, and periods of authorized deferment, even if the borrower does not receive an additional Direct Subsidized Loan.

We will modify our entrance counseling material prior to July 1 to reflect the additional information that must be provided to borrowers under new § 685.304(a)(6)(xiii). We will also modify our exit counseling material to reflect the additional information that must be provided to borrowers under new § 685.304(b)(4)(xii). Institutions may continue to rely on the Department's revised counseling materials to comply with these revised regulatory requirements. The Department will post an electronic announcement on the Information for Financial Aid Professionals Web site when revised counseling materials are available.

Reasons: The amendments made to the HEA by MAP–21 significantly alter borrower eligibility requirements for Direct Subsidized Loans for first-time borrowers on or after July 1, 2013. The amendments also make changes to the terms and conditions of those loans. It is critical that institutions communicate information on these important changes to borrowers as part of their entrance and exit counseling. Without this information, borrowers could be affected by the 150 percent limit without knowing about the limit, without understanding how it is calculated, and without understanding the significant financial implications for them if they reach or exceed the limit. Therefore, we have added this information to the information that institutions must provide during entrance and exit counseling. Enhanced counseling about these requirements will mitigate borrower confusion, encourage accurate budgeting and debt management by borrowers, and help borrowers make informed educational plans mindful of all potential costs.

Additional Reporting Requirements and Modifications to Departmental Systems

To effectively implement the regulatory provisions contained in these interim final regulations, the Department will make a number of changes to NSLDS and to the Common Origination and Disbursement (COD) System. The COD System will collect information needed to determine whether a borrower continues to be eligible for Direct Subsidized Loans; NSLDS will collect information needed to determine whether a borrower becomes responsible for the accruing interest on the Direct Subsidized Loans the borrower previously received. Institutions will not be responsible for officially determining whether a borrower has a remaining eligibility period under these interim final regulations. The Department will have the primary responsibility for making eligibility determinations, determining whether a borrower becomes responsible for accruing interest, and making this information available to borrowers. In the event that there are questions regarding the validity of any determination made by the Department with respect to these provisions, we will develop a process to research data integrity issues, and, if necessary, adjust previously made determinations. However, institutions will be required to report additional information to both the COD System and NSLDS, as discussed below. We are committed to making the necessary systems changes as quickly as possible and will issue further guidance at a later date.

The 150 percent limit only applies to borrowers who are ''first-time borrowers'' on or after July 1, 2013. The Secretary will have the information necessary to determine whether a borrower is a first-time borrower as defined in § 685.200(f)(1)(i). Institutions will not be required to determine or report this information. However, institutions will be required to supply the information below for all borrowers who receive Direct Loans on or after the date that we implement the system changes necessary to support these interim final regulations.

To allow the Department to calculate a borrower's maximum eligibility period, institutions will be required to report additional information to the COD System when originating and disbursing Direct Loans. The additional information will include, but not be limited to:

- The Classification of Instructional Programs (CIP) Code for the program in which the borrower is enrolled;
- The credential level for the borrower's program;
- The length of the borrower's program (in academic years, months, or weeks);
- The enrollment status of the borrower at the time the loan is disbursed (full time, half time, or three-quarter time);
- If appropriate, an indication that the Direct Loan is intended for preparatory coursework for an undergraduate program;
- If appropriate, an indication that the Direct Loan is intended for preparatory coursework for a graduate or professional program; and
- If appropriate, an indication that the Direct Loan is intended for teacher certification coursework for which the institution does not award an academic credential.

Note: An enrollment status of less than half time will not be included in the COD System because a borrower is not eligible to receive a Direct Loan for enrollment on a less than half-time basis (this information will continue to be included in NSLDS, however).

We will use the CIP Code, credential level, and program length to define the program in which the borrower is enrolled. We need this information because section 455(q) of the HEA and these implementing regulations require that the borrower's maximum eligibility period be determined program by program.

We are requiring that institutions report the borrower's enrollment status as of the date that the loan is disbursed, as full time, three-quarter time, or half time because the Secretary generally

prorates the subsidized usage period in cases where the borrower is enrolled less than full time.

Finally, institutions must identify Direct Loans that are intended to support preparatory coursework for undergraduate programs, preparatory coursework for graduate or professional programs, and teacher certification coursework because the interim final regulations treat loans for such coursework differently than loans for other programs.

To calculate the borrower's subsidized usage period, the COD System will divide the number of days in each loan period by the number of days in the academic year associated with the loan, as reported by the institution in the award record for the loan. An institution's failure to report this information accurately will not only cause borrowers to appear to have less eligibility for Direct Subsidized Loans than they should but may also cause disbursement records to be rejected by the COD System or result in adverse findings in compliance reviews of the institution, fines, or other sanctions.

By comparing the sum of the borrower's subsidized usage periods to the borrower's maximum eligibility period, the COD System will reject any disbursement record of a Direct Subsidized Loan if the borrower has lost eligibility for Direct Subsidized Loans as a result of new § 685.200(f)(2).

The COD System will track and calculate a borrower's maximum eligibility period, subsidized usage period, and remaining eligibility period, and the Secretary will provide borrowers and institutions with information about the borrower's subsidized usage periods using Student Aid Reports (SARs) and Institutional Student Information Records (ISIRs) through the Central Processing System (CPS). This will allow institutions to counsel Direct Loan borrowers about their maximum eligibility periods and remaining eligibility periods based on the length of the program in which the borrower is enrolled. This information will also allow institutions to determine whether the borrower has any Direct Subsidized Loan eligibility remaining before submitting an origination or disbursement record to the COD System.

In addition to the additional reporting to the COD System, institutions will be required to report additional information to NSLDS as part of their reporting of enrollment information on student loan borrowers. The Department requires this additional information to implement the requirements concerning borrowers' responsibility for accruing interest. The additional information will include, but not be limited to:

- The CIP Code and credential level for the program in which the borrower is enrolled;
- The length of the program in which the borrower is enrolled in academic years, months, or weeks (consistent with institutional reporting in the COD System);
- The enrollment status of the borrower at the time the institution completes the enrollment reporting;
- If appropriate, an indication that the borrower is enrolled in preparatory coursework for an undergraduate program;
- If appropriate, an indication that the borrower is enrolled in preparatory coursework for a graduate or professional program; and
- If appropriate, an indication that the borrower is enrolled in teacher certification coursework for which the institution does not award an academic credential.

The Secretary will use the information regarding CIP Code, credential level, and program length to define the program in which the borrower is enrolled (e.g., as a graduate program or an undergraduate program) and to calculate the appropriate 150 percent limit.

The Secretary will also use the information about the length of the borrower's current program to ensure that borrowers do not improperly become responsible for accruing interest.

Finally, the Secretary will use information that institutions are already required to report concerning a student's graduation to determine whether a borrower will not become responsible for accruing interest under § 685.200(f)(3)(iv) because the borrower completed his or her program in a timely manner.

The Secretary is requiring that institutions flag borrower enrollment in preparatory coursework and teacher certification coursework because of the special rules that apply to borrowers enrolled in those programs.

We will use this information in NSLDS to determine whether a borrower becomes responsible for accruing interest on his or her Direct Subsidized Loans (and the effective date on which the borrower becomes responsible for that interest). This information will be conveyed to the borrower's Federal loan servicer, which will notify the borrower that he or she is responsible for accruing interest. The servicer will also make the necessary adjustments to reflect the borrower's responsibility for accruing interest on the borrower's Direct Subsidized Loans.

The Department will modify its entrance and exit counseling material on StudentLoans.gov to provide the information described in new §§ 685.304(a)(6)(xiii) and 685.304(b)(4)(xii) for institutions that use the Department's online counseling material to comply with the regulatory entrance and exit counseling requirements.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive Order.

This regulatory action would have an annual effect on the economy of more than $100 million because the transfers between borrowers who exceed the 150 percent limit and the government total approximately $3.9 billion over loan cohorts 2013 to 2023. Therefore, this action is ''economically significant'' and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action and have determined that the benefits justify the costs.

We have also reviewed these interim final regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent

permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these interim final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

1. *Potential costs and benefits*

These interim final regulations implement the statutory requirements in MAP–21 that limit the availability of Direct Subsidized Loans to 150 percent of the program length and that cause borrowers to become responsible for accruing interest if they are no longer eligible for Direct Subsidized Loans as a result. The net budget savings that will be generated by these interim final regulations will contribute to paying for the extension of the 3.4 percent interest rate on Direct Subsidized Loans made between July 1, 2012, and June 30, 2013. In the following sections, we summarize the effects these interim final regulations are likely to have on the Federal Government, institutions of higher education (IHEs), and students.

Federal Government: The eligibility limitations and potential borrower responsibility for accruing interest implemented in these interim final regulations are expected to result in net budget savings as some Direct Subsidized Loans shift to Direct Unsubsidized Loans and as some borrowers become responsible for accruing interest on their Direct Subsidized Loans earlier than they otherwise would. The estimated savings associated with the interim final regulations were initially analyzed as PB 2013 budget policy, and that estimate of $3.597 billion in savings was included in the Department's mid-session review (MSR) budget baseline in the summer of 2012, shortly before the passage of MAP–21. When the specifics of the legislation and interim final regulations became available, the estimate was updated, using revised economic assumptions and loan volume, resulting in additional estimated savings of approximately $325 million.

Consistent with the requirements of the Credit Reform Act of 1990 (CRA), budget cost estimates for the Federal student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. A cohort reflects all loans originated in a given fiscal year. These estimates were developed using OMB's Credit Subsidy Calculator. The OMB calculator takes projected future cash flows from the Department's student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a ''basket of zeros'' methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used Governmentwide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these interim final regulations.

In order to evaluate the effect of these interim final regulations, the Department used data from NSLDS to simulate a representative pool of Direct Subsidized Loan borrowers for the upcoming cohorts affected by the interim final regulations. Based on borrowing patterns in the NSLDS data for existing cohorts, the Department estimated which borrowers will lose eligibility for Direct Subsidized Loans and which borrowers will become responsible for accruing interest. The model accounted for program length, type, and whether the borrower transferred from one institution to another to determine the loss of Direct Subsidized Loan eligibility and borrower responsibility for accruing interest. The estimated savings were then generated using the Department's Student Loan Model based on the anticipated shift in loan volume from Direct Subsidized Loans to Direct Unsubsidized Loans, a reduction in anticipated deferments, and a reduced number of days for which the borrower is not responsible for interest that accrues. Additional information on the effect of these factors is available in the *Students* section of this regulatory impact analysis.

Institutions of Higher Education: The interim final regulations most directly affect the Federal Government and student borrowers, with a more limited effect on IHEs. While a small percentage of student borrowers is expected to lose eligibility for additional Direct Subsidized Loans or to become responsible for accruing interest on existing Direct Subsidized Loans, those students would still be eligible for Direct Unsubsidized Loans and would not necessarily withdraw from their program of study, potentially limiting the effect of the interim final regulations on an IHE's revenues. While some Direct Subsidized Loan borrowers may shift their educational plans or the sources of funding used to pay for their programs, the availability of substitute sources of funding or other students who would fill the IHE's capacity could also limit the effect of the interim final regulations on institutions.

The *Paperwork Reduction Act* section of this preamble describes the additional reporting requirements for IHEs related to these interim final regulations, such as requirements to identify the length of the programs in which a student borrower is enrolled,

the borrower's enrollment status, and the type of program. In addition, IHEs will need to update the financial aid counseling they provide to student borrowers to reflect the new limitations on Direct Subsidized Loans and the Department will provide guidance to assist with this process. The Department estimates that this reporting and financial aid counseling activity will cost IHEs approximately $1.6 million.

Students: The effect of these interim final regulations on students is the potential loss of Direct Subsidized Loan eligibility and responsibility for accruing interest on existing Direct Subsidized Loans for new borrowers starting on July 1, 2013. The examples presented in this preamble demonstrate the effect of the changes in a variety of scenarios under the interim final regulations. While the specific effects on individual students will depend on many factors (including the use of Direct Subsidized Loans, transfers between programs of different published lengths, program completion, or enrollment in multiple programs), we have analyzed the effects of the interim final regulations across a simulated pool of borrowers subject to the regulations.

As discussed, first-time borrowers as of July 1, 2013, will be subject to the new eligibility limitations. Borrowers who are otherwise eligible for Direct Subsidized Loans will not be eligible for additional Direct Subsidized Loans after taking out Direct Subsidized Loans for a period that equals or exceeds 150 percent of the published length of their program. The limitation has two parts: (1) The determination that a borrower has received Direct Subsidized Loans for a period equal to or greater than 150 percent of the length of the borrower's program, and (2) once that limit has been reached or exceeded, the borrower's responsibility for accruing interest on prior undergraduate loans is triggered by the borrower's further enrollment in an undergraduate program of equal or shorter duration, except for borrowers who complete their programs before becoming responsible for accruing interest. The borrower is responsible for interest that accrues from the date that he or she becomes responsible for accruing interest, not from the original disbursement date of the loan. As described in more detail in the *Federal Government* section of this regulatory impact analysis, the Department generated estimates of the effect of the interim final regulations on the Federal budget and on student borrowers using a pool of hypothetical borrowers and patterns of borrowing behavior from NSLDS. Based on NSLDS data, the Department was able to estimate the percentage of student borrowers in different categories who would potentially trigger the eligibility limitations and responsibility for accruing interest under the interim final regulations. Transfer students and those at two-year programs were most affected by the interim final regulations. The estimates presented in Table 2 demonstrate the effect of the interim final regulations by sector.

TABLE 2—ESTIMATED EFFECT OF INTERIM FINAL REGULATIONS BY SECTOR

First-time borrowers at	Percent of loans	Percent of loans in category affected by the policy	Percent of affected loans in each category
<4-Year Public	16.8	20.0	55.2
<4-Year Private	10.5	4.8	8.3
4-Year Public	38.9	3.3	21.5
4-Year For-Profit	13.6	2.3	5.2
4-Year Not-for-Profit	20.2	3.0	9.8

Affected borrowers may be subject to different combinations of limitations depending on their situations. For example, some borrowers who do not intend to take out additional Direct Subsidized Loans will still become responsible for accruing interest on existing loans if they enroll in an undergraduate program after reaching or exceeding the 150 percent limit, except for those borrowers who complete their first program before becoming responsible for accruing interest. In contrast, other borrowers may not trigger the eligibility limitations on prior loans from a two-year program if they later transfer to a four-year program and become eligible for additional subsidized loans for which they are otherwise eligible.

To quantify the effect of the interim final regulations on student borrowers, the Department estimated the number of borrowers in each cohort who would exceed the 150 percent Direct Subsidized Loan limit. Because borrowers can have loans in multiple cohorts, Table 3 presents the estimated percentage and number of borrowers in a particular cohort year affected by the interim final regulations, not an unduplicated number of borrowers across all cohort years. The percentage of borrowers affected increases in later cohorts as the percentage of the cohort representing first-time borrowers after July 2013 increases. The percentage of borrowers affected reaches approximately 6.54 percent by the 2023 cohort when almost all borrowers should be first-time borrowers who are subject to the interim final regulations. Those included as affected borrowers, approximately 578,000 by the 2023 cohort, would lose eligibility for future Direct Subsidized Loans and become responsible for accruing interest.

TABLE 3—ESTIMATED NUMBER OF AFFECTED BORROWERS BY COHORT

	2013	2014	2015	2016	2017
Estimated Borrowers in Cohort	7,149,480	7,319,118	7,493,094	7,671,527	7,854,541
% affected	0.87%	1.87%	3.02%	4.03%	4.78%
Estimated Borrowers Affected	62,429	136,827	226,332	309,205	375,793

	2018	2019	2020	2021	2022	2023
Estimated Borrowers in Cohort	8,042,264	8,234,825	8,432,361	8,635,008	8,842,911	8,842,911

	2018	2019	2020	2021	2022	2023
% affected	5.28%	5.59%	5.88%	6.11%	6.32%	6.54%
Estimated Borrowers Affected	424,358	460,359	495,568	527,703	558,766	577,928

Another factor in the savings to the Federal Government and the costs to affected borrowers is borrower responsibility for accruing interest on existing Direct Subsidized Loans once the borrower enrolls after meeting or exceeding the 150 percent Direct Subsidized Loan limit. Table 4 presents the estimated average number of days that borrowers would be responsible for accruing interest across the whole cohort and for affected borrowers in the cohort only.

TABLE 4—ESTIMATED AVERAGE NUMBER OF DAYS OF BORROWER RESPONSIBILITY FOR INTEREST BY COHORT

Average days interest	2013	2014	2015	2016	2017
All Borrowers	3.7579	8.6056	14.2657	18.9932	21.2188
Affected Borrowers Only	430.360	460.328	472.287	482.849	475.775

Average days interest	2018	2019	2020	2021	2022	2023
All Borrowers	22.4407	22.9607	23.4826	24.0255	24.4895	24.9137
Affected Borrowers Only	471.536	463.780	457.369	453.188	449.612	444.795

The Department used this information to estimate the cost of the loss of Direct Subsidized Loan eligibility and the days for which the borrower is responsible for accruing interest on existing Direct Subsidized Loans for individual affected borrowers. While the specific impact on a given borrower depends on multiple factors, the average cost to affected borrowers is approximately $843, based on an assumed interest rate of 6.8 percent.

In addition to the NSLDS-based analysis, the Department also examined data from the 2004/2009 Beginning Postsecondary Students Longitudinal Study [2] (BPS) and analyzed what the impacts would have been if the interim final regulations had been in place for the 2003 cohort. BPS data show that the average borrower who started in a four-year program and who was still enrolled in his or her original undergraduate program with no stops, transfers, or degree after six years had a little under $14,000 in outstanding subsidized loans. Overall, the average borrower who was still enrolled after six consecutive years of undergraduate studies at the same institution with no degree had just under $24,000 in Direct Subsidized and Unsubsidized Loans.

TABLE 5A—LOAN DEBT FOR STUDENTS WHO BEGAN AT A FOUR-YEAR INSTITUTION IN THE 2003–2004 ACADEMIC YEAR AND HAD NO STOPOUTS [3] THROUGH 2009 (EDUCATION CONTINUED AT FIRST INSTITUTION ONLY)

	Avg total unsub. through 2009	Percent of students with unsub. loan debt > 0 through 2009 (percent)	Avg total sub. and unsub. loan debt through 2009	Avg total sub, loan debt through 2009	Percent of students with sub. loan debt > 0 through 2009
No degree, still enrolled	$14,028	57	$23,947	$13,792	74
No degree, transferred	9,046	46	14,687	9,913	58
No degree, left without return	6,753	35	9,998	6,364	52
Attained degree	9,014	39	15,574	11,418	49

When borrowers who transferred to another institution but did not have any stopouts in the six-year period are included, the average subsidized and total Stafford loan debts are slightly lower, as displayed below in Table 5b.

TABLE 5B—LOAN DEBT FOR STUDENTS WHO BEGAN AT A FOUR-YEAR INSTITUTION IN THE 2003–2004 ACADEMIC YEAR AND HAD NO STOPOUTS THROUGH 2009 (EDUCATION CONTINUED ANYWHERE)

)	Avg total unsub. through 2009	Percent of students with unsub. loan debt > 0 through 2009 (percent)	Avg total sub. and unsub. loan debt through 2009	Avg total sub. loan debt through 2009	Percent of students with sub. loan debt > 0 through 2009
No degree, still enrolled	$12,741	58	$21,765	$13,128	73

[2] Tracy Hunt-White, ''2004/2009 Beginning Postsecondary Students Longitudinal Study,'' March 2011, *http://nces.ed.gov/datalab/index.aspx?ps_x=ceabdef.*

[3] ''Stopout'' is defined as an interruption of continuous enrollment during the measured time period. Students who did not have a stopout were continuously enrolled during the measured time period.

TABLE 5B—LOAN DEBT FOR STUDENTS WHO BEGAN AT A FOUR-YEAR INSTITUTION IN THE 2003–2004 ACADEMIC YEAR AND HAD NO STOPOUTS THROUGH 2009 (EDUCATION CONTINUED ANYWHERE)—Continued

%	Avg total unsub. through 2009	Percent of students with unsub. loan debt > 0 through 2009 (percent)	Avg total sub. and unsub. loan debt through 2009	Avg total sub. loan debt through 2009	Percent of students with sub. loan debt > 0 through 2009
No degree, left without return	6,667	36	9,949	6,416	52
Attained degree	9,067	40	15,558	11,308	50

Under these interim final regulations, a borrower who enrolls in a seventh year of undergraduate studies in a four-year program would become responsible for accruing interest on Direct Subsidized Loans. Using the data from Table 5b, if the interim final regulations were in place, the average borrower would have entered that seventh year with $13,128 in Direct Subsidized Loans. In that seventh year, in addition to losing eligibility for additional Direct Subsidized Loans, the borrower would become responsible for $892.67 of interest (this and other calculations assume that current law applies—therefore interest would accrue at a rate of 6.8 percent). This is in addition to interest accruing on existing Direct Unsubsidized Loans as well as any Direct Unsubsidized Loans taken out during that seventh year.

Based on data from the 2004/2009 BPS and assuming these interim final regulations were in place, the average borrower who became responsible for accruing interest on existing Direct Subsidized Loans by enrolling in a seventh year of undergraduate studies but did not take out any additional student loans would have accrued almost $1,800 more in interest during that seventh year of school and the following grace period (assuming graduation in the seventh year). If the borrower had taken out an additional loan in the seventh year, he or she would have been limited to Direct Unsubsidized Loans then and in the future, and interest would have accrued on all of the borrower's loans. Under a 10-year Standard Repayment Plan, the additional costs for a borrower who becomes responsible for interest on previously subsidized loans would be about $20 per month and $2,400 over the life of the borrower's loans. This estimate does not account for the possibility that the borrower could request deferments, during which time the borrower would also be responsible for accruing interest.

TABLE 6—ESTIMATED IMPACTS OF INTERIM FINAL REGULATIONS ON SIXTH-YEAR AND SEVENTH-YEAR UNDERGRADUATE STUDENTS WHO BEGAN AT A FOUR-YEAR INSTITUTION IN THE 2003–2004 ACADEMIC YEAR AND HAD NO STOPOUTS THROUGH 2009 (EDUCATION CONTINUED ANYWHERE). NOTE: CHART CALCULATES INTEREST USING RELEVANT INTEREST RATES FROM 2003–2009 AND ASSUMES AN EQUAL DISTRIBUTION OF LOANS THROUGH GRADUATION. THESE FIGURES ARE ONLY INTENDED TO SERVE AS EXAMPLES OF HOW THE INTERIM FINAL REGULATIONS COULD AFFECT BORROWERS, NOT TO FORECAST ACTUAL FUTURE EFFECTS ON INDIVIDUAL BORROWERS

	Total stafford	Sub loans	Unsub loans	Interest	Amount due at repayment	10-Year standard monthly payments (6.8%)	Total amount repaid (10-year standard)
Borrower 1, graduated at end of year six	$21,765	$13,128	$8,638	$1,828	$23,593	$271	$32,507
Borrower 2, enrolls in seventh year but takes out no additional loans	21,765	13,128	8,638	3,531	25,297	291	34,933
Borrower 3, enrolls in seventh year and takes out an additional unsub loan	25,393	13,128	12,265	3,778	29,171	336	40,284

Borrowers who start in two-year programs will have three years of Direct Subsidized Loan eligibility. However, some borrowers may choose to transfer to a longer program (e.g., a four-year program) after that third year and subsequently increase their maximum eligibility for Direct Subsidized Loans. Data from the 2004/2009 BPS show that the average borrower who began at a two-year institution in fall 2003 and was still enrolled without a degree at the end of the 2005–2006 academic year had approximately $4,652 of Direct Subsidized Loan debt. However, approximately 20 percent of students who began at a two-year institution in fall 2003 and were still enrolled without a degree at the end of the 2005–2006 academic year had any subsidized loan debt.

Unlike a borrower in a four-year program who reaches the eligibility limits, a borrower in a two-year program who has taken out three years of Direct Subsidized Loans will not become responsible for interest on existing Direct Subsidized Loans if he or she enrolls in a longer program instead of enrolling in the fourth year of the two-year program.

TABLE 7—LOAN DEBT FOR STUDENTS WHO BEGAN AT A TWO-YEAR INSTITUTION IN THE 2003–2004 ACADEMIC YEAR AND HAD NO STOPOUTS THROUGH 2006 (EDUCATION CONTINUED AT FIRST INSTITUTION ONLY)

	Avg total stafford unsub loan debt through 2006	Percent of students with unsub loan debt > 0 through 2006 (percent)	Avg total stafford sub loan debt through 2006	Percent of students with sub loan debt > 0 through 2006 (percent)	Avg total stafford loan debt through 2006
Attained associate's degree	$1,843	29.5	$6,011	39.9	$9,517
Attained certificate	860	17.7	4,157	33.1	6,499
No degree, still enrolled	855	17.6	4,652	20.6	7,209
No degree, not enrolled	445	12.2	2,954	22.9	4,558
No degree, transferred	997	23.0	4,100	33.9	6,213
No degree, left without return	954	19.5	4,051	26.3	6,927

The data in Table 8 show that borrowers in two-year programs who become responsible for interest on Direct Subsidized Loans by enrolling in a fourth year of that program (but who do not take out an additional loan) would not experience a significant financial impact during that fourth year under these interim final regulations. Those who receive an additional Direct Unsubsidized Loan during the fourth year would experience a larger impact because the loan received in the fourth year would be a Direct Unsubsidized Loan and such borrowers would be responsible for accruing interest on all loans, including Direct Subsidized Loans.

TABLE 8—ESTIMATED IMPACT OF INTERIM FINAL REGULATIONS ON THIRD- AND FOURTH-YEAR UNDERGRADUATE STUDENTS WHO STARTED IN A TWO-YEAR PROGRAM IN FALL 2003 AND HAVE NOT TRANSFERRED OR HAD ANY LAPSES IN ENROLLMENT

[Note: Chart calculates interest using relevant interest rates from 2003–2007 and assumes an equal distribution of loans through graduation. These figures are only intended to serve as examples of how the interim final regulations could affect borrowers, not to forecast actual future effects on individual borrowers.]

	Total sub. and unsub.	Sub. loans	Unsub. loans	Interest	Amount due at repayment	10-year standard monthly payments (6.8%)	Total amount repaid (10-year standard)
Borrower 1, graduates at end of year 3	$7,209	$4,652	$2,557	$213	$7,422	$85	$10,250
Borrower 2, enrolls in fourth year of two-year program and graduates with no additional loans	7,209	4,652	2,557	782	7,992	92	11,037
Borrower 2, enrolls in fourth year of two-year program and graduates with additional loans	9,612	4,652	4,960	946	10,558	122	14,580

As mentioned earlier, some borrowers who begin in two-year programs will transfer to longer programs. A borrower may enroll in a two-year program for three years and decide to transfer to a four-year program for the fourth year, which would prevent the borrower from becoming responsible for accruing interest and allow the borrower to receive three additional years of Direct Subsidized Loans. However, there is a risk that borrowers who transfer from two-year programs after three years without completing an associate's degree and who lose some of their earned credit hours may become responsible for interest on existing Direct Subsidized Loans if they are unable to complete the four-year degree in the three years of remaining eligibility.

The financial impact of these interim final regulations on borrowers who are responsible for accruing interest during the repayment period will depend upon a number of factors. As stated earlier, borrowers with equal loan debt entering repayment may end up paying substantially different amounts overall depending on whether borrowers request deferments because a borrower who becomes responsible for interest on existing Direct Subsidized Loans will also be responsible for such interest during any periods of deferment. Borrowers who do not continue enrollment after meeting or exceeding the 150 percent limit are not responsible for accruing interest during such periods.

These interim final regulations also limit Direct Subsidized Loan eligibility for borrowers in teacher certification coursework. Previous borrowing for other programs does not affect a borrower's eligibility for Direct Subsidized Loans for teacher certification coursework; instead, borrowers will begin new eligibility periods upon enrollment in such a program and receipt of a Direct Subsidized Loan. As with any other program, a borrower can only extend his or her eligibility period by enrolling in longer teacher certification coursework. As discussed previously in this preamble, subsidized usage periods accrued in teacher certification coursework will count against the maximum eligibility period of other teacher certification coursework. Once the borrower has met or exceeded the 150 percent limitation, he or she will still be able to use Direct Unsubsidized Loans to pay for eligible programs and subsequent enrollment in such programs will not cause a borrower to become responsible for accruing interest on any existing Direct Subsidized Loans.

The limits on the use of Direct Subsidized Loans to pay for teacher

certification coursework may come at a cost to affected borrowers. Some States require teachers to complete these programs on a periodic basis to maintain their ability to teach, and these teachers may have to use Direct Unsubsidized Loans to pay for additional certificates. As with other programs, the overall impact of these regulations on borrowers will depend upon borrower behavior throughout repayment.

These interim final regulations will also have potential financial effects on borrowers who enroll in preparatory coursework for undergraduate or graduate programs. Direct Subsidized Loans used to pay for preparatory coursework for undergraduate programs will count against borrowers' maximum eligibility periods. Therefore, borrowers enrolled in preparatory courses for undergraduate studies will have shorter periods to complete their undergraduate coursework without losing eligibility for Direct Subsidized Loans. Enrolling in preparatory coursework for a graduate program will not cause a borrower to become responsible for interest on existing Direct Subsidized Loans, but will still count against the maximum eligibility period of the undergraduate program for which the borrower most recently received a Direct Subsidized Loan. Borrowers who exhaust their Direct Subsidized Loan eligibility during their undergraduate studies will be limited to Direct Unsubsidized Loans during these courses.

In addition to the estimated costs described above, these interim final regulations may offer non-quantifiable benefits to students and the general population. Data from the 2004/2009 BPS show that about 58 percent of first-time, full-time students in bachelor degree programs completed their programs within six years. These interim final regulations could motivate students to finish on time and increase the nation's on-time college graduation rate. An improved on-time graduation rate could help reduce student debt and provide more qualified and highly trained individuals for the country's workforce. Reduced debt levels may allow graduates greater economic participation, such as by purchasing homes or cars or starting small businesses.

We welcome comments about the costs and benefits of the changes implemented in these interim final regulations.

Elsewhere in this section under the heading *Paperwork Reduction Act of 1995,* we identify and explain burdens specifically associated with information collection requirements.

2. *Alternatives considered.*

No alternatives were considered for the amendments to §§ 685.202 and 685.304 because these amendments implement changes to the HEA enacted by Congress, and we did not have discretion in developing these amendments. With respect to § 685.200, we did discuss and consider alternative approaches to the regulations on preparatory coursework for undergraduate studies and treatment of teacher preparatory programs.

In the case of preparatory coursework, the Department wanted to ensure that the regulations did not have a significant negative impact on borrowers who need this coursework to prepare for undergraduate studies. Research shows that preparatory coursework only has a modest effect on the length of time that students take to graduate.[4] For this reason, we declined to treat these courses as stand-alone programs for the purposes of subsidized loan eligibility.

We also considered multiple approaches to the treatment of teacher certification coursework. MAP–21 requires the Secretary to promulgate regulations that address how the eligibility limit on Direct Subsidized Loans and borrower responsibility for accruing interest will operate for borrowers enrolled at an eligible institution in a program necessary for a professional credential or a certification from a State that is required for employment as a teacher in an elementary or secondary school in that State. Because many States require teachers to obtain such certificates as a prerequisite for teaching or as a requirement to continue teaching, we believed that these programs should be treated as stand-alone entities not affected by Direct Subsidized Loan receipt in prior undergraduate programs. However, to be consistent with the overall intent of the 150 percent limitation, we provided in these interim final regulations that teacher certification coursework is a continuation of the previous teacher certification coursework for the purpose of subsidized loan eligibility.

In the spirit of good governance, the Department has done its due diligence to ensure that these interim final regulations represent the Department's best efforts to regulate and are consistent with Congress's intent in passing MAP–21.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these interim final regulations. This table provides our best estimate of the changes in annual monetized transfers as a result of these interim final regulations. Expenditures are classified as transfers from affected student loan borrowers to the Federal Government and the IHEs' cost of compliance with the paperwork requirements.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Amount or description
Annual Benefits	Not quantified. The 150% limit may encourage borrowers' on-time completion of programs.
Annual Costs	$5.21 (7%). $5.31 (3%). Cost of Paperwork Compliance.
Annualized Monetized Transfers	$212.8 (7%). $237.6 (3%).
From Whom To Whom?	From affected student loan borrowers to the Federal Government.

[4] Paul Attewell et al., ''New Evidence on College Remediation,'' *Journal of Higher Education* 77, no. 5 (October 2006): 886–924.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the regulations clearly stated?
- Do the regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 685.200.)
- Could the description of the regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the regulations easier to understand? If so, how?
- What else could we do to make the regulations easier to understand?

To send any comments that concern how the Department could make these interim final regulations easier to understand, see the instructions in the **ADDRESSES** section.

Initial Regulatory Flexibility Act Analysis

These interim final regulations primarily affect the terms of loans made by the Department to some student loan borrowers. However, some of the provisions also modify the financial aid counseling and reporting requirements of IHEs. The U.S. Small Business Administration Size Standards define ''for-profit institutions'' as ''small businesses'' if they are independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000. The standards define ''non-profit institutions'' as ''small organizations'' if they are independently owned and operated and not dominant in their field of operation, or as ''small entities'' if they are institutions controlled by governmental entities with populations below 50,000. Under these definitions, an estimated 4,365 IHEs subject to the proposed paperwork compliance provisions of the interim final regulations are small entities. Accordingly, we have prepared this initial regulatory flexibility analysis to present an estimate of the effect on small entities of the statutory changes as implemented through these interim final regulations. The Department welcomes comments and information on this analysis.

Succinct Statement of the Objectives of, and Legal Basis for, the Regulations

The interim final regulations reflect changes made to the Direct Loan Program by MAP–21. Specifically, these regulations reflect the provisions in MAP–21 that amended the HEA to extend the 3.4 percent interest rate on Direct Subsidized Loans from July 1, 2012 to July 1, 2013, and to limit a borrower from receiving Direct Subsidized Loans for a period in excess of 150 percent of the published length of the educational program in which the borrower is enrolled.

Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply

These interim final regulations affect IHEs that participate in the Federal Direct Loan Program and borrowers. Approximately 60 percent of IHEs qualify as small entities, even if the range of revenues at the not-for-profit institutions varies greatly. Using data from the Integrated Postsecondary Education Data System, the Department estimates that approximately 4,365 IHEs qualify as small entities—1,891 are not-for-profit institutions, 2,196 are for-profit institutions with programs of two years or less, and 278 are for-profit institutions with four-year programs.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirements

The interim final regulations modify or increase the paperwork burden on entities participating in the Direct Loan Program, as described in the *Paperwork Reduction Act* section of this preamble. In particular, institutions will be required to report information that will allow the Department to calculate the maximum eligibility period, subsidized usage period, and remaining eligibility period for each borrower. The information will include: The program's CIP Code; the credential level of each program; the length of the program for which the loan is intended; the enrollment status of the borrower at the time the loan is disbursed; whether a loan is for teacher certification coursework for which the institution awards no academic credential; whether a loan is for preparatory coursework necessary for enrollment in an undergraduate program; and whether the loan is for preparatory coursework necessary for enrollment in a graduate or professional program. Institutions will also provide program information to the Department's NSLDS system and include information about the 150 percent limit in financial aid entrance and exit counseling. The estimated burden on small entities from these requirements is summarized in Table 9.

TABLE 9—ESTIMATED PAPERWORK BURDEN ON SMALL ENTITIES

	Reg section	OMB Control No.	Cost	Cost per institution
COD reporting of enrollment status, program length, teacher preparation programs, preparatory coursework, and CIP code.	685.301(e)	OMB 1845—NEW1	$852,234	$195
NSLDS reporting	685.309(b)	OMB 1845—NEW1	65,953	15
Additional entrance and exit counseling requirements	685.304	OMB 1845—NEW1	268,566	62

Identification, to the Extent Practicable, of All Relevant Federal Regulations That May Duplicate, Overlap, or Conflict With These Interim Final Regulations

These interim final regulations are unlikely to conflict with or duplicate existing Federal regulations.

Alternatives Considered

No alternatives were considered for small entities because these interim final regulations implement changes to the HEA enacted by Congress, and are necessary to implement the statutory changes. The information required to be reported should be readily available to IHEs. Further, the counseling information is critically important for borrowers to receive when they first take out loans subject to the 150 percent limitation and as they make their educational plans, so delays for small entities are not possible. The Department is committed to helping all institutions meet the financial counseling requirements of the interim final regulations and will provide materials or guidance to assist with this requirement.

Waiver of Rulemaking and Delayed Effective Dates

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule. In addition, all Department regulations for programs authorized by Title IV of the HEA (Title IV, HEA programs) are subject to the negotiated rulemaking requirements of section 492 of the HEA. Section 492 provides specifically that any regulations issued for the Title IV, HEA programs are subject to negotiated rulemaking to obtain the advice of and recommendations from individuals and groups involved in the student financial assistance programs.

MAP–21 waives the negotiated rulemaking requirements in section 492 of the HEA (as well as the master calendar requirements in section 482 of the HEA) for regulations to implement the 150 percent limit on Direct Subsidized Loan eligibility in the Direct Loan Program. Consequently, the negotiated rulemaking requirements in section 492 of the HEA do not apply to these interim final regulations and we will not subject them to negotiated rulemaking.

Under section 553(a)(3)(B) of the APA, an agency is not required to conduct notice-and-comment rulemaking when the agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Although these interim final regulations are subject to the APA's notice-and-comment requirements, the Secretary has determined that it would be impracticable to conduct notice-and-comment rulemaking in time to implement these changes by July 1, 2013.

In section 455(q) of the HEA, as added by MAP–21, Congress made a number of changes to the Direct Loan Program to be effective on July 1, 2013. Even on an extremely expedited timeline, the Department could not feasibly conduct notice-and-comment rulemaking, promulgate final regulations, make necessary financial aid systems changes, and provide counseling to borrowers in time to implement the statutory changes by July 1, 2013.

Though MAP–21 was signed into law on July 6, 2012, nearly one year prior to the date that the first cohort of borrowers could be affected, the Department was unable to begin the regulatory drafting process immediately. In order to ensure the continued integrity of the Title IV loan programs, the Department first had to assess its operational capabilities and what limitations these placed on possible regulatory approaches. This internal analysis took several months and therefore limited the period during which the Department could draft implementing regulations.

The time period in which the Department could conduct notice-and-comment rulemaking was further limited by the statute's specification of a July 1, 2013, effective date, and requirement that institutions and the Department take specific steps in order to implement the statutory requirements by that date. First, although MAP–21 specifies that borrowers are not affected until July 1, 2013, institutions begin preparing financial aid packages in the spring that precedes an award year (an award year begins on July 1). Shortly after a student's financial aid package is prepared, the student must sign a master promissory note and complete entrance counseling. Only then is the financial aid award, effective as of July 1, disbursed to the student. Thus, the regulations need to be in place long enough before July 1 to allow schools to prepare, counsel students about, and make financial aid awards.

Second, the Department must make certain necessary systems and operational changes before July 1 in order to comply generally with the HEA and protect borrowers, institutions, and taxpayers. Without changes to current financial aid systems, schools would be unable to accurately monitor a borrower's eligibility for Direct Subsidized Loans under the 150 percent limit because the determination of a borrower's maximum eligibility period and remaining eligibility period requires information about a borrower's attendance at all institutions, which may not be available to the institution the borrower is presently attending. Therefore, the Department must have regulations with legal force to make the necessary system changes to NSLDS and the COD System to monitor borrower eligibility, alert borrowers and institutions that a borrower is about to reach or has reached the 150 percent limit on eligibility for Direct Subsidized Loans, and ensure that no additional Direct Subsidized Loans are originated or disbursed to an ineligible borrower. Making such changes in a timely manner requires that regulatory drafting and operational adjustments occur contemporaneously.

If the Department were required to conduct notice-and-comment rulemaking first, the Department could not begin implementing these changes until after final regulations were published. Because interim final regulations have legal force on the date of publication, the Department can begin making these necessary changes. If the Department were required to submit draft regulations for notice-and-comment rulemaking, the Department could not begin implementing such changes until final regulations were published. We would be forced to delay the initiation of operational changes until late 2013 or early 2014, well after the July 1, 2013, date set forth in the statute.

In addition, we need to ensure that borrowers are advised of the terms and conditions of their eligibility for Direct Loans before July 1, 2013. The statute itself does not provide sufficient detail on the 150 percent limit. Therefore, we are not be able to provide borrowers with the terms of the 150 percent limit on eligibility or with information on how they will be affected until the interim final regulations are published.

Notice-and-comment rulemaking is impracticable because the Department could not conduct notice-and-comment rulemaking, issue final regulations, make necessary systems changes, and provide counseling for borrowers by July 1, 2013. In sum, if notice-and-comment rulemaking were not waived, the Department would be unable to administer the Direct Loan Program in compliance with the HEA.

Finally, we note that, contrary to public interest, there would be a substantial loss of revenue for the Federal Government if these interim final regulations were not implemented until after July 1, 2013. As previously noted, section 455(q) of the HEA is not self-implementing. If the regulations are not published until after July 1, 2013, the Department will not be able to apply the restrictions to borrowers until the date the regulations are published. Therefore, borrowers who take out loans between July 1, 2013, and the date of publication would not be subject to the 150 percent limit. As a result, the Government would have increased costs for interest subsidies on Direct Subsidized Loans and would not receive the expected savings from interest payments made by the borrowers in this cohort who exceed the 150 percent limitation.

The Department estimates that approximately 62,000 borrowers in the 2013 cohort of borrowers (0.87 percent) would exceed the 150 percent limit at some point during their postsecondary education and be affected by the proposed regulations. Many of them would not be subject to the regulatory provisions if the effective date were delayed. The estimated savings associated with these affected borrowers in the 2013 cohort is $197 million. For example, the Department estimates that if implementation were delayed until January 1, 2014, the $197 million in outlay savings associated with the 2013 cohort in the 2013 MSR Baseline would be eliminated in addition to $251 million in outlay savings across the 2013 to 2023 cohorts from the PB2014 baseline. This is a total of $448 million in savings reductions over the 2013 to 2023 cohorts.

For these reasons, the Secretary has determined that notice-and-comment rulemaking is impracticable and contrary to the public interest. Although the Department is adopting these regulations on an interim final basis, we request public comment on these regulations. After consideration of public comments, the Secretary will publish final regulations.

We also note that the APA generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement the regulations sooner (5 U.S.C. 553(d)(3)). In addition, these final regulations are a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801, et seq.). Generally, under the CRA, a major rule takes effect 60 days after the date on which the rule is published in the **Federal Register**. Section 808(2) of the CRA, however, provides that, if an agency finds for good cause (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice of, and public procedure on, a rule are impracticable, unnecessary, or contrary to the public interest, the rule shall take effect at such time as the Federal agency promulgating the rule determines. We are waiving the delayed effective dates under both the APA and CRA and thus these interim final regulations will take effect on their date of publication. We are taking this action because if we do not waive the delayed effective dates we are at risk of not meeting the statutory deadline of July 1, 2013, and facing significant repercussions, as explained in this section of the preamble. Thus, we find there is good cause to waive the delayed effective dates under the APA and the CRA.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions; respondents can provide the requested data in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless the OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. No person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

Under 5 CFR 1320.13 we have requested OMB to conduct its review of this collection of information on an emergency basis. We have asked OMB to approve the collection of information on May 16, 2013, the same date these interim final regulations are published in the **Federal Register**. This does not affect your ability to comment on the interim final regulations, or the collection associated with it. In addition, the Department is concurrently asking for comments under the 60-day comment period for the regular collection. In order for those comments to be considered for the regular collection, the Department requests comments by July 15, 2013. If you want to comment on the proposed information collection requirements, please send your comments through the Federal eRulemaking Portal at *http://www.regulations.gov* through by selecting Docket ID number [ED–2013–OPE–0066].

The manner in which the Department will be implementing § 685.200 will require institutions to submit additional information to the COD System and to NSLDS under the authority in §§ 685.301(e) and 685.309(b), respectively. Therefore, the collection requirements associated with §§ 685.301(e) and 685.309(b) will change as a result of this rulemaking. Although §§ 685.301(e) and 685.309(b) are not modified by this rulemaking, the burden associated with each provision will ultimately change as a result of this rulemaking and the analysis of the burden associated with those provisions will accompany this rulemaking. Section 685.304 also contains information collection requirements. The Department has submitted a copy of the information collection requests associated with these sections to OMB for its review.

Section 685.301(e)—COD Reporting Requirements by Institutions

Section 685.301(e) provides that institutions originating and disbursing loans under the Direct Loan Program must report a student's ''payment data'' to the Secretary. The term ''payment data'' is defined in § 685.102(b) to mean ''an electronic record that is provided to the Secretary by an institution showing student disbursement information''. The Department has implemented this provision by requiring that institutions electronically report student and Direct Loan information to the COD System. The provisions of § 685.200(f) provide that a borrower is not eligible to receive an additional Direct Subsidized Loan if the borrower has no remaining eligibility period. These interim final regulations also provide different rules for borrowers who are enrolled in teacher certification coursework for which the institution awards no academic credential, preparatory coursework necessary for enrollment in an undergraduate program, and preparatory coursework necessary for enrollment in a graduate or professional program.

The Department will determine whether the borrower has continued eligibility for Direct Subsidized Loans.

To ensure that the Department has the information necessary to make that determination, institutions will be required to report additional information to the Department's COD System. For example, institutions will be required to report: The program's CIP Code; the credential level of each program; the length of the program for which the loan is intended; the enrollment status of the borrower at the time the loan is disbursed; whether a loan is for teacher certification coursework for which the institution awards no academic credential; whether a loan is for preparatory coursework necessary for enrollment in an undergraduate program; and whether the loan is for preparatory coursework necessary for enrollment in a graduate or professional program.

These data will allow the Department to calculate the borrower's maximum eligibility period, subsidized usage period, and remaining eligibility period as described in § 685.200(f)(1)(ii)–(f)(1)(iv), determine whether the borrower is eligible to receive an additional Direct Subsidized Loan, and ensure that borrowers do not receive Direct Subsidized Loans if they are no longer eligible under § 685.200(f)(2).

To estimate the total increase in burden imposed on institutions, the Department estimated the average number of reports that each institution submitted to COD each business day (by institutional type, i.e., public, private, proprietary). We based our calculations of estimated burdens on a 248 business-day year (365 days, less 104 weekend days and 13 Federal holidays) and assumed that institutions submit data in large batches, not separately, for each individual borrower. We estimate that the additional reporting will add 1 minute (0.02 hours) of additional burden per report.

Of the 5,847 institutions that disbursed Direct Loans during the most recently completed award year, 1,933 of them are public institutions. The average number of reports per day that public institutions submit is 2.73. We further estimate that additional reporting will add 26,174 hours (1,933 institutions multiplied by 248 business days, multiplied by 2.73 reports per day, multiplied by 0.02 hours per report).

Of the 5,847 institutions that disbursed Direct Loans during the most recently completed award year, 1,750 of them are private, not-for-profit institutions. The average number of reports per day that private, not-for-profit institutions submit is 1.29. We estimate that additional reporting will add 11,197 hours (1,750 institutions multiplied by 248 business days, multiplied by 1.29 reports per day, multiplied by 0.02 hours per report).

Of the 5,847 institutions that disbursed Direct Loans during the most recently completed award year, 2,164 of them are proprietary institutions. The average number of reports per day that proprietary institutions submit is 0.84. We further estimate that additional reporting will add 9,016 hours (2,164 institutions multiplied by 248 business days, multiplied by 0.84 reports per day, multiplied by 0.02 hours per report).

Collectively, as a result of the new reporting requirements created for public, private and proprietary institutions, the total burden associated with § 685.301(e), under 1845–NEW1, will increase by 46,387 hours (26,174 hours for public institutions + 11,197 hours for private, not-for-profit institutions + 9,016 hours for proprietary institutions).

Section 685.309(b)—NSLDS Enrollment Reporting by Institutions

Section 685.309(b) provides that eligible institutions that enroll a Direct Loan borrower must report information about the borrower's enrollment to the Secretary. The Department has implemented these provisions by requiring institutions to electronically report, at least twice per year, student and loan information to NSLDS. The new Direct Subsidized Loan regulations in § 685.200(f)(3) provide that a borrower becomes responsible for accruing interest on any Direct Subsidized Loans he or she previously received if the borrower has no remaining eligibility period and enrolls in certain eligible programs. The new regulations also provide specific rules for borrowers who are enrolled in teacher certification coursework for which the institution awards no academic credential, preparatory coursework necessary for enrollment in a graduate or professional program, and programs for which borrowers are not otherwise eligible for Direct Subsidized Loans.

The Department will determine whether the borrower is responsible for accruing interest on his or her previously received Direct Subsidized Loans. To ensure that the Department has the information to necessary to make that determination, institutions will be required to report additional information to NSLDS. For example, institutions will be required to report: The CIP code and the credential level for the program in which a borrower is enrolled; the length of the program in academic years, weeks, or months (consistent with current institutional reporting in the COD System); and the enrollment status of the borrower.

These data will allow the Department to determine whether a borrower who is not eligible for additional Direct Subsidized Loans is responsible for accruing interest on his or her previously received Direct Subsidized Loans.

To estimate the total increase in burden imposed on institutions due to the new reporting requirements under § 685.309(b), we divided institutions into two groups—institutions that use enrollment servicers, which are more automated and take less time to report enrollment to the Department, and institutions that do not use enrollment servicers and therefore take longer to report enrollment to the Department. We assumed that each institution that reports enrollment does so twice per year (as minimally required). We estimate that the additional reporting will, for institutions using an enrollment servicer, add 0.25 hours of burden per report. For institutions that do not use an enrollment servicer, we estimate that the additional reporting will add 0.5 hours of additional burden per report.

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 2,710 of them are public institutions. Of the 2,710 public institutions, 2,092 use enrollment servicers. For the 2,092 public institutions that use enrollment servicers, we estimate that additional reporting will add 1,046 hours (2,092 institutions multiplied by 0.25 additional hours per report, multiplied by 2 reports per year).

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 2,453 of them are private, not-for-profit institutions. Of the 2,453 private, not-for-profit institutions, 1,894 use enrollment servicers. For the 1,894 private, not-for-profit institutions that use enrollment servicers, we estimate that additional reporting will add 947 hours (1,894 institutions multiplied by 0.25 additional hours per report, multiplied by 2 reports per year).

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 3,033 of them are proprietary institutions. Of the 3,033 proprietary institutions, 2,342 use enrollment servicers. For the 2,342 proprietary institutions that use enrollment servicers, we estimate that additional reporting will add 1,171 hours (2,342 institutions multiplied by 0.25 additional hours per report, multiplied by 2 reports per year).

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 2,710 of them are public institutions. Of the 2,710 institutions, 618 of them do not use enrollment servicers. For the 618 public institutions that do not use enrollment servicers, we estimate that additional reporting will add 618 hours (618 institutions multiplied by 0.5 additional hours per report, multiplied by 2 reports per year).

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 2,453 of them are private, not-for-profit institutions. Of the 2,453 private, not-for-profit institutions, 559 of them do not use enrollment servicers. For the 559 private, not-for-profit institutions that do not use enrollment servicers, we estimate that additional reporting will add 559 hours (559 institutions multiplied by 0.5 additional hours per report, multiplied by 2 reports per year).

Of the 8,196 institutions that reported enrollment information during the most recently completed award year, 3,033 of them are proprietary institutions. Of the 3,033 proprietary institutions, 691 of them do not use enrollment servicers. For the 691 proprietary institutions that do not use enrollment servicers, we estimate that additional reporting will add 691 hours (691 institutions multiplied by 0.5 additional hours per report, multiplied by 2 reports per year).

Collectively, as a result of the new reporting requirements, the total burden associated with § 685.309(b), under 1845–NEW1, will be increased by 5,032 hours (1,046 hours for public institutions using enrollment servicers + 947 hours for private, not-for-profit institutions using enrollment servicers + 1,171 hours for proprietary institutions using enrollment servicers + 618 hours for public institutions not using enrollment servicers + 559 hours for private, not-for-profit institutions not using enrollment servicers + 691 hours for proprietary institutions that do not use enrollment servicers).

Section 685.304—Entrance and Exit Counseling for Borrowers by Institutions

The interim final regulations implement a new statutory requirement that significantly limits a borrower's eligibility for Direct Subsidized Loans and potentially results in the borrower becoming responsible for accruing interest on existing Direct Subsidized Loans. Under section 485 of the HEA, which requires that borrowers be provided with entrance and exit counseling on the provisions governing Federal student aid, institutions will be required to revise the entrance and exit counseling provided to borrowers.

For entrance counseling, the added counseling requirements under § 685.304(a)(6)(xiii) will require institutions to explain: (1) The possible loss of eligibility for additional Direct Subsidized Loans; (2) how a borrower's maximum eligibility period, remaining eligibility period, and subsidized usage period are calculated; (3) the possibility that the borrower could become responsible for accruing interest on previously received Direct Subsidized Loans during all periods; and (4) the impact of borrower responsibility for accruing interest on the borrower's total debt.

For exit counseling, the requirements added under new § 685.304(b)(4)(xii) will require institutions to explain: (1) How the borrower's maximum eligibility period, remaining eligibility period, and subsidized usage period are calculated; (2) the sum of the borrower's subsidized usage periods, as determined under § 685.200(f)(1)(iii), at the time of the exit counseling; (3) the consequences of continued borrowing or enrollment; (4) the impact of the borrower becoming responsible for accruing interest on total student debt; (5) that the Secretary will inform the student borrower of whether he or she is responsible for accruing interest on his or her Direct Subsidized Loans; and (6) that the borrower can access NSLDS to determine whether he or she is responsible for accruing interest on any Direct Subsidized Loans as provided in § 685.200(f)(3).

The burden associated with entrance and exit counseling is two-fold, there is burden on borrowers, who are required to complete entrance counseling by virtue of their participation in the Title IV loan programs and there is burden on institutions, which are required to provide counseling to such borrowers.

We estimate that each entrance counseling interview will take 2 additional minutes (0.03 hours) per borrower to complete and estimate the number of borrowers who took entrance counseling in the last award year as 2,723,751. Therefore, we estimate that burden will increase by 81,713 hours (2,723,751 borrowers multiplied by 1 interview per borrower multiplied by 0.03 additional hours per interview).

We estimate that, for all institutions, the additional entrance counseling requirements will add 1 hour of burden per institution to incorporate new material into their counseling and implement new counseling procedures. Of the 5,847 institutions that are required to perform entrance counseling, 1,933 are public institutions, 1,750 are private, not-for-profit institutions, and 2,164 are proprietary institutions. For the 1,933 public institutions, we estimate that burden will increase by 1,933 hours (1,933 institutions multiplied by 1 hour). For the 1,750 private, not-for-profit institutions, we estimate that burden will increase by 1,750 hours (1,750 institutions multiplied by 1 hour). Of the 2,164 proprietary institutions, we estimate that burden will increase by 2,164 hours (2,164 institutions multiplied by 1 hour). Collectively, we estimate that the total burden created for institutions of higher education to provide the added entrance counseling is 5,847 hours (1,933 hours + 1,750 hours + 2,164 hours).

We estimate that each exit counseling interview will take an additional 3 minutes (0.05 hours) per borrower to complete and estimated that 2,699,275 borrowers took exit counseling in the most recently completed award year. Therefore, we estimate that burden will increase by 134,964 hours (2,699,275 borrowers multiplied by 1 interview per borrower multiplied by 0.05 additional hours per interview).

Of the 5,847 institutions, 1,933 are public institutions, 1,750 are private, not-for-profit institutions, and 2,164 are proprietary institutions. We estimate that, for all institutions, the additional exit counseling requirements will add 1.5 hours of burden per institution to incorporate new material into their counseling and implement new counseling procedures. For the 1,933 public institutions, we estimate that burden will increase by 2,900 hours (1,933 institutions multiplied by 1.5 hours). For the 1,750 private, not-for-profit institutions, we estimate that burden will increase by 2,625 hours (1,750 institutions multiplied by 1.5 hours). Of the 2,164 proprietary institutions, we estimate that burden will increase by 3,246 hours (2,164 institutions multiplied by 1.5 hours). The total burden created for institutions of higher education to provide the added exit counseling is 8,771 hours (2,900 hours + 2,625 hours + 3,246 hours).

Collectively, under 1845–NEW1 the new entrance and exit counseling regulatory requirements in section 685.304, will add 231,295 hours ([81,713 + 134,964 for borrowers] + [5,847 + 8,771 hours for institutions]) of additional burden on institutions and borrowers.

Consistent with the discussion in this section, the following chart describes the sections of the interim final regulations involving information collections, the information being

collected, and the collections that the Department is submitting to OMB for approval and public comment under the PRA, and the estimated costs associated with the information collections. The monetized net costs of the additional burden on institutions and borrowers using wage data developed using BLS data, available at *http://www.bls.gov/ncs/ect/sp/ecsuphst.pdf*, is $5,472,356 as shown in the chart below. This cost was based on an hourly rate of $24.61 for institutions and $17.88 for borrowers.

COLLECTION OF INFORMATION

Regulatory section	Information collection	OMB control number and estimated change in the burden	Estimated cost
§ 685.301(e)	The new regulations require institutions to provide program information to the Department's COD System so that the Department can determine whether and to what extent borrowers continue to have Direct Subsidized Loan eligibility under § 685.200(f).	OMB 1845–NEW1	$1,141,584
		The burden will increase by 46,387 hours on institutions.	
§ 685.309(b)	The new regulations require institutions to provide program information to NSLDS so that the Department can determine whether borrowers subject to § 685.200(f) with Direct Subsidized Loans have become responsible for accruing interest based on their enrollment.	OMB 1845–NEW1	123,838
		The burden will increase by 5,032 hours on institutions.	
§ 685.304	The new regulations require institutions to provide additional entrance and exit counseling to borrowers so that they are adequately informed of the terms and conditions of their loans and understand the consequences of § 685.200(f).	OMB 1845–NEW1.	
		The burden will increase by 216,677 hours on borrowers.	3,847,185 for borrowers.
		The burden will increase by 14,618 hours on institutions.	359,749 for institutions.
		The burden will increase be a total of 231,294 hours.	4,206,934 total.
Total Change in Burden		Total increase in burden on borrowers under part 685 is 216,677 hours.	3,847,185 for borrowers.
		Total increase in burden on institutions under part 685 is 66,037.	1,625,171 for institutions.
		Total increase in burden under part 685 is 282,714 hours.	5,472,356 total.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary particularly requests comments on whether these regulations require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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(Catalog of Federal Domestic Assistance Number: 84.268 William D. Ford Direct Loan Program)

List of Subjects in 34 CFR Part 685

Colleges and universities, Education, Loan programs—education, Student aid.

Dated: May 10, 2013.

Arne Duncan,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C 1070g, 1087a, *et seq.,* unless otherwise noted.

■ 2. Section 685.200 is amended by:

■ A. Revising paragraph (a)(2)(i) and the introductory text in paragraph (a)(2)(ii).

■ B. Adding a new paragraph (f).

The revisions and addition read as follows:

§ 685.200 Borrower eligibility.

(a) * * *

(2)(i) A Direct Subsidized Loan borrower must—

(A) Demonstrate financial need in accordance with title IV, part F of the Act; and

(B) In the case of a first-time borrower as defined in paragraph (f)(1)(i) of this section, not have met or exceeded the limitations on the receipt of Direct Subsidized Loans described in paragraph (f) of this section.

(ii) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of study at an institution of higher education to have no financial need as that term is used in paragraph (a)(2)(i)(A) of this section if that organization—

* * * * *

(f) *Limitations on eligibility for Direct Subsidized Loans and borrower responsibility for accruing interest for first-time borrowers on or after July 1, 2013.* (1) *Definitions.* The following definitions apply to this paragraph:

(i) *First-time borrower* means an individual who has no outstanding balance of principal or interest on a Direct Loan Program or FFEL Program loan on July 1, 2013, or on the date the borrower obtains a Direct Loan Program loan after July 1, 2013.

(ii) *Maximum eligibility period* is a period of time, measured in academic years, equal to 150 percent of the length of the educational program, as published by the institution, in which the borrower is currently enrolled.

(iii) *Subsidized usage period* is, except as provided in paragraph (f)(4) of this section, a period of time measured in academic years and rounded down to the nearest quarter of a year calculated as the—

$$\frac{\text{Number of days in the borrower's loan period for a Direct Subsidized Loan}}{\text{Number of days in the academic year for which the borrower receives the Direct Subsidized Loan}}$$

(iv) *Remaining eligibility period* is the difference, measured in academic years, between the borrower's maximum eligibility period and the sum of the borrower's subsidized usage periods, except as provided in paragraphs (f)(7)(ii) and (f)(7)(iii) of this section.

(2) *Loss of eligibility for Direct Subsidized Loans.* A first-time borrower is not eligible for additional Direct Subsidized Loans when the borrower has no remaining eligibility period. Such a borrower may still receive Direct Unsubsidized Loans for which the borrower is otherwise eligible.

(3) *Borrower responsibility for accruing interest.* (i) Notwithstanding any provision of this part that provides for the borrower to not be responsible for accruing interest on a Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan, and except as provided in paragraphs (f)(6)(v) and (f)(7)(iv) of this section, a first-time borrower becomes responsible for the interest that accrues on a previously received Direct Subsidized Loan or on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan beginning on the date—

(A) The borrower has no remaining eligibility period; and

(B) The borrower attends any undergraduate program or preparatory coursework on at least a half-time basis at an eligible institution that participates in the title IV, HEA programs.

(ii) The borrower continues to be responsible for the interest that accrues on the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan for which the borrower previously became responsible for accruing interest in accordance with paragraph (f)(3)(i) of this section.

(iii) For any loan for which the borrower becomes responsible for accruing interest in accordance with paragraph (f)(3)(i) of this section, the borrower is responsible for only the interest that accrues after the borrower meets the criteria in paragraph (f)(3)(i) of this section and unpaid interest is capitalized in the same manner as for a Direct Unsubsidized Loan.

(iv) A borrower who completes an undergraduate program and who has not become responsible for accruing interest on Direct Subsidized Loans as a result of attendance in that program does not become responsible for accruing interest under paragraph (f)(3)(i) of this section on any Direct Subsidized Loans received for attendance in any program prior to completing that undergraduate program and for which the borrower has not previously become responsible for accruing interest, regardless of subsequent attendance in any other program.

(4) *Exceptions to the calculation of subsidized usage periods.* (i) For a first-time borrower who receives a Direct Subsidized Loan in an amount that is equal to the annual loan limit for a loan period that is less than a full academic year in length, the subsidized usage period is one year.

(ii) Except as provided in paragraph (f)(4)(i) of this section, for a first-time borrower who is enrolled on a half-time or three-quarter-time basis, the borrower's prorated subsidized usage period is calculated by multiplying the borrower's subsidized usage period by 0.5 or 0.75, respectively.

(5) *Subsequent attendance in programs of greater duration.* A first-time borrower who subsequently attends a program that is longer than the program the borrower previously attended—

(i) Is eligible for a Direct Subsidized Loan if the borrower's remaining eligibility period is greater than zero; and

(ii) Regains eligibility for Direct Subsidized Loans if the borrower previously lost eligibility for Direct Subsidized Loans in accordance with paragraph (f)(2) of this section.

(6) *Treatment of preparatory coursework.* For first-time borrowers who receive a Direct Subsidized Loan under 34 CFR 668.32(a)(1)(ii) who are enrolled for no longer than one 12-month period in a course of study necessary for enrollment in an eligible program—

(i) Direct Subsidized Loans received for such preparatory coursework are included in the calculation of the borrower's subsidized usage period;

(ii) The maximum eligibility period for preparatory coursework necessary for enrollment in an undergraduate program is the maximum eligibility period for the undergraduate program for which the preparatory coursework is required;

(iii) The maximum eligibility period for preparatory coursework necessary for enrollment in a graduate or professional program is the maximum eligibility period for the undergraduate program for which the borrower most recently received a Direct Subsidized Loan;

(iv) For enrollment in preparatory coursework necessary for enrollment in an undergraduate program, the borrower becomes responsible for accruing interest as described in paragraph (f)(3) of this section only if the borrower has no remaining eligibility period in the program for which the coursework is required; and

(v) Enrollment in preparatory coursework necessary for enrollment in a graduate or professional program does not result in a borrower becoming responsible for accruing interest as described in paragraph (f)(3) of this section.

(7) *Treatment of teacher certification programs for which an institution does not award an academic credential.* For first-time borrowers who receive a Direct Subsidized Loan under 34 CFR 668.32(a)(1)(iii) who are enrolled at an eligible institution in a program necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in

that State but for which the institution awards no academic credential—

(i) The borrower's maximum eligibility period for Direct Subsidized Loans is a period of time equal to 150 percent of the length of the teacher certification program, as published by the institution, in which the borrower is currently enrolled;

(ii) For purposes of determining a borrower's remaining eligibility period for such teacher certification programs, only Direct Subsidized Loans the borrower received for enrollment in such programs are included in the borrower's subsidized usage period;

(iii) For purposes of determining a borrower's remaining eligibility period for programs other than a teacher certification program for which an institution does not award an academic credential, any Direct Subsidized Loans that the borrower received for enrollment in such a teacher certification program are not included in a borrower's subsidized usage period; and

(iv) Enrollment in such a teacher certification program does not result in a borrower becoming responsible for accruing interest on any Direct Subsidized Loan under paragraph (f)(3) of this section.

§ 685.202 [Amended]

■ 3. Section 685.202 is amended, in paragraph (a)(1)(v)(E), by removing the date ''2012'' and adding, in its place, the date ''1, 2013''.

■ 4. Section 685.304 is amended by:

■ A. In paragraph (a)(6)(xi), removing the word ''and'' that appears after the punctuation '';''.

■ B. In paragraph (a)(6)(xii), removing the punctuation ''.'' and adding, in its place, the punctuation and word ''; and''.

■ C. Adding paragraph (a)(6)(xiii).

■ D. Redesignating paragraphs (b)(4)(xii) and (b)(4)(xiii) as paragraphs (b)(4)(xiii) and (b)(4)(xiv), respectively.

■ E. Adding a new paragraph (b)(4)(xii).

The additions read as follows:

§ 685.304 Counseling borrowers.

(a) * * *

(6) * * *

(xiii) For first-time borrowers as defined in § 685.200(f)(1)(i), explain the limitation on eligibility for Direct Subsidized Loans and possible borrower responsibility for accruing interest described in § 685.200(f), including—

(A) The possible loss of eligibility for additional Direct Subsidized Loans;

(B) How a borrower's maximum eligibility period, remaining eligibility period, and subsidized usage period are calculated;

(C) The possibility that the borrower could become responsible for accruing interest on previously received Direct Subsidized Loans and the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan during in-school status, the grace period, authorized periods of deferment, and certain periods under the Income-Based Repayment and Pay As You Earn Repayment plans; and

(D) The impact of borrower responsibility for accruing interest on the borrower's total debt.

* * * * *

(b) * * *

(4) * * *

(xii) Explain to first-time borrowers, as defined in § 685.200(f)(1)(i)—

(A) How the borrower's maximum eligibility period, remaining eligibility period, and subsidized usage period are determined under § 685.200(f);

(B) The sum of the borrower's subsidized usage periods, as determined under § 685.200(f)(1)(iii), at the time of the exit counseling;

(C) The consequences of continued borrowing or enrollment, including-—

(*1*) The possible loss of eligibility for additional Direct Subsidized Loans; and

(*2*) The possibility that the borrower could become responsible for accruing interest on previously received Direct Subsidized Loans and the portion of a Direct Consolidation Loan that repaid a Direct Subsidized Loan during in-school status, the grace period, authorized periods of deferment, and certain periods under the Income-Based Repayment and Pay As You Earn Repayment plans;

(D) The impact of the borrower becoming responsible for accruing interest on total student debt;

(E) That the Secretary will inform the student borrower of whether he or she is responsible for accruing interest on his or her Direct Subsidized Loans; and

(F) That the borrower can access NSLDS to determine whether he or she is responsible for accruing interest on any Direct Subsidized Loans as provided in § 685.200(f)(3);

* * * * *

[FR Doc. 2013–11515 Filed 5–15–13; 8:45 am]

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Part III

Nuclear Regulatory Commission

10 CFR Part 71
Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements; Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material; Proposed Rules

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

[NRC–2008–0198; NRC–2013–0082]

RIN 3150–AI11

Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC), in consultation with the U.S. Department of Transportation (DOT), is proposing to amend its regulations for the packaging and transportation of radioactive material. These amendments would make NRC regulations conform to revisions to the International Atomic Energy Agency (IAEA) regulations for the international transportation of radioactive material and maintain consistency with DOT regulations. These changes are necessary to maintain a consistent regulatory framework for the transportation and packaging of radioactive material. These changes would make the regulation of quality assurance programs more efficient by allowing changes that do not change quality assurance approval holder commitments to be made without prior NRC approval, and extending the duration of quality assurance program approvals. These changes would clarify the responsibilities of general licensees and further limit the shipping of fissile material under a general license. The parallel DOT proposed rulemaking was published in the **Federal Register** on August 12, 2011.

DATES: Submit comments by July 30, 2013. Submit comments specific to the information collections aspect of this proposed rule by June 17, 2013. Comments received after these dates will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before these dates.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific topic):

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0198. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

• *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

• *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: James Firth, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6628; email: *James.Firth@nrc.gov.*

SUPPLEMENTARY INFORMATION: The parallel DOT proposed rulemaking was published in the **Federal Register** on August 12, 2011 (76 FR 50332).

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I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2008–0198 when contacting the NRC about the availability of information for this proposed rule. You may access information related to this proposed rulemaking, which the NRC possesses and is publicly available, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0198.

• *NRC Agencywide Documents Access and Management System* (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this proposed rule (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in Section VI, *Availability of Documents,* of this document.

• *NRC PDR:* You may examine and purchase copies of public documents at the NRC PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0198 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The NRC is proposing to revise its regulations for the safe transportation of radioactive material to make them compatible with those of the IAEA. The proposed rule, in combination with a corresponding amendment of Title 49 of the *Code of Federal Regulations* (49 CFR), by the DOT (76 FR 50332; August 12, 2011), would bring United States regulations into general accord with the 2009 edition of the IAEA's ''Regulations for the Safe Transport of Radioactive Material'' (TS–R–1). The NRC is also proposing to make revisions to maintain consistency with revisions to DOT regulations. In addition, the NRC is making other revisions to its transportation regulations in 10 CFR part 71. These other revisions include NRC-initiated changes that would affect administrative procedures for the quality assurance program requirements described in 10 CFR part 71, subpart H; re-establish restrictions on material that qualifies for the fissile material exemption; clarify the requirements for a general license; clarify the responsibilities of certificate holders and licensees when making preliminary determinations; and make other editorial changes.

Compatibility With IAEA and Consistency With DOT Transportation Regulations

The IAEA was formed by member nations to promote safe, secure, and peaceful nuclear technologies. It establishes safety standards to protect public health and safety and to minimize the danger to life and property. The IAEA has developed international safety standards for the safe transport of radioactive material, TS–R–1. The IAEA safety standards and regulations are developed in consultation with the competent authorities of Member States, so they reflect an international consensus on what is needed to provide for a high-level of safety. By providing a global framework for the consistent regulation of the transport of radioactive material, TS–R–1 facilitates international commerce and contributes to the safe conduct of international trade involving that material. By periodically revising its regulations to be compatible with IAEA and DOT regulations, the NRC is able to remove inconsistencies that could impede international commerce and reflect knowledge gained in scientific and technical advances and accumulated experience.

On January 26, 2004 (69 FR 3698), the NRC published in the **Federal Register** a final revision to 10 CFR part 71, ''Compatibility with IAEA Transportation Safety Standards (TS–R–1) and Other Transportation Safety Amendments.'' That revision, in combination with a parallel revision of the DOT hazardous materials transportation regulations, brought the United States domestic transport regulations into general accord with the 1996 edition of TS–R–1 (as amended in 2000). The DOT published its corresponding revision to 49 CFR parts 171 through 178 on the same date (69 FR 3632; January 26, 2004).

The IAEA periodically reviews and revises the IAEA international transportation standards to reflect knowledge gained in scientific and technical advances and accumulated experience. In 2002, the IAEA began using a 2-year review cycle. In each review cycle, the IAEA will invite Member States—the United States is a Member State and the DOT is the United States competent authority before the IAEA for radioactive material transportation matters—to submit for consideration issues or problems that could result in changes to the IAEA transportation regulations and the associated guidance. These issues and problems are then considered by the IAEA Transportation Safety Standards Committee (TRANSSC) and, if approved by TRANSSC, will be developed into specific proposed changes to the transportation regulations. The specific proposed changes are then considered at a second TRANSSC meeting. The IAEA will then issue those approved changes at the second TRANSSC meeting for formal review and comment by Member States.

The IAEA has invited Member States to submit comments and suggest changes to the regulations as part of these periodic revisions. The NRC and DOT have sought public input related to the proposed revisions. On July 22, 2003, the DOT held a public meeting, with the NRC participating, to obtain public views on proposed changes to the 1996 edition of TS–R–1 and accepted written comments through August 8, 2003. On November 5, 2003, the DOT held a public meeting, with the NRC participating, seeking public views on the DOT positions on the proposed changes to TS–R–1. The NRC published **Federal Register** notices on June 26, 2003 (68 FR 37986); October 24, 2003 (68 FR 60886); April 23, 2004 (69 FR 21978); April 27, 2005 (70 FR 21684); and November 21, 2007 (72 FR 65470), soliciting public input on proposed revisions to TS–R–1. Subsequent to the 1996 edition of TS–R–1 (as amended in 2000), the IAEA published revisions to TS–R–1 in 2003, 2005, and 2009.

This rulemaking effort would involve harmonizing the NRC regulations at 10 CFR part 71 with changes to the IAEA transportation regulations through TS–R–1. Copies of TS–R–1 may be obtained from the United States distributors, Bernan, 15200 NBN Way, P.O. Box 191, Blue Ridge Summit, PA 17214; telephone: 1–800–865–3457; email: *customercare@bernan.com,* or Renouf Publishing Company Ltd., 812 Proctor Ave., Ogdensburg, NY 13669–2205; telephone: 1–888–551–7470; email: *orders@renoufbooks.com.* An electronic copy may be found at the following IAEA Web site: *http://www-pub.iaea.org/MTCD/publications/PDF/Pub1384_web.pdf.* The regulations in TS–R–1 represent an accepted set of requirements that provide a high level of safety in the packaging and transportation of radioactive materials and provide a basis and framework that facilitates the development of internationally-consistent regulations. Internationally-consistent regulations for the transportation and packaging of radioactive material reduce impediments to trade; facilitate international cooperation; and, when the regulations provide a high level of safety, can reduce risks associated with the import and export of radioactive

material. Harmonization represents the effort to increase the consistency or compatibility between national regulations and the internationally-accepted requirements, within the constraints of an existing national legal and regulatory framework.

In November 2012, the IAEA issued new standards for the safe transport of radioactive material and designated them as ''Specific Safety Requirements Number SSR–6'' (SSR–6). This proposed rulemaking would not incorporate the 2012 changes, which will undergo a comprehensive review by the NRC staff to determine if additional changes to 10 CFR part 71 are warranted.

Historically, the NRC has coordinated its revisions to 10 CFR part 71 with the DOT, because the DOT is the United States competent authority for transportation of hazardous materials. ''Radioactive Materials'' is a subset of ''Hazardous Materials'' in Title 49 regulations under DOT authority. The DOT hazardous materials regulations are found in 49 CFR parts 171 through 177. Currently, the DOT and the NRC co-regulate transport of radioactive materials in the United States. The roles of the DOT and the NRC in the co-regulation of the transportation of radioactive materials are described in a memorandum of understanding (MOU) (44 FR 38690; July 2, 1979). Consistent with this MOU, the NRC is continuing to coordinate its efforts with the DOT in this proposed rulemaking process. Refer to the DOT corresponding rule for additional background on the proposed changes in this document.

Scope of 10 CFR Part 71 Proposed Rulemaking

The NRC staff evaluated recent changes in the IAEA's transportation standards through the 2009 edition of TS–R–1 to identify changes to be made in 10 CFR part 71. Based on this effort, the NRC staff identified a number of areas in 10 CFR part 71 that need to be addressed in this proposed rulemaking process as a result of the changes to the IAEA regulations. These changes are discussed in Section III of this document, question C, ''Which Changes are Being Proposed to Increase the Compatibility with the International Atomic Energy Agency Regulations (TS–R–1) and Consistency with DOT Regulations?''

The NRC is also proposing a number of self-initiated changes to its regulations that are not related to either compatibility with IAEA regulations or consistency with DOT regulations. These NRC changes would affect administrative procedures for the quality assurance program requirements described in 10 CFR part 71, subpart H, re-establish restrictions on material that qualifies for the fissile material exemption, clarify the requirements for a general license, clarify the responsibilities of certificate holders and licensees when making preliminary determinations, and make other editorial changes.

Fissile Material Exemption

In 1997, the NRC issued an emergency final rule (62 FR 5907; February 10, 1997) that revised the regulations on fissile material exemptions and the general licenses that apply to fissile material. The NRC determined that good cause existed under Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)), to publish this final rule without notice and opportunity for public comment. Further, the NRC also determined that good cause existed, under Section 553(d)(3) of the APA (5 U.S.C. 553(d)(3)), to make the final rule immediately effective. Notwithstanding the final status of the rule, the NRC provided for a 30-day public comment period. The NRC subsequently published in the **Federal Register** (64 FR 57769; October 27, 1999) a response to the comments received on the emergency final rule and a request for information on any unintended economic impacts caused by the final rule. Based on the public comments on the emergency final rule, the NRC staff contracted with Oak Ridge National Laboratory (ORNL) to review the fissile material exemptions and general license provisions, study the regulatory and technical bases associated with these regulations, and perform criticality model calculations for different mixtures of fissile materials and moderators. The results of the ORNL study were documented in NUREG/CR–5342,[1] and the NRC published a notice of the availability of this document in the **Federal Register** (63 FR 44477; August 19, 1998). The ORNL study confirmed that the emergency final rule was needed to provide safe transportation of packages with special moderators that are shipped under the general license and fissile material exemptions, but concluded that the regulations may be excessive for shipments where water moderation is the only concern. The ORNL study recommended that the NRC revise 10 CFR part 71. The ORNL made a recommendation that applied to the requirement specific to uranium enriched in uranium–235 (U–235) to a maximum of 1 percent by weight, and with a total plutonium and uranium–233 (U–233) content of up to 1 percent of the mass of U–235, hereafter referred to as uranium enriched to a maximum of 1 percent. Specifically, ORNL recommended: (1) That a definition of ''homogeneity'' be developed that could be clearly understood for use with uranium enriched to a maximum of 1 percent; (2) the term ''lattice arrangement'' be clarified or not used; and (3) if the definitions for homogeneity and lattice arrangement cannot be provided, a restriction on beryllium (Be), deuterium oxide (e.g., D_2O or heavy water), and carbon (graphite) (C) should be maintained. The ORNL recommended that the moderator criteria restricting the mass of Be, C, or D_2O to less than 0.1 percent of the fissile mass should be maintained, which would remove the need to provide definitions—such as ''homogeneous'' and ''lattice arrangement''—that are difficult to define and to apply practically. The NRC staff indicated that it agreed with the ORNL recommendations (67 FR 21390; April 30, 2002) and removed the homogeneity and lattice prevention requirements from the fissile material exemptions.

The ORNL recommendations were considered when the NRC proposed changes to 10 CFR part 71 (67 FR 21390; April 30, 2002) to make NRC regulations more consistent and compatible with IAEA regulations and to make changes to the fissile material exemption requirements to address the unintended economic impact of the NRC emergency final rule entitled ''Fissile Material Shipments and Exemptions'' (62 FR 5907; February 10, 1997). In its final rule (69 FR 3698; January 26, 2004) to make 10 CFR part 71 compatible with the IAEA regulations and make other transportation safety amendments, the NRC removed the restriction that, to qualify for the fissile material exemption, uranium enriched in U–235 is distributed homogeneously throughout the package and does not form a lattice arrangement within the package, and redesignated the section for fissile material exemptions from § 71.53 to § 71.15. Based on a comment that shippers would have difficulty implementing the proposed rule language, the NRC determined that it would be impractical to implement a restriction based on the proposed ratio of the restricted moderators to the fissile mass and changed the restriction to require that the mass of beryllium, graphite, and hydrogenous material

[1] NUREG/CR–5342, ''Assessment and Recommendations for Fissile-Material Packaging Exemptions and General Licenses within 10 CFR Part 71,'' July 1998.

enriched in deuterium be less than 5 percent of the mass of uranium; the NRC concluded that limiting the mass of these moderators to less than 5 percent of the uranium mass would assure subcriticality for all moderators of concern.

Subsequent to the 2004 rulemaking, the U.S. Department of Energy (DOE) was planning a shipment of large quantities of low-enriched fissile material that would qualify for the exemption at 10 CFR 71.15(d). Analyses performed by the DOE indicated that large arrays of heterogeneous uranium with enrichment of 1 percent by weight of U–235 could exceed a k_{eff} of 0.95 when optimally moderated by water. For the material to become critical,[2] the k_{eff} would need to be greater than or equal to 1.0. However, the quantity and geometric arrangement of this material exceeded a k_{eff} of 0.95, which is typically used as a limit in regulatory assessments of package designs for the transport of fissile material. The sensitivity of k_{eff} to increases in the quantity of fissile material and changes in geometry will depend on the properties of the material. For uranium enriched to a maximum of 1 percent and k_{eff} greater than 0.95, k_{eff} is very insensitive to changes in geometry and quantity; consequently, significantly larger quantities of material would be required to get k_{eff} close to 1.0.

Quality Assurance Program Approvals

Part 71 of 10 CFR does not include provisions for making changes to an approved quality assurance program without obtaining prior NRC approval before implementing the change. The requirement to obtain prior NRC approval currently applies to all changes, no matter how insignificant in importance they are to safety. Consequently, the process can be overly burdensome and inefficient for both the licensee and the NRC. For example, a change in the quality assurance program to correct typographical errors or punctuation would need to be submitted and approved by the NRC.

In the past, the NRC observed several instances in which holders of a 10 CFR part 71 quality assurance program approval had made changes to their NRC-approved quality assurance program before obtaining NRC approval. Although many of the changes were found acceptable by the NRC after they were reviewed, some of the changes did not satisfy the respective requirements of 10 CFR part 71, subpart H. In Information Notice 2002–35 (December 20, 2002; ADAMS Accession No. ML023520339), the NRC indicated that it was considering changes to 10 CFR part 71 to provide a method similar to 10 CFR 50.54(a)(3) and (4) for making changes to 10 CFR part 71 quality assurance programs.

In 2004, the NRC changed the renewal period for quality assurance program approvals issued under 10 CFR part 71 from 5 years to 10 years. This change was announced in ''NRC Regulatory Information Summary (RIS) 2004–18, Expiration Date for 10 CFR Part 71 Quality Assurance Program Approvals'' (December 1, 2004; ADAMS Accession No. ML042160293). After making this change, the NRC evaluated whether a change should be made in the regulations to codify the effective term of the quality assurance program approval or whether any expiration date for the quality assurance program approval was necessary.

In the proposed rule section of this issue of the **Federal Register**, the NRC is issuing for public comment Draft Regulatory Guidance (DG) 7009, ''Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material'' (RIN 3150–AI11; NRC–2013–0082).

III. Discussion

A. What action is the NRC proposing to take?

The NRC is proposing to amend its regulations to make them more consistent or compatible with the IAEA international transportation regulations. These changes are in response to changes introduced in the 1996 (as amended in 2003), 2005, and 2009 editions of TS–R–1. The NRC is proposing to revise its regulations to be consistent with DOT hazardous materials regulations to maintain a consistent framework for the transportation and packaging of radioactive material.

The NRC is proposing to make changes that would clarify the requirements to obtain a general license and the responsibilities of general licensees. The NRC is proposing to make changes that would clarify the roles of users of NRC-approved packaging and certificate holders or applicants for a certificate of compliance (CoC). Also, the NRC is proposing to make changes that would make the regulation of quality assurance programs more efficient. The NRC is proposing to issue quality assurance program approvals that would not expire, removing the need for the approval to be renewed, and would revise the current quality assurance program approvals so that they would not expire. The NRC is also proposing to allow those changes that do not reduce the commitments in an approved quality assurance program to be made without prior NRC approval.

The NRC is proposing to make changes that would change the responsibilities of licensees and certificate holders for making the preliminary determinations in § 71.85.

Other proposed changes would correct errors and clarify the regulations.

B. Who is affected by this proposed action?

This action would affect NRC licensees authorized by a specific or general license issued by the Commission to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, or transports the material outside of the site of usage as specified in the NRC license, or transports that material on public highways; holders of, and applicants for, a CoC; and holders of a 10 CFR part 71, Subpart H, quality assurance program approval. This action would also affect holders of quality assurance program approvals under appendix B of 10 CFR part 50 or subpart G of 10 CFR part 72 to the extent that those approvals apply to transport packaging as specified in 10 CFR 71.101(f), ''*Previously approved programs.*'' This action would change requirements that are matters of compatibility. Agreement States would be required to update their regulations and Agreement State licensees would be affected by the changes to the Agreement State regulations.

C. Which changes are being made to increase the compatibility with the International Atomic Energy Agency Regulations (TS–R–1) and consistency with DOT regulations?

The NRC has identified changes in 10 CFR part 71 that would make the NRC regulations more consistent or compatible with the international transportation regulations. These changes would also improve the consistency with the current DOT regulations or would maintain consistency between 10 CFR part 71 and DOT regulations by making changes that correspond to those proposed by the

[2] For transportation purposes, nuclear criticality means a condition in which an uncontrolled, self-sustaining and neutron-multiplying fission chain reaction occurs. Nuclear criticality is generally a concern when sufficient concentrations and masses of fissile material and neutron moderating material exist together in a favorable configuration. The neutron moderating material cannot achieve criticality by itself in any concentration or configuration. It can enhance the ability of fissile material to achieve criticality by slowing down neutrons or reflecting neutrons.

DOT. The NRC is proposing the following changes to 10 CFR part 71.

1. In the 2003 Edition of TS–R–1, the IAEA changed the scope of TS–R–1 as it applies to natural materials and ores by adding language that addresses the processing of these materials (paragraph 107(e) of the 2009 edition of TS–R–1). The NRC is proposing to include the concept of processing into the provisions that apply to natural materials and ores in the exemptions for low-level materials at § 71.14.

2. The NRC is proposing to adopt the scoping statement in paragraph 107(f) of TS–R–1, which addresses non-radioactive solid objects with radioactive substances present on any surface in quantities not in excess of certain levels. In conjunction with this proposed change, a definition of ''contamination'' corresponding to the definition in TS–R–1 would be added to § 71.4.

3. The NRC is proposing to amend the following definitions in 10 CFR 71.4 to reflect the current definitions in TS–R–1: ''Criticality Safety Index (CSI);'' ''Low Specific Activity (LSA) material;'' and ''uranium—natural, depleted, enriched.'' When the NRC last revised the definition for LSA material, the NRC added the modifier ''not,'' which resulted in the NRC definition becoming inconsistent with the DOT and IAEA definitions. The NRC is proposing to correct this, so that LSA material includes material intended to be processed for its radionuclides.

4. The NRC is proposing to adopt the use of the Class 5 impact test prescribed in the International Organization for Standardization (ISO) document 2919, ''Radiation protection—Sealed radioactive sources—General requirements and classification,'' Second Edition (February 15, 1999), ISO 2919:1999(E), for special form radioactive material, provided the mass was less than 500 grams.

5. The NRC is proposing to incorporate by reference ISO document 2919, ''Radiation protection—Sealed radioactive sources—General requirements and classification,'' Second Edition (February 15, 1999), ISO 2919:1999(E), and ISO document 9978, ''Radiation protection—Sealed radioactive sources—Leakage test methods,'' First Edition (February 15, 1992), ISO 9978:1992(E).

6. The NRC is proposing to change the description of billet used in the percussion test in § 71.75(b)(2)(ii) by replacing ''edges'' with ''edge.''

7. The NRC is proposing to revise the definition of ''special form radioactive material'' in § 71.4 to allow special form radioactive material that is successfully tested in accordance with the current requirements to continue to be transported as special form radioactive material, if the testing was completed before the effective date of the final rule.

8. In appendix A, Table A–1, the NRC is proposing to eliminate the A_1 and A_2 values for californium-252 (Cf-252) for domestic use. The A_1 and A_2 values for Cf-252 would be consistent with the IAEA values.

9. The NRC is proposing to include krypton-79 (Kr-79) in Table A–1 and Table A–2. The A_1 and A_2 values in Table A–1 and the activity concentration for exempt material and the activity limit for exempt consignment would be consistent with the IAEA values in the 2009 edition of TS–R–1.

10. The NRC is proposing to revise footnote a to Table A–1, ''A_1 and A_2 values for radionuclides,'' to include the list of parent radionuclides whose A_1 and A_2 values include contributions from daughter radionuclides with half-lives of less than 10 days in footnote a to Table 2, ''Basic Radionuclide Values,'' in TS–R–1 (2009 edition), with the exception of argon-42 (Ar-42) and tellurium-118 (Te-118), which appear in footnote a to Table 2 in TS–R–1 (2009 edition), but do not appear within Table 2.

11. The NRC is proposing to move and revise footnote c to Table A–1 to make clear that only for iridium-192 (Ir-192) in special form is it appropriate for the activity of Ir-192 to be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance.

12. In appendix A, Table A–2, the NRC is proposing to revise the activity limit for exempt consignment for tellurium-121m (Te-121m) to be consistent with the new IAEA value.

13. The NRC is proposing to revise the list of parent radionuclides and their progeny included in secular equilibrium in footnote b to Table A–2, ''Exempt material activity concentrations and exempt consignment activity limits for radionuclides,'' to be consistent with the list accompanying Table 2, ''Basic Radionuclide Values,'' in TS–R–1 (2009 edition).

14. The NRC is proposing to revise the descriptive phrases for different categories of unknown radionuclides and mixtures in Table A–3 to be consistent with the IAEA descriptions in Table 3, ''Basic Radionuclide Values for Unknown Radionuclides or Mixtures,'' in TS–R–1 (2009 edition). The descriptive phrases for ''Only alpha emitting nuclides are known to be present'' and ''No relevant data are available'' would be revised.

D. How is the NRC proposing to change the exemption for materials with low activity levels?

The NRC is proposing to revise its exemption for natural materials and ores containing naturally occurring radionuclides to reflect changes in the scope of TS–R–1. In its proposed rule (76 FR 50332; August 12, 2011), the DOT proposed adopting these changes.

The TS–R–1 includes statements that describe its scope. First, there is a description of activities included within the scope of regulation. Second, TS–R–1 has a list of material to which TS–R–1 does not apply, hereafter referred to as ''non-TS–R–1 material.'' Included in the list of non-TS–R–1 material are natural materials and ores containing naturally occurring radionuclides. These natural materials and ores are not intended to be processed for their radionuclides, provided that the activity concentration for the material does not exceed 10 times the activity concentration for exempt material. In the 2003 edition of TS–R–1, the description of natural materials and ores containing naturally occurring radionuclides contained in the list of non-TS–R–1 material was revised to add natural materials and ores that have been processed.

In the 2003 edition of TS–R–1, ''non-radioactive solid objects with radioactive substances on any surfaces'' in quantities not exceeding certain values were identified as being outside of the scope of the transportation regulations.

The NRC has established an exemption at 10 CFR 71.14 that exempts licensees from the requirements of 10 CFR part 71 for certain natural materials and ores. The exemption for low-level materials exempts licensees from the requirements of 10 CFR part 71 with respect to the shipment or carriage of material that qualifies for the exemption and they would be allowed to transport natural material or ore that qualifies for the exemption without the material being regulated as a hazardous material during transportation; however, all other NRC regulations that apply to this material would continue to apply. The exemption at § 71.14(a)(1) is consistent with the 1996 edition of TS–R–1 (as amended in 2000) and 49 CFR 173.401(b), as they apply to natural materials and ores containing naturally occurring radionuclides. The NRC is proposing to update this exemption to include the shipment of natural materials and ores containing naturally occurring radionuclides that have been processed, which would retain consistency with DOT regulations and harmonize the NRC regulations with the

2009 edition of TS–R–1. This exemption would continue to be limited to those natural materials and ores containing naturally occurring radionuclides whose activity concentrations may be up to 10 times the activity concentration specified in Table A–2 of appendix A to 10 CFR part 71.

The NRC is proposing to correct the definition of LSA–I material, so that it applies to uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for their radionuclides. The low-level material exemption at § 71.14(b)(3), which includes packages containing only LSA material, would now apply to LSA–I material (i.e., material intended to be processed for its radionuclides).

Natural material and ore containing naturally occurring radionuclides that are not intended to be processed for these radionuclides could qualify for the low-level material exemption at 10 CFR 71.14(a)(1). With the correction to the definition of LSA–I material, uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for these radionuclides may be able to qualify for the low-level material exemption at § 71.14(b)(3), provided that the other restrictions are satisfied. The restrictions include: (1) the package contains only LSA–I or Surface Contaminated Object (SCO)-I material or (2) that the LSA or SCO material has an external radiation dose rate of less than 10 mSv/h (1 rem/h) at a distance of 3 meters from the unshielded material. Section 71.14 provides an exemption from the requirements of 10 CFR part 71, with the exception of §§ 71.5 and 71.88. Section 71.5 references the DOT regulations in 49 CFR parts 107, 171 through 180, and 390 through 397. If the DOT regulations are not applicable to a shipment of licensed material, § 71.5 requires licensees to conform to the referenced DOT standards and regulations to the same extent as if the shipment were subject to the DOT regulations. Section 71.88 would continue to apply to the material, because its applicability is not limited by any of the exemptions in 10 CFR part 71.

Natural material or ore that has been incorporated into a manufactured product, such as an article, instrument, component of a manufactured article or instrument, or consumer item, would not be able to qualify for the low level material exemption for natural materials and ores containing naturally occurring radionuclides. Slags, sludges, tailings, residues, bag house dust, oil scale, and washed sands that are the byproducts of processing or refining are examples of natural material or ore that has been processed and that may still qualify for the exemption, provided that the processed material has not been incorporated into a manufactured product.

The NRC is proposing to add a definition of contamination and to expand the exemption at § 71.14 to include non-radioactive solid objects with substances present on any surface not exceeding the levels used to define contamination. The derived values used in the definition of contamination are conservative with respect to transportation, and quantities of radioactive substances below these values would result in small amounts of exposure during normal conditions of transportation and would contribute to insignificant exposures under accident conditions. Contamination would be defined as quantities in excess of 0.4 Bq/cm^2 (1×10^{-5} μCi/cm^2) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 (1×10^{-6} μCi/cm^2) for all other alpha emitters.

E. How might the qualification of special form radioactive material change?

The NRC is proposing to update the alternate tests in § 71.75 that may be used for the qualification of special form radioactive material to tests in more recent editions of the consensus standards. The NRC is proposing to incorporate by reference the Class 4 and Class 5 impact tests and the Class 6 temperature test prescribed in the ISO document ISO 2919:1999(E). The NRC is proposing to incorporate by reference the leaktightness tests specified in ISO document 9978:1992(E). The IAEA has adopted, in TS–R–1, the Class 4 and Class 5 impact tests in ISO 2919:1999(E), the Class 6 temperature test in ISO 2919:1999(E), and the leaktightness tests in ISO 9978:1992(E).

The Class 4 impact test in ISO 2919:1999(E) would replace the impact test in § 71.75(d)—the Class 4 impact test in ISO 2919, ''Sealed Radioactive Sources—Classification,'' first edition (1980)—and would be available for use with specimens that have a mass that is less than 200 grams. The Class 5 impact test, which is being added, would allow use of an ISO impact test for specimens that have a mass that is less than 500 grams. The updated ISO impact tests maintain the requirement that the mass of the hammer used in the test is greater than 10 times the mass of the specimen.

The Class 6 temperature test in ISO 2919:1999(E) would replace the temperature test in § 71.75(d)—the Class 6 temperature test in ISO 2919, ''Sealed Radioactive Sources—Classification,'' first edition (1980). The Class 6 temperature test in ISO 2919:1999(E) is more stringent than the test that it replaces, because it requires the same specimen to be used for both portions of the temperature test. The Class 6 temperature test would continue to be more stringent than the testing required by § 71.75(b).

The leaktightness tests prescribed in ISO 9978:1992(E) would replace the tests in ISO/TR 4826, ''Sealed Radioactive Sources—Leak Test Methods,'' (1979). The consensus standard ISO 9978:1992(E) has replaced ISO/TR 4826:1979(E), which has been withdrawn by ISO. The NRC has determined that the leaktightness tests prescribed in ISO 9978:1992(E) provide an equivalent level of radiological safety as the leaching assessment procedure in § 71.75(c).

The NRC is proposing to revise the definition of special form radioactive material to allow material tested using the current requirements to continue to be treated as special form material, provided that the testing was completed before the effective date of the final rule. This would allow material tested using requirements in effect at the time of the testing to continue to be used. The NRC is proposing to correct the reference to the version of § 71.4 in the CFR that was in effect on March 31, 1996, by changing the date of the revision from January 1, 1983, to January 1, 1996.

The NRC is proposing to replace ''edges'' with ''edge'' to describe the billet used for the percussion test in § 71.75(b)(2). The edge corresponds to the circular edge at the face of the billet. This is intended to clarify the description of the billet and to maintain consistency with the language used by the DOT in 49 CFR 173.469.

F. What changes may be made to Appendix A, ''Determination of A_1 and A_2 Values,'' part 71 of Title 10 of the Code of Federal Regulations (CFR) ?

The NRC is proposing the following changes to appendix A.

1. Determining the Quantity of Radioactive Material That Can Be Shipped in a Package That Contains Both Special Form and Normal Form Radioactive Material

The NRC is proposing to specifically address how to calculate the limit of the activity that may be transported in a Type A package, if the package contains both special form and normal form

radioactive material and the identities and activity limits for the radionuclides are known. By including this equation, the NRC would increase the consistency between 10 CFR part 71 and TS–R–1 and would provide additional clarity on how to address cases where a package will contain both special form and normal form material. The equation is similar to those already used in 10 CFR part 71 for mixtures of special form material and mixtures of normal form material.

2. Table A–1, ''A_1 and A_2 Values for Radionuclides''

The NRC is proposing to revise Table A–1 to make the values in 10 CFR part 71 consistent with the values in Table 2, ''Basic radionuclide values,'' in TS–R–1. Specifically, the NRC is proposing to—add an entry for Kr-79, which has been added to Table 2 in the 2009 edition of TS–R–1; adopt the A_1 and A_2 values for Cf-252; revise footnote a to include the list of parent radionuclides whose A_1 and A_2 values include contributions from daughter radionuclides with half-lives of less than 10 days; and move and revise footnote c, which applies to Ir-192, so that the footnote applies only to Ir-192 in special form material.

The A_1 and A_2 values are used for determining what type of package must be used for the transportation of radioactive material. The A_1 values are the maximum amount of special form material allowed in a Type A package. The A_2 values are the maximum activity of ''other than special form'' material allowed in a Type A package. A_1 and A_2 values are also used for several other packaging limits throughout TS–R–1, such as specifying Type B package activity leakage limits, low-specific activity limits, and excepted package contents limits. The values of A_1 and A_2 have been adopted in 10 CFR part 71 and are specified in appendix A.

The IAEA has added an entry for Kr-79 in the Table 2 of the 2009 edition of TS–R–1. The NRC is proposing to adopt these radionuclide-specific values for Kr-79 in Table A–1. The radionuclide-specific values would replace the generic values in Table A–3, which are currently used for Kr-79. The radiological criteria underlying the A_1 and A_2 values for Kr-79 have not changed, but the radionuclide-specific values were derived using radionuclide-specific information and better reflect the radiological hazard of Kr-79 than the generic values that they would replace.

The IAEA has revised the A_1 value for Cf-252 to the value that currently applies to domestic transportation. In the 2004 final rule for 10 CFR part 71 (69 FR 3698; January 26, 2004), the NRC did not adopt the A_1 value for Cf-252 in TS–R–1 for domestic transportation, because the NRC was aware that the IAEA was considering changing the value back to the value that has been in 10 CFR part 71; the IAEA has subsequently made this change. The NRC is proposing to adopt the A_1 value for Cf-252, which would apply to both international and domestic transportation, and to adopt the IAEA value for A_2. The NRC is proposing to delete the A_2 value that applies only to domestic transportation. Making this change would improve the harmonization of 10 CFR part 71 with TS–R–1 by adopting the A_2 value for Cf-252 in TS–R–1. Because the A_2 value for Cf-252 was established by the IAEA using the Q-system and current data for Cf-252, the A_2 value for Cf-252 would be consistent with the other values derived using the Q-system that has been incorporated into 10 CFR part 71.

The NRC is proposing to revise footnote a to Table A–1 to identify the A_1 and A_2 values that include contributions from daughter radionuclides that have a half-life that is less than 10 days. The proposed list corresponds to the radionuclides listed in footnote a to Table 2 in TS–R–1, with the exception of argon-42 (Ar-42) and tellurium-118 (Te-118). Ar-42 and Te-118 would not be included, because they do not appear within Table A–1.

The NRC is proposing to revise footnote c to Table A–1 to make clear that the activity of Ir-192 may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source is appropriate for Ir-192 in special form.

3. Table A–2, ''Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides''

The NRC is proposing to revise Table A–2 to make the values in 10 CFR part 71 consistent with the values in TS–R–1 and to add an entry for Kr-79, which has been added to Table 2, ''Basic radionuclide values,'' in the 2009 edition of TS–R–1. The NRC is also proposing to update the list of parent radionuclides and their progeny in footnote b to Table A–2 by removing the chains for the parent radionuclides cerium-134 (Ce-134), radon-220 (Rn-220), thorium-226 (Th-226), and U–240 and adding the chain for the parent radionuclide silver-108m (Ag-108m) to make the footnote consistent with footnote (b) in Table 2 of TS–R–1. The NRC is proposing to update the activity limit for exempt consignment for Te-121m to match the values in TS–R–1.

Material that has an activity concentration that is less than the activity concentration for exempt material would pose a very low radiological risk. The activity limit for exempt consignment has been established for the transportation of material in quantities small enough for which the total activity is unlikely to result in any significant radiological exposure. This would be the case even for material that exceeds the activity concentration for exempt material.

Krypton-79 is not listed in Table A–2, and the values from Table A–3, ''General Values for A_1 and A_2,'' in appendix A are used to determine the activity concentration for exempt material and the activity limit for exempt consignment for Kr-79. Radionuclide-specific values for the activity concentration for exempt material and the activity limit for exempt consignment have been derived for Kr-79 and are included in the 2009 edition of TS–R–1.

In the 2005 edition of TS–R–1, the IAEA revised the activity limit for exempt consignment for Te-121m. The change to the activity level for exempt consignment for Te-121m, which is based on new analyses and information, is consistent with the objectives of the exemption values. Also, to conform to International Commission on Radiological Assistance (ICRP) and IAEA changes, the activity limit for exempt consignment for Te-121m in Table A–2 is being changed from 1×10^5 Bq (2.7×10^{-6} Ci) to 1×10^6 Bq (2.7×10^{-5} Ci).

The IAEA has revised the list of parent radionuclides and their progeny included in secular equilibrium in footnote (b) to Table 2, ''Basic radionuclide values'' in TS–R–1. This revision arose from the adoption of the nuclide-specific basic radionuclide values from the Basic Safety Standards (IAEA Safety Series No. 115, ''International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources'' (1996)) for use in transportation. The list of parent radionuclides and their progeny was modified by adding the decay chain for Ag-108m and removing the decay chain for Ce-134, Rn-220, Th-226, and U-240. The list of parent radionuclides and their progeny included in secular equilibrium presented in footnote b to Table A–2 would be revised to be consistent with the changes to the list in TS–R–1.

4. Table A–3, ''General Values for A_1 and A_2''

In the 2005 Edition of TS–R–1, the IAEA revised Table 2, ''Basic radionuclide values for unknown radionuclides or mixtures'' (Table 3 in the 2009 edition of TS–R–1). The table divides unknown radionuclides and mixtures into three groups, with a row for each group. The first column of each row provides a descriptive phrase for contents that are suitable for that group. The current descriptive phrases are: (1) ''only beta or gamma emitting radionuclides are known to be present,'' (2) ''only alpha emitting nuclides are known to be present,'' and 3) ''no relevant data are available.'' The NRC is proposing to adopt the descriptive phrases as revised by the IAEA in TS–R–1 in Table A–3.

The descriptive phrase for the first group, ''only beta or gamma emitting radionuclides are known to be present,'' is not being changed.

The phrase for the second group, ''only alpha emitting nuclides are known to be present,'' is being changed to ''alpha emitting nuclides, but no neutron emitters, are known to be present.'' The phrase for the third group, ''no relevant data are available,'' is being changed to ''neutron emitting nuclides are known to be present or no relevant data are available.'' Some users have assigned alpha-emitting radionuclides that also emit beta particles or gamma rays to the third group, when it was intended that they be assigned to the second group. The change in the descriptive phrase for the second group is intended to reduce the confusion caused by the current phrase, because all alpha emitting radionuclides also emit other particles and/or gamma rays. The change in the descriptive phrase for the third group is intended to clarify that neutron-emitting radionuclides, or alpha emitters that also emit neutrons, such as Cf-252, Cf-254 and curium-248 (Cm-248), should be assigned to the third group.

It is intended that when groups of radionuclides are based on the total alpha activity and the total beta and gamma activity, the lowest radionuclide values (A_1 or A_2) for the alpha emitters or the beta or gamma emitters, respectively, would be used. Consequently, an A_1 value of 1 TBq (2.7 Ci) and an A_2 value of 9×10^{-5} TBq (2.4×10^{-3} Ci) would be used for a group containing both alpha emitting radionuclides and beta or gamma emitting radionuclides.

5. Other changes that correct formulas and their descriptions in Section IV, *Section-by-Section Analysis,* of this document

The NRC is proposing to make several corrections to the formulas and the descriptions of the formulas that address mixtures of radionuclides in Section IV of this document. These changes involve formatting and typographical changes in the formulas and their descriptions.

G. How would the responsibilities of certificate holders and licensees change with these amendments?

In the 1950s, the Atomic Energy Commission (AEC) issued package approvals to AEC licensees as amendments to their licenses and the DOT issued package approvals to non-AEC licensees. On March 22, 1973 (38 FR 8466), the AEC and the DOT entered into an MOU where the DOT agreed to adopt a requirement for AEC approval of designs of packages for the shipment of fissile material and other radioactive material exceeding Type A limits, with the exception of LSA material, and the AEC agreed to develop safety standards for the design and performance of packages and to impose these standards on AEC licensees and license-exempt contractors. Under the MOU, the AEC would issue an AEC license, an AEC CoC, or other AEC package approval directly to the person requesting the evaluation. Although the AEC, and subsequently the NRC, certified that the packages met the regulations, they did not have regulatory authority over the certificate holders under DOT jurisdiction. On July 2, 1979 (44 FR 38690), this MOU was superseded by an MOU between the DOT and the NRC. In this MOU, it was agreed that the NRC, in consultation with the DOT, would develop safety standards for the design and performance of the packages. As the NRC developed its safety standards for the packages, it gained regulatory authority over the certificate holders.

The requirements for making the preliminary determinations have remained largely unchanged since the 1979 MOU. In discussing the routine and preliminary determinations (48 FR 35600; August 5, 1983), the Commission indicated that the user of a package always had the regulatory responsibility for preliminary and routine determinations and recordkeeping, even though the user may not own the package. The Commission also indicated that although the user could contract with some other person, perhaps the owner, to satisfy those requirements for the user, the user's records must demonstrate that the requirements have been satisfied. Although leaktightness tests related to the package design are required as a condition of the package design approval, the Commission has indicated that it considers that in the case of radioactive material packages, integrity of the containment (including closures, valves, and other routes of escape) should be demonstrated for each fabricated package before first use.

The NRC experience is that licensees have never made preliminary determinations themselves, unless they also happened to be certificate holders. Based on the NRC extensive experience inspecting the activities of certificate holders and NRC licensees who use packages, the NRC is not aware of any NRC licensee that performs preliminary determinations, unless they are also the certificate holder for the package design. The scope of user-only quality assurance program approvals, which are issued to licensees who are not also holders of a CoC, do not include the testing required to make the preliminary determinations. Licensees lease or buy these packages from the certificate holder, or fabricator, and most packages are already marked by the certificate holder. The NRC has identified cases where the durable marking of the packaging required by § 71.85 was done incorrectly by a certificate holder. Because the licensee is responsible for the preliminary determinations, enforcement could not be taken against the certificate holder for improperly marking the packaging.

The Commission is proposing to make changes to § 71.85 that would make certificate holders, not licensees, responsible for making the preliminary determinations before the first use of each package. The preliminary determinations involve evaluating, testing, and marking the packaging. The DOT requirements at 49 CFR 173.22 require that the person offering a hazardous material for shipping make determinations relating to the manufacturing, assembly, and marking of the packaging or container. The Commission is proposing to require the licensee to ascertain that the preliminary determinations involving evaluating, testing, and marking the packaging have been made. The licensee would still make the required routine determinations at § 71.87. As required by § 71.91(d), both licensees and certificate holders would still be required to maintain sufficient written records to furnish evidence of the quality of the packaging, which includes the results of the determinations required by § 71.85.

The Commission is proposing to make these changes, because it is more appropriate to assign the responsibility to certificate holders for marking the packaging. Only certificate holders are authorized to design and fabricate packagings, and only certificate holders would have a full scope quality assurance program approval, which would allow them to perform the testing required as part of the preliminary determinations under an approved quality assurance program. However, licensees would need to retain their responsibility to determine that the packaging has been manufactured, assembled, and marked appropriately and that the packaging does not have any defects that could significantly reduce the effectiveness of the packaging. By assigning the responsibility for making the determinations to the certificate holder, the NRC would be able to streamline the implementation of its regulations and have the regulations better reflect current practice.

H. Why would renewal of my quality assurance program description not be necessary?

The duration of quality assurance program approvals issued under 10 CFR part 71 is a matter of practice and is not specified in the regulations. The NRC has limited the duration of the quality assurance program approval to provide an opportunity for the NRC staff to periodically review the quality assurance programs and for the NRC to maintain periodic contact with the quality assurance program approval holders. The limited duration of the approval facilitated the NRC recordkeeping relating to points of contact, package fabrication, use activities, and other administrative activities.

In 2004, the NRC extended the duration of its quality assurance program approvals from 5 years to 10 years, because the NRC had determined that the periodic contact associated with the 5-year renewal period was less important than it was previously, and the duration of the approval could be lengthened. The NRC announced this change in RIS 2004–18, ''Expiration Date for 10 CFR Part 71 Quality Assurance Program Approvals'' (December 1, 2004).

The NRC is changing its practice regarding the duration of its quality assurance program approvals. The NRC would no longer limit the duration of its quality assurance program approvals issued under 10 CFR part 71. The NRC is proposing changes to 10 CFR part 71 to implement this change and to enhance the periodic communication between the NRC and the quality assurance program approval holders. The NRC would reissue its quality assurance program approval for Radioactive Material Packages (NRC Form 311) without an expiration date. As discussed in Section III, question I, ''What Changes Could be Made to a Quality Assurance Program Description without Seeking Prior NRC Approval?,'' and question J, ''How Frequently Would I Submit Periodic Updates on My Quality Assurance Program Description to the NRC?,'' the NRC is proposing to require quality assurance program approval holders to periodically report changes in their quality assurance program description to the NRC. The NRC has determined that with the continuing contact between the NRC and the quality assurance program approval holders, requiring the renewal of quality assurance program approvals is not necessary to provide the NRC with assurance that the quality assurance program approval holders would continue to be able to adequately maintain and implement their approved quality assurance program.

As discussed under question I, ''What changes could be made to a quality assurance program description without seeking prior NRC approval?,'' the NRC would continue to approve quality assurance program description changes that reduce commitments made to the NRC in quality assurance program descriptions that have been approved by the NRC. Every 24 months, each quality assurance program approval holder would be required to report those changes that do not reduce commitments made to the NRC in a quality assurance program description approved by the NRC. Holders of a CoC and applicants for a CoC are subject to periodic inspection of their quality assurance program (approximately every 3 years) by the NRC. Licensees who use packages are inspected on an as-needed basis.

As discussed under question P, ''What should I consider as I prepare my comments to the NRC?,'' the NRC is specifically requesting comment on the proposed approach to reporting changes to approved quality assurance program descriptions.

I. What changes could be made to a quality assurance program description without seeking prior NRC approval?

Currently, quality assurance program descriptions approved under 10 CFR part 71 cannot be changed without NRC approval. Therefore, all changes to 10 CFR part 71 quality assurance programs, irrespective of their significance or importance to safety, must be submitted to the NRC for approval. Licensees with quality assurance programs approved under 10 CFR part 50, may make some changes to their quality assurance program without NRC approval, consistent with the requirements at § 50.54. The NRC is proposing to allow some changes to be made to quality assurance programs approved under 10 CFR part 71 without obtaining NRC approval. The process for making changes to approved quality assurance program descriptions would be similar to the process that the NRC has used to approve changes that are made to the quality assurance program descriptions for nuclear power plants licensed under 10 CFR part 50 through the provisions at § 50.54(a) and would result in a more consistent approach to allowing changes to approved quality assurance programs. The NRC is proposing to establish a process that would require NRC approval to be obtained for those changes that are most important to safety but would allow other changes to be implemented without obtaining NRC approval.

Quality assurance program approval holders would be required to obtain NRC approval before making any change to their quality assurance program description that would reduce the commitments that they have made to the NRC. Quality assurance program approval holders would not be required to submit changes to their quality assurance program descriptions, if those changes do not reduce the commitments that they have made to the NRC. Administrative changes (e.g., revisions to format, font size or style, paper size for drawings and graphics, or revised paper color) and clarifications, spelling corrections, and non-substantive editorial or punctuation changes would not require NRC approval. Changes to reporting responsibilities, functional responsibilities, functional relationships, and some editorial or punctuation changes may be substantive and have the potential to reduce commitments made to the NRC and, in these instances, would require prior NRC approval before being implemented. The following includes types of changes that the NRC would not consider as reducing a commitment made to the NRC:

1. The use of a quality assurance standard approved by the NRC, which is more recent than the quality assurance standard in the current quality assurance program at the time of the change;

2. The use of generic organizational position titles that clearly denote the function of the position, supplemented

as necessary by descriptive text, rather than specific titles, provided that there are no substantive changes to either the functions of the position or reporting responsibilities;

3. The use of generic organizational charts to indicate functional relationships, authorities, and responsibilities, or alternatively, the use of descriptive text;

4. The elimination of quality assurance program information that duplicates language in quality assurance regulatory guides and quality assurance standards to which the holder of the quality assurance program approval has committed on record; and

5. Organizational revisions that ensure that persons and organizations performing quality assurance functions continue to have the requisite authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations.

Quality assurance program approval holders would also need to maintain records of all quality assurance program changes.

J. How frequently would I submit periodic updates on my quality assurance program description to the NRC?

The NRC would continue to require quality assurance program approval holders to obtain NRC approval of any change to their approved quality assurance program description that would reduce any commitment in the quality assurance program description approved by the NRC before they implement the change. The NRC would require the following information to be provided for its review: a description of the proposed changes to the approved quality assurance program description, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the requirements of subpart H.

The NRC is proposing to require that quality assurance program approval holders would report changes to their approved quality assurance program that do not reduce any commitments in the quality assurance program description approved by the NRC every 24 months. These changes would not require NRC approval before they can be implemented. If the quality assurance program approval holder has not made any changes to its approved quality assurance program description during the preceding 24-month period, it would report to the NRC that no changes have been made.

The NRC inspection program relies on having current information about the quality assurance program available to the NRC. By requiring that the most important changes be submitted to the NRC before they are implemented and with the periodic reporting of the less significant changes every 24 months, the NRC would have current information for its inspection program. The NRC considers the 24-month reporting period as providing an appropriate balance between the burden placed on the quality assurance program approval holders and the need to ensure that the NRC has current information for its oversight of these quality assurance programs.

As discussed under question H, ''Why would renewal of my quality assurance program description not necessary?,'' the NRC would re-issue NRC Form 311 without an expiration date. The 24-month period for reporting of changes is proposed to begin on the date of the NRC approval of a quality assurance program issued with no expiration date, as specified by the date of signature at the bottom of NRC Form 311, ''Quality Assurance Program Approval for Radioactive Material Packages.''

As discussed under question P, ''What should I consider as I prepare my comments to the NRC?,'' the NRC is proposing to require quality assurance program approval holders to submit a report every 2 years that describes the changes that were made to their quality assurance program description that do not reduce a commitment in the quality assurance program description approved by the NRC. The NRC is seeking to balance the regulatory burden for submitting this information with the NRC need to ensure that the NRC has current information for its regulatory oversight of quality assurance program approval holders, which would include using the information for inspections. The NRC is requesting comment on the following issue: would a different frequency be more appropriate for reporting changes to approved quality assurance programs that do not reduce a commitment in a quality assurance program description approved by the NRC?

K. How would the requirements in subpart H, ''Quality Assurance,'' change with the removal of the footnote in 10 CFR 71.103?

The NRC is proposing to remove the footnote in § 71.103 regarding the use of the term ''licensee'' in subpart H, because it is no longer necessary. The removal of the footnote does not change the quality assurance requirements in subpart H. The footnote regarding use of the term ''licensee'' was included to clarify that the quality assurance requirements in subpart H apply to whatever design, fabrication, assembly, and testing of a package is accomplished before a package approval is issued. The terms ''certificate holder'' and ''applicant for a CoC'' were added to the requirements in subpart H in a later rulemaking to make explicit the application of those quality assurance requirements to certificate holders and applicants for a CoC. Although removing the footnote would not change the quality assurance requirements, other proposed changes to subpart H in this proposed rulemaking would further clarify which requirements apply to users of NRC certified packaging and which apply to applicants for, or holders of, CoCs—the entities that would be performing design, fabrication, assembly, and testing of the package before a package approval is issued.

L. What changes would be made to general licenses?

The NRC is proposing to change the requirements for general licenses for the following: (1) use of an NRC-approved package (§ 71.17) and 2) use of a foreign-approved package (§ 71.21). In § 71.17, the NRC is revising the general license requirements to clarify the conditions for obtaining a general license and the responsibilities of the general licensee. A quality assurance program approved by the Commission as satisfying the provisions of subpart H of 10 CFR part 71 is required to be granted the general license. The proposed changes would clarify that the licensee is responsible for maintaining copies of the appropriate documents, such as the CoC, or other approval of the package, and the documents associated with the use and maintenance of the packaging and the actions that are to be taken before shipment with the package. The changes would also clarify that making the notification in § 71.17(c)(3) to the NRC is a responsibility of the licensee, rather than a condition for obtaining the license. The proposed changes to §§ 71.17 and 71.21 would not change the current notification process and would not change the required timing or content of the notification required by § 71.17(c)(3) or any other reporting requirements relating to package use or, where required, the prior notification of shipments.

The proposed changes also include updating the reference in § 71.21(a) from 49 CFR 171.12 to 49 CFR 171.23. On May 3, 2007 (72 FR 25162), the DOT published a final rule that moved the requirements at 49 CFR 171.12 to paragraph (b)(11) at 49 CFR 171.23, ''Requirements for the specific materials

and packagings transported under the [International Civil Aviation Organization] ICAO Technical Instructions, [International Maritime Dangerous Goods] IMDG Code, Transportation Canada [Transportation of Dangerous Goods] TDG Regulations, or the IAEA Regulations.''

M. How would the exemption from classification as fissile material (10 CFR 71.15) change?

The objective of the fissile material exemptions at § 71.15 is to facilitate the safe transport of low-risk (e.g., small quantities or low concentrations) of fissile material by exempting shipments of these materials from the packaging requirements and the criticality safety assessments required for fissile material transportation and to allow the shipments to take place without specific Commission approval. The lower amount of regulatory oversight is acceptable for these shipments, because the exemptions are established so as to ensure safety under all credible transportation conditions. Provided that the exempt material is packaged consistent with the radioactive and hazardous properties of the material, there would not be any additional packaging or transport requirements for exempt fissile material beyond that noted in the specific exemption. However, exempt fissile material would still have fewer restrictions imposed than if it were to be shipped as fissile material. Therefore, for purposes of ensuring criticality safety, the exemptions consider that the material can be released from any packaging during transport, may reconfigure into a worst-case geometric arrangement, may combine with material from other transport vehicles, and may be subject to the fire and water immersion conditions assumed as part of the criticality safety assessment for package designs approved to transport fissile material.

The reactivity of uranium enriched in U-235 will depend on the level of enrichment, the presence of moderators, and heterogeneity effects. Hydrogen is the most efficient moderator, and water is the most common material containing large quantities of hydrogen; therefore, water is the typical moderating material of interest in criticality safety. The maximum enrichment in U-235 allowed to qualify for the fissile material exemption at § 71.15(d) is 1 percent by weight, which is slightly less than the minimum critical enrichment for an infinite, homogeneous mixture of enriched uranium and water.[3] The minimum critical enrichment is the enrichment necessary for a system to have a neutron multiplication factor of one. Systems containing homogeneous mixtures of uranium enriched to less than the minimum critical enrichment (e.g., a homogenous mixture of uranium enriched to a maximum one percent) will not be critical, irrespective of the mass or size of the system. The fissile material exemption at § 71.15(d) also limits the quantity of some less common moderating materials (beryllium, graphite, hydrogenous material enriched in deuterium), because the presence of these materials has the potential to reduce the minimum critical enrichment, increasing the potential for criticality with uranium of lower enrichment. Thus, homogeneous materials containing uranium enriched to no more than 1 percent by weight and subject to the noted restrictions on moderators will be inherently safe from a potential criticality, because they do not need to be limited by mass or size to be subcritical during transport. However, uranium enriched to less than 5 percent by weight is most reactive when it is in a heterogeneous configuration; therefore, the minimum critical enrichment would be lower for an optimized heterogeneous system than for an optimized homogeneous system of the same material. In consideration of this fact, the current proposed change at § 71.15(d) is to add requirements to clarify the need for homogeneity in the material.

The exemption for uranium enriched to a maximum of 1 percent at § 71.15(d) includes a limit on moderators that increase the reactivity of the low-enriched fissile material, but the exemption does not include limits on heterogeneity. In contrast, TS–R–1 allows the uranium enriched to a maximum of 1 percent by weight to be distributed essentially homogeneously throughout the material and requires that if the U-235 is in metallic, oxide, or carbide forms, then it cannot form a lattice arrangement; however, TS–R–1 does not limit the amount of beryllium, graphite, or hydrogenous material enriched in deuterium. In its supplemental guidance to TS–R–1, ''Advisory Material for the IAEA Regulations for the Safe Transport of Radioactive Material'' (TS–G–1.1), the IAEA indicated that ''[t]here is agreement that homogeneous mixtures and slurries are those in which the particles in the mixture are uniformly distributed and have a diameter no larger than 127 μm [(5×10^{-3} in.)].'' The homogeneity requirement in TS–R–1 is intended to prevent latticing of slightly enriched uranium in a moderating medium.

As described in Section II, *Background,* of this document, analyses performed by the DOE indicated that large arrays of uranium with enrichment of 1 percent by weight of U-235, which would qualify for the fissile material exemption at § 71.15(d), could exceed an effective neutron multiplication factor (k_{eff}) of 0.95 when optimally moderated by water. The DOE analyses were performed assuming five shipments under normal conditions and two shipments under accident conditions. Shipping the material under the exemption would have resulted in a lower margin of safety with respect to criticality than is allowed for shipments using approved fissile material packages, because shipments using the fissile material packages, by design, would typically use a k_{eff} of 0.95 as an upper limit. Because such a shipment, as was analyzed by the DOE, could both qualify for the fissile material exemption for low-enriched fissile material and have a k_{eff} greater than 0.95, the Commission believes that additional restrictions on low-enriched fissile material shipped under the fissile material exemption at § 71.15(d) are warranted.

When the Commission last identified a defect in its fissile exemption regulations, which allowed shipments to be made without prior Commission approval, the Commission published an emergency final rule to restrict the use of beryllium and other special moderators, such as graphite and hydrogenous material enriched in deuterium. In this instance, the Commission chose to use normal notice-and-comment rulemaking procedures and determined that the proposed change did not need to be effective immediately. Uranium enriched to a maximum of 1 percent by weight is rarely available in quantities that would allow k_{eff} to exceed 0.95. In the case of uranium enriched to a maximum of 1 percent by weight, k_{eff} is not sensitive to changes in mass, so a significant amount of additional mass would be required to increase the k_{eff} from 0.95 to a value very close to 1.0, even when geometry and moderator conditions are optimal with respect to criticality. In addition, k_{eff} is very sensitive to moderator conditions. If the moderator conditions are not optimal, k_{eff} is less sensitive to changes in mass. Therefore, it is very unlikely that even in the case of large

[3] H.C. Paxton and N. L. Pruvost, Critical Dimensions of Systems Containing U-235, Pu-239, and U-233, LA-10860-MS, Los Alamos National Laboratory, (1987).

quantities of uranium enriched to a maximum of 1 percent by weight that the moderator conditions would also be close to optimal with respect to criticality. The upper subcritical limit is the maximum allowed value of k_{eff} and includes a minimum margin of subcriticality. At a k_{eff} equal to 1, the system is considered critical.

As discussed in Section II of this document, the NRC removed both the requirement for uranium enriched to a maximum of 1 percent to be homogeneously distributed and the lattice prevention requirement. Although the NRC had determined that the limits on restricted moderators was sufficient to assure subcriticality for all moderators of concern, the NRC believes that additional restrictions are needed to have a sufficient margin of safety for shipments of material under the low-enriched fissile material exemption. Therefore, the NRC is proposing to reinstate the requirement that, for uranium enriched to a maximum of 1 percent to be exempted, the fissile material must be distributed homogeneously throughout the package contents and not form a lattice arrangement. Some variability in the distribution and enrichment of the uranium enriched to a maximum of 1 percent would be permissible, provided that the maximum enrichment does not exceed 1 percent. The total measured mass of U-233 and plutonium, plus two times the measurement uncertainty, should be less than 1.0 percent of the mass of U-235 in the material. The total measured mass of beryllium, graphite, and hydrogenous material enriched in deuterium, plus two times the measurement uncertainty, should be less than 5.0 percent of the uranium mass. Although there are heterogeneity effects at very small scales, the Commission does not believe that it is necessary to require homogeneity with respect to particle size. Further, the Commission does not consider it to be credible to accumulate the volume and regularity of fissile material particles necessary for small-scale heterogeneity to introduce criticality concerns. Small volumes of heterogeneity may exist for material shipped under this exemption, provided that a significant fraction of the fissile material is homogeneous and mixed with non-fissile material, or the lumps of fissile material are spaced in a largely irregular arrangement. The homogeneity criterion—allowing some variability in the distribution of fissile material—is consistent with the IAEA regulations, which require that the fissile nuclides be essentially homogenously distributed. Restricting the variability in concentration is not sufficient for limiting the reactivity of the uranium enriched to a maximum of 1 percent. Therefore, the Commission is also proposing to reinstate the lattice prevention criterion. The contents of the package should not involve concentrations of fissile material separated by non-fissile material in a regular, lattice-like arrangement. Although the lattice prevention requirement in TS–R–1 is limited to uranium present in metallic, oxide, or carbide form, the Commission believes that this restriction is too narrow and should apply irrespective of the form of uranium. As discussed under question P, ''What should I consider as I prepare my comments to the NRC?,'' the NRC is seeking comment on the homogeneity and lattice prevention requirements for the exemption for uranium enriched to a maximum of 1 percent. The Commission is requesting comment on the clarity of the homogeneity and lattice prevention criteria for implementation.

N. What other changes is the NRC proposing to make to its regulations for the packaging and transportation of radioactive material?

A requirement in § 71.19(a) that implemented transitional arrangements (''grandfathering'') expired on October 1, 2008, and has been deleted. Paragraph 71.19(a) is currently reserved. Other paragraphs in § 71.19 would be redesignated. In redesignated paragraph 71.19(b)(2), transitional language that is no longer needed would be removed, because the transitional period has expired and the requirement now applies to all previously approved packages used for a shipment to a location outside of the United States.

References to § 71.20 in § 71.0 would be removed, because § 71.20 has expired and has been removed from the regulations.

In § 71.31, the reference to § 71.13 would be changed to § 71.19. In § 71.91, the reference to § 71.10 would be changed to § 71.14. These changes would correct references that were not updated when the requirements were redesignated in 2004.

In § 71.101, the NRC is proposing to make changes that would make the requirements more precise. Paragraphs 71.101(a) and 71.101(c)(2) would be revised to clarify the responsibilities of licensees and certificate holders and applicants for a CoC. The quality assurance requirements pertaining to the design, fabrication, testing, and modification of packaging apply to certificate holders and applicants for a CoC. Licensees are responsible for the quality assurance requirements that apply to their use of the packaging for the shipment of licensed material. Paragraph 71.101(c) would be changed to remove the overlap between paragraphs (c)(1) and (c)(2), by removing the reference to licensees in paragraph (c)(2).

O. When would these proposed amendments become effective?

The NRC will coordinate the effective date for this rule with the DOT. As described under question P, ''What Should I Consider as I Prepare My Comments to the NRC?,'' the NRC is requesting comments on the cumulative effects of regulation (CER), including comments that would inform the amount of time that would be sufficient to implement the proposed amendments. The NRC intends that the new regulations would become effective no sooner than 90 days after the final rule is published in the **Federal Register.**

P. What should I consider as I prepare my comments to the NRC?

Tips for preparing your comments—when submitting your comments, remember to:

1. Identify the rulemaking (RIN 3150–AI11; NRC–2008–0198).

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

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

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

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

6. Explain your views as clearly as possible.

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

8. See Section VIII for the request for comments on the use of plain writing, Section IX for the request for comments on the adoption of voluntary consensus standards, Section XI for the request on the reporting and recordkeeping burden, and Section XII for the request for comments on the draft regulatory analysis.

9. The NRC is specifically requesting comments on the following items:

a. As discussed under question J, ''How frequently would I submit periodic updates on my quality assurance program to the NRC,'' the NRC is proposing to require quality assurance program approval holders to

submit a report every 2 years that describes the changes that were made to their quality assurance program that do not reduce a commitment in the quality assurance program description approved by the NRC. The NRC is seeking to balance the regulatory burden for submitting this information with the NRC need to ensure that the NRC has current information for its regulatory oversight of quality assurance program approval holders, which includes using the information for inspections. Inspections of certificate holders occur approximately every 3 years and inspections of licensees who use packages occur on an as-needed basis. The NRC is requesting comment on whether a different frequency would be more appropriate for reporting changes to an approved quality assurance program that do not reduce a commitment in a quality assurance program description approved by the NRC.

b. In § 71.15(d), the NRC is proposing to reintroduce restrictions on low-enriched fissile material—uranium enriched in U-235 to a maximum of 1 percent by weight, and with a total plutonium and U-233 content of up to 1 percent of the mass of uranium-235—by requiring that it be distributed homogeneously and not form a lattice arrangement. The NRC is seeking comment on the clarity of this requirement for implementation.

c. The CER describe the challenges that licensees, certificate holders, States, or other entities may encounter when implementing the new regulatory requirements (e.g., rules, generic letters, orders, backfits, inspections). The CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a significant number of new or complex regulatory actions, within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The CER can potentially distract licensee or other entity staff from executing other primary duties that ensure safety or security. The NRC is specifically requesting comment on the cumulative effects of this proposed rulemaking. In developing comments on the CER, consider the following questions:

i. In light of any current or projected CER challenges, would the proposed rule's effective date provide sufficient time to implement the new proposed requirements, including changes to programs and procedures?

ii. If current or projected CER challenges exist, what should be done to address this situation (e.g., if more time is required to implement the new requirements, what period of time would be sufficient)?

iii. Do other (NRC or other agency) regulatory actions (e.g., orders, generic communications, license amendments requests, inspection findings of a generic nature) influence the implementation of the proposed requirements?

iv. Are there unintended consequences? Does the proposed rule create conditions that would be contrary to the proposed rule's purpose and objectives? If so, what are the unintended consequences and how should they be addressed?

v. Please comment on the NRC cost and benefit estimates in the regulatory analysis that supports the proposed rule.

IV. Section-by-Section Analysis

Section 71.0 Purpose and Scope

Paragraph (d)(1) would be revised to delete § 71.20 from the list of sections that a general license is issued without requiring the NRC to issue a package approval, so the reference to ''§§ 71.20 through 71.23'' would be revised to ''§§ 71.21 through 71.23.''

Section 71.4 Definitions

The definition of ''*contamination*'' would be added and would be consistent with the definition of contamination in DOT regulations at 49 CFR 173 and TS–R–1.

The definition of ''*Criticality Safety Index (CSI)*'' would be revised to be more consistent with the definition in DOT regulations at 49 CFR 173 and TS–R–1 by addressing overpacks and freight containers in the definition.

The definition of ''*Low Specific Activity (LSA) material*'' would be revised to be more consistent with the definition in DOT regulations at 49 CFR 173 and TS–R–1 by revising paragraphs (1)(i) and (1)(ii). In paragraph (1)(i), the definition is changed to make the description of LSA–I material apply to material that is intended to be processed for the use of the uranium, thorium, and other naturally occurring radionuclides.

The definition of ''*Special form radioactive material*'' would be revised to allow special form radioactive material that was successfully tested using the current requirements of § 71.75(d) to continue to qualify as special form material, if the testing was completed before the date of the final rule. The reference to the version of 10 CFR part 71 in effect on March 31, 1996, would be corrected by changing 1983 to 1996.

The definition of ''*Uranium—natural, depleted, enriched*'' would be revised by adding ''(which may be chemically separated)'' to paragraph (1), which applies to natural uranium.

Section 71.6 Information Collection Requirements: OMB Approval

Paragraph (b) would be revised to add § 71.106 to the list of sections with information collections.

Section 71.14 Exemption for Low-Level Materials.

Paragraph 71.14(a)(1) would be revised to allow natural material and ores that contain naturally occurring radionuclides and that have been processed for purposes other than the extraction of the radionuclides to qualify for the exemption. Natural material or ore that has been processed, but has not been incorporated into a manufactured product, such as an article, instrument, component of a manufactured article or instrument, or consumer item could qualify for the exemption. Slags, sludges, tailings, residues, bag house dust, oil scale, and washed sands that are the byproducts of processing or refining would be considered as a natural material and could qualify for the exemption, provided that they were not incorporated into a manufactured product. To qualify for this exemption, the activity concentration of the natural material or ore could not exceed 10 times the activity concentration values and the material is not intended to be processed for the use of the radionuclides.

A reference to Table A–3 in appendix A would be added in paragraphs 71.14(a)(1) and (a)(2) as a source of activity concentration values that may be used to determine whether natural material or ore would qualify for the exemption. Table A–3 would provide activity concentration values for exempt material that would be used for individual radionuclides whose identities are known, but which are not listed in Table A–2.

Paragraph 71.14(a)(3) would be added to provide an exemption for non-radioactive solid objects that have radioactive substances present on the surfaces of the object, provided that the quantity of radioactive substances is below the quantity used to define contamination. The definition of ''contamination'' would be added to § 71.4.

Section 71.15 Exemption From Classification as Fissile Material

Paragraph 71.15(d), which applies to fissile material in the form of uranium enriched in U-235 to a maximum of 1 percent by weight, would be revised.

The fissile material would be required to be distributed homogeneously and not form a lattice arrangement, where concentrated fissile material is separated by non-fissile material in a regular, repeating pattern.

Section 71.17 General License: NRC-Approved Package

Paragraph 71.17(c) would be revised to clarify that the general licensee must comply with the requirements in § 71.17(c)(1) through (c)(3).

Section 71.19 Previously Approved Package

Paragraphs 71.19(b) through (e) would be redesignated as §§ 71.19(a) through (d).

In redesignated § 71.19(b)(2), the phrase ''[a]fter December 31, 2003'' would be deleted. This would not change the requirement that packages used for a shipment to a location outside the United States would continue to be subject to multilateral approval as defined in the DOT regulations at 49 CFR 173.403, because all such shipments would occur after December 31, 2003.

Section 71.21 General License: Use of Foreign Approved Package

Paragraph 71.21(a) would be revised to update the reference to 49 CFR 171.12 to 49 CFR 171.23.

Paragraph 71.21(d) would be revised to clarify that the general licensee must comply with the requirements in § 71.21(d)(1) and (d)(2). Paragraph 71.21(d)(2) would be revised to delete the sentence regarding exemption from quality assurance provisions in subpart H for design, construction, and fabrication activities, because these requirements are not applicable to a general licensee. The general licensee would be required to comply with the quality assurance requirements in subpart H that do apply.

Section 71.31 Contents of Application

In paragraph 71.31(b), the reference to ''§ 71.13'' would be corrected to ''§ 71.19.'' This change was inadvertently omitted during a previous rulemaking, when certain sections were renumbered.

Section 71.38 Renewal of a Certificate of Compliance

The title of this section would be revised to remove the reference to the renewal of quality assurance program approvals. The section would be revised to be limited to the renewal of CoCs by removing all references to quality assurance program approvals. The NRC is changing its practice regarding the duration of quality assurance program approvals. Quality assurance program approvals would not have an expiration date, and the NRC would revise the current quality assurance program approvals so that they would not have an expiration date. The renewal of a quality assurance program approval would be unnecessary. Paragraph 71.38(c) would also be revised for improved clarity.

Section 71.70 Incorporations by Reference

This section would be added to incorporate by reference the consensus standards referenced in § 71.75—ISO 9978:1992(E), ''Radiation protection—Sealed radioactive sources—Leakage test methods'' and ISO 2919:1999(E), ''Radiation protection—Sealed radioactive sources—General requirements and classification''—and would describe the availability of the documents.

Section 71.75 Qualification of Special Form Radioactive Material

In § 71.75(a)(5), the 1992 edition of ISO 9978 would be incorporated by reference for the alternate leak test methods for the qualification of special form material. The ISO/TR 4826 has been withdrawn by ISO and replaced by ISO 9978. This change would make 10 CFR part 71 consistent with the DOT requirements in 49 CFR 173, which incorporated ISO 9978:1992(E) in 2004.

In § 71.75(b)(2)(ii), the description of the billet used in the percussion test would be changed to provide better clarity and to maintain consistency with the language used by the DOT in 49 CFR 173.469 by replacing ''edges'' with ''edge.'' The edge corresponds to the circular edge at the face of the billet.

In § 71.75(b)(2)(iii), the description of the sheet of lead used in the percussion test would be changed to correct the thickness of the sheet of lead used in the percussion test to indicate that the thickness must not be more than 25 mm (1 inch) thick to be consistent with the thickness in TS–R–1.

In § 71.75(d), §§ 71.75(d)(1)(i) and (d)(1)(ii) would be added. In § 71.75(d), the 1999 edition of ISO 2919 would be incorporated by reference, replacing the reference to the 1980 edition of ISO 2919 for the alternate Class 4 impact test in § 71.75(d)(1)(i) and the alternate Class 6 temperature test in § 71.75(d)(2). The availability and other language incorporating this standard by reference is moved to § 71.70. Paragraph 71.75(d)(1)(ii) would allow the Class 5 impact tests prescribed in the 1999 edition of ISO 2919 to be used in place of the impact and percussion tests in §§ 71.75(b)(1) and (b)(2), if the specimen weighs less than 500 grams.

Section 71.85 Preliminary Determinations

In § 71.75(a), (b), and (c), ''licensee'' would be replaced by ''certificate holder.'' The NRC experience is that these determinations are performed by the certificate holders who manufacture the package. This change would make the requirements consistent with current practice, because only certificate holders would have a quality assurance program approval that would allow them to conduct the required tests under an approved quality assurance program. Paragraph 71.85(d) would be added to address the responsibilities of licensees using a package for transportation. Although certificate holders would be required to make the preliminary determinations under § 71.85(a), (b), and (c), the licensee would be responsible for ensuring that these determinations have been made before their first use of the packaging.

Section 71.91 Records

In § 71.91(a), the reference to ''§ 71.10'' would be corrected to ''§ 71.14.'' This reference was not updated when § 71.10 was redesignated as § 71.14.

Section 71.101 Quality Assurance Requirements

Paragraph 71.101(a) would be changed to clarify that certificate holders and applicants for a package approval are responsible for satisfying the quality assurance requirements that apply to design, fabrication, testing, and modification of packaging. The last two sentences would be revised to be more precise and to provide clarity.

Paragraph 71.101(c)(2) would be changed to remove the reference to licensees in the first sentence. This would remove the overlap between the two paragraphs, by making it clear that licensees would notify the NRC before their first use of any package as required under § 71.75(c)(1) and certificate holders and applicants for a CoC would notify the NRC before the fabrication, testing, or modification of a package as required under § 71.75(c)(2).

Section 71.103 Quality Assurance Organization

In § 71.75(a), footnote 2 would be removed. The activities described in the footnote are performed by certificate holders and applicants for a CoC. The footnote is unnecessary, because the requirements no longer rely on the use of the term ''licensee'' for those

activities performed by certificate holders and applicants for a CoC.

Section 71.106 Changes to a Quality Assurance Program

This section would be added to establish requirements that would apply to changes to quality assurance programs. It would allow some changes to a quality assurance program to be made without obtaining the prior approval of the NRC. Currently, all changes, no matter how insignificant, must be approved by the NRC before they can be implemented. These provisions would allow changes to quality assurance programs that do not reduce commitments, such as those that involve administrative improvements and clarifications and editorial changes, to be made and implemented without NRC approval. Quality assurance program approval holders would be required to get NRC approval before making changes to their quality assurance program that would reduce their commitments to the NRC.

Paragraph 71.106(a) would establish the requirements that would apply when a holder of a quality assurance program approval intends to make a change in its quality assurance program that would reduce their commitments to the NRC. The holder of a quality assurance program approval would be required to identify the change, the reason for the change, and the basis for concluding that the revised program incorporating the change would continue to satisfy the requirements of subpart H that apply.

Paragraph 71.106(a)(2) would require that each holder of a quality assurance program approval maintain quality assurance program changes as records. These records would need to be maintained as required in § 71.135.

Paragraph 71.106(b) would allow the holder of a quality assurance program approval to make changes to its quality assurance program that would not reduce its commitments to the NRC and identifies the changes that would not be considered as reducing its commitments to the NRC.

Paragraph 71.106(c) would require that records are maintained for any changes to the quality assurance program.

Section 71.135 Quality Assurance Records

This section would be revised to include those quality assurance records that apply to changes that are made to approved quality assurance programs. The second sentence is revised to include the changes to the quality assurance program as required by § 71.106 in the list of the types of records to be maintained.

Appendix A—Determination of A_1 and A_2.

In paragraphs IV.a. through IV.f., the equations and accompanying text would be revised to make minor corrections. In paragraphs IV.a. and IV.b., the description of the equations would make it explicit that B(i) is the activity of radionuclide i in special form and normal form in paragraphs IV.a. and IV.b., respectively.

Paragraph IV.c. would be added and paragraphs IV.c. through IV.f. would be redesignated as paragraphs IV.d. through IV.g., respectively. Paragraph IV.c. would provide an equation to be used for determining the quantity of radioactive material that can be shipped in a package that contains both special form and normal form radioactive material. This equation would increase the consistency between appendix A and TS–R–1.

In paragraph V., the existing text would be redesignated as paragraph V.a. Paragraph V.b. would be added to provide direction on calculating the exempt activity concentration for a mixture and the exempt consignment activity limit of a mixture, when the identity of each radionuclide is known, but the individual activities of some radionuclides are not known.

Table A–1 would be revised to change the A_1 value for Cf-252 from 5.0×10^{-2} TBq to 1.0×10^{-1} TBq, and from 1.4 Ci to 2.7 Ci. Footnote h would be deleted and the following corresponding changes would be made: 1) the reference to footnote h would be removed from Cf-252, 2) the entry for molybdenum-99 (Mo-99) would be revised to identify footnote h instead of footnote i, and 3) footnote i would be redesignated as footnote h. Footnote c in the entry for Ir-192 would be moved, so that it is clear that it applies only to iridium in special form. Footnote c would also be revised to specifically state that the activity of iridium in special form may be determined through measurement at a prescribed distance from the source. Table A–1 would be revised to include values for Kr-79. The A_1 and A_2 values for Kr-79 correspond to the A_1 and A_2 values in TS–R–1 (2009 edition) and the specific activity would be 4.2×10^4 TBq/g (1.1×10^6 Ci/g). The entry for Kr-81 would be revised to reflect that it is no longer the first entry for the isotopes of krypton. In addition, footnote a would be revised to identify the A_1 and/or A_2 values that include contributions from daughter radionuclides with half-lives of less than 10 days.

Table A–2 would be revised to include values for Kr-79, reflect changes in TS–R–1 for the activity limit for exempt consignment for Te-121m and in the list of parent radionuclides and their progeny included in secular equilibrium in Table A–2 in footnote b. The value for the activity concentration for exempt material for Kr-79 would be 1.0×0^3 Bq/g (2.7×10^{-8} Ci/g) and the value for the activity limit for exempt consignment would be 1.0×10^5 Bq (2.7×10^{-6} Ci). The activity limit for exempt consignment for Te-121m would be revised from 1×10^5 Bq (2.7×10^{-6} Ci) to 1×10^6 Bq (2.7×10^{-5} Ci). In footnote b, the chains for the parent radionuclides cerium-134 (Ce-134), Rn-220, Th-226, and U–240 are proposed to be removed, and a chain for Ag-108m is proposed to be added. This would make footnote b to Table A–2 consistent with footnote b to Table 2 in TS–R–1. Changes in the list in footnote b were not initially made to TS–R–1 when the nuclide-specific basic radionuclide values from the International Basic Safety Standards (IAEA Safety Series No. 115, International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources) were adopted for transportation purposes but were made in the 2005 edition of TS–R–1.

Table A–3 would be revised to reflect changes in TS–R–1. In the second entry, the descriptive phrase ''only alpha emitting radionuclides are known to be present'' would be changed to ''alpha emitting nuclides, but no neutron emitters, are known to be present'' to reduce the confusion caused by the current phrase, because all alpha emitting radionuclides also emit other particles and/or gamma rays. In the third entry, the descriptive phrase ''no relevant data are available'' would be changed to ''neutron emitting nuclides are known to be present or no relevant data are available'' to clarify that neutron-emitting radionuclides, or alpha emitters that also emit neutrons, such as Cf-252, Cf-254, and Cm-248, should be assigned to the third group. Footnote a would indicate the appropriate value of A_1 for a group containing both alpha emitting radionuclides and beta or gamma emitting radionuclides when groups of radionuclides are based on the total alpha activity and the total beta and gamma activity.

V. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act (AEA), the Commission is proposing to amend 10 CFR part 71 under one or more of Sections 161b, 161i, or 161o of the AEA.

Willful violations of the rule would be subject to criminal enforcement.

VI. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule would be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among the Agreement States' and the NRC requirements. The NRC staff analyzed the rule in accordance with the procedure established within part III, ''Categorization Process for NRC Program Elements,'' of Handbook 5.9 to Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs'' (ADAMS Accession No. ML041770094). The proposed compatibility categories assigned to the affected sections of 10 CFR part 71 are presented in the Compatibility Table in this section.

There are four compatibility categories (A, B, C, and D). In addition, the NRC program elements can also be identified as having particular health and safety significance or as being reserved solely to the NRC. Compatibility Category A is assigned to those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Compatibility Category A program elements in an essentially identical manner to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B is assigned to those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Compatibility Category B program elements in an essentially identical manner. Compatibility Category C is assigned to those program elements that do not meet the criteria of Compatibility Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the Compatibility Category C program elements. Compatibility Category D is assigned to those program elements that do not meet any of the criteria of Compatibility Categories A, B, or C, and, thus, do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety (H&S) are program elements that are not required for compatibility but are identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this H&S category based on those of the NRC that embody the essential objectives of the NRC program elements because of particular health and safety considerations. Compatibility Category NRC is assigned to those program elements that address areas of regulation that cannot be relinquished to Agreement States under the AEA, as amended, or provisions of 10 CFR. These program elements are not adopted by the Agreement States.

The following table lists the parts and sections that would be revised and their corresponding categorization under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs.'' A bracket around a category means that the section may have been adopted elsewhere, and it is not necessary to adopt it again. The presence or absence of a bracket does not affect the compatibility category or the degree of uniformity required when an Agreement State adopts the requirement.

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New[1]
71.0(d)(1)	Revised	Purpose and Scope	D	D.
71.4	New	Definition Contamination.	.....	[B].
71.4	Revised	Definition Criticality Safety Index (CSI).	[B]	[B].
71.4	Revised	Definition Low Specific Activity (LSA) material.	[B]	[B].
71.4	Revised	Definition Special Form Radioactive Material.	[B]	[B].
71.4	Revised	Definition Uranium—natural, depleted, enriched.	[B]	[B].
71.6	Revised	Information Collection Requirements: OMB Approval.	D	D.
71.14(a)(1) ..	Revised	Exemption for low-level materials.	[B]	[B].
71.14(a)(2) ..	Revised	Exemption for low-level materials.	[B]	[B].
71.14(a)(3) ..	New	Exemption for low-level materials.	.....	[B].
71.15(d)	Revised	Exemption from classification as fissile material.	[B]	[B].

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New[1]
71.17	Removal of brackets on Compatibility Category.	General license: NRC-approved package.	[B]	B.
71.17(c)	Revised	General license: NRC-approved package.	[B]	B.
71.19	Revised	Previously approved package.	NRC	NRC.
71.21	Removal of brackets on Compatibility Category.	General license: Use of foreign approved package.	[B]	B.
71.21(a)	Revised	General license: Use of foreign approved package.	[B]	B.
71.21(d)	Revised	General license: Use of foreign approved package.	[B]	B.
71.31(b)	Revised	Contents of application.	NRC	NRC.
71.38	Retitled and revised	Renewal of a certificate of compliance.	NRC	NRC.
71.70	New	Incorporations by reference.		NRC.
71.75	Revised	Qualification of special form radioactive material.	NRC	NRC.
71.85(a)	Revised	Preliminary determinations.	[B]	NRC.
71.85(b)	Revised	Preliminary determinations.	[B]	NRC.
71.85(c)	Revised	Preliminary determinations.	[B]	NRC.
71.85(d)	New	Preliminary determinations.		B.
71.91(a)	Revised	Records	D	C.
71.91(b)	Revised Compatibility Category.	Records	D	NRC.
71.91(c)	Revised Compatibility Category.	Records	D	C.
71.91(d)	Revised Compatibility Category.	Records	D	C.
71.101(a)	Revised	Quality assurance requirements.	D—For those States which have no users of Type B packages—other than industrial radiography.**. C—Those States which have users of Type B packages—other than industrial radiography**. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137)..	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137)
71.101(b)	Revised Compatibility Category.	Quality assurance requirements.	D—For those States which have no users of Type B packages—other than industrial radiography.**. C—Those States which have users of Type B packages—other than industrial radiography.**. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New[1]
71.101(c)(1)	Revised Compatibility Category.	Quality assurance requirements.	D—For those States which have no users of Type B packages—other than industrial radiography**. C—Those States which have users of Type B packages—other than industrial radiography.**. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).
71.101(c)(2)	Revised	Quality assurance requirements.	NRC	NRC.
71.101(g)	Revised Compatibility Category Note.	Quality assurance requirements.	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).
71.103(a)	Revised	Quality assurance organization.	D—For those States which have no users of Type B packages—other than industrial radiography.**. [C]—Those States which have users of Type B packages—other than industrial radiography.**. ****Note:** §71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** §71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).
71.103(b)	Revised Compatibility Category Note.	Quality assurance organization.	C—Those States which have users of Type B packages—other than industrial radiography.**. ****Note:** §71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** §71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).
71.106	New	Changes to quality assurance program.		C.
71.135	Revised	Quality assurance records.	D—For those States which have no users of Type B packages—other than industrial radiography.**. C—For those States which have users of Type B packages—other than industrial radiography**. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.12(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).	C. ****Note:** 10 CFR 71.101(g) indicates that QA programs for industrial radiography Type B package users are covered by §34.31(b). It also indicated that this section satisfies §71.17(b) and thus would satisfy those sections referenced in this provision (§§71.101 through 71.137).

COMPATIBILITY TABLE—Continued

Section	Change	Subject	Compatibility	
			Existing	New[1]
Appendix A ..	Revise paragraphs IV.a.—IV.f.; redesignate paragraphs IV.c.—IV.f. as paragraphs IV.d.—IV.g.; add paragraph IV.c.; redesignate the text of paragraph V. as paragraph V.a.; and add paragraph V.b.	Determination of A_1 and A_2.	[B]	[B].
Appendix A, Table A–1.	Revise entries for Cf-252, Ir-192, Kr-81, and Mo-99; revise footnote a; delete footnote h; and redesignate footnote i as footnote h. Add entry for Kr-79.	A_1 and A_2 Values for Radionuclides.	[B]	[B].
Appendix A, Table A–2.	Add entry for Kr-79; revise entries for Kr-81 and Te-121m; and revise footnote b.	Exempt Material Activity Concentrations and Exempt Consignment Activity Limits for Radionuclides.	[B]	[B].
Appendix A, Table A–3.	Revise entries for column 1, ''Contents,'' and add footnote a.	General Values for A_1 and A_2.	[B]	[B].

[1] Where there would be a change in the assigned compatibility category, a compatibility category is assigned, or the content of the section has been significantly changed, a summary of the analysis is presented in the following paragraphs. Changes in the assigned compatibility category are being made in §§ 71.4 (added for the definition of contamination), 71.70, 71.85, 71.91, 71.101, 71.103, 71.106, and 71.135.

In § 71.4, the definition of contamination would be designated Compatibility Category [B], because it applies to activities that have direct and significant effects in multiple jurisdictions and it is also defined in the corresponding DOT regulations.

In §§ 71.17, 71.21, and 71.103, the compatibility category is unchanged, but the brackets were not retained because there are no corresponding DOT regulations.

The new § 71.70, ''Incorporations by reference,'' would be designated Compatibility Category NRC, because the documents incorporated by reference are incorporated for use in § 71.75, which addresses activities under Federal jurisdiction.

Section 71.85, ''Preliminary determinations,'' would be changed to make the requirements in § 71.85(a) through (c) apply to holders of a CoC. Paragraphs 71.85(a) through (c) would be designated as Compatibility Category NRC, because they apply exclusively to certificate holders and the granting of the package approval is reserved to the NRC. Paragraph 71.85(d) would be added and applies to licensees. Paragraph 71.85(d) would be designated as Compatibility Category B because it applies to activities that have direct and significant effects in multiple jurisdictions and there is no corresponding DOT requirement.

The compatibility category for § 71.91, ''Records,'' would be changed from Compatibility Category D to Compatibility Category C. In reaching an agreement with the NRC, the States would have a general provision relating to records and for incident reporting. The recordkeeping requirements in § 71.91 include requirements associated with transportation, which may involve multiple jurisdictions. With the exception of § 71.91(b), the NRC is proposing to designate the compatibility of the requirements in § 71.91 as Compatibility Category C to require that the essential objectives of the requirements be adopted to avoid conflict, duplication, gaps, or other conditions that would jeopardize the orderly pattern in the regulation of agreement material on a nationwide basis, including creating an undue burden on interstate commerce through additional recordkeeping requirements; § 71.91(b) only applies to CoC holders and applicants and would be designated as compatibility category NRC. The States would not be required to adopt them in an essentially identical manner as might be necessary if the requirements had a more direct and significant impact on multiple jurisdictions.

In § 71.101, the compatibility category would be simplified by removing the separate compatibility category for States that do not have a user of a Type B package. If a State does not have a user of a Type B package, the State is able to seek an exemption from the requirement to make their requirement compatible. The State requirements only need to be essentially compatible with respect to the requirements as they apply to licensees, because the application of the requirements to CoC holders and applicants would be performed by the NRC. The note that references the quality assurance programs for industrial radiographers would be updated by changing § 71.12(b) to § 71.17(b).

In § 71.103, the compatibility category for some users of packages was not

designated. The compatibility category would be simplified by removing the separate compatibility category for States that do not have a user of a Type B package and by removing the bracket around the compatibility category for § 71.103(a). If a State does not have a user of a Type B package, the State would be able to seek an exemption from the requirement to make their requirement compatible. The State requirements only need to be essentially compatible with respect to the requirements as they apply to licensees, because the application of the requirements to CoC holders and applicants would be performed by the NRC. The note that references the quality assurance programs for industrial radiographers would be updated by changing § 71.12(b) to § 71.17(b).

The new § 71.106, ''Changes to quality assurance program,'' would apply to licensees and holders of, or applicants for, a CoC. The assigned compatibility category would be consistent with the other quality assurance requirements that apply to licensees. The State requirements only need to be essentially compatible with respect to the requirements as they apply to licensees, because the application of the requirements to CoC holders and applicants would be performed by the NRC.

In § 71.135, the compatibility category would be simplified by removing the separate compatibility category for States that do not have a user of a Type B package. If a State does not have a user of a Type B package, the State would be able to seek an exemption from the requirement to make their requirement compatible. The State requirements only need to be essentially compatible with respect to the requirements as they apply to licensees, because the application of the requirements to CoC holders and applicants would be performed by the NRC. The note that references the quality assurance programs for industrial radiographers would be updated by changing § 71.12(b) to § 71.17(b).

VII. Availability of Documents

The following documents referenced in this proposed rulemaking are available either through ADAMS or at the NRC PDR:

Document	PDR	ADAMS	ADAMS Accession No.
Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs.''	Yes	Yes	ML041770094
NRC Information Notice 2002–035: ''Changes to 10 CFR Parts 71 and 72 Quality Assurance Programs.''	Yes	Yes	ML023520339
NRC Regulatory Issue Summary 2004–018: ''Expiration Date for 10 CFR Part 71 Quality Assurance Program Plan Approvals.''.	Yes	Yes	ML042160293
NUREG/CR–5342, ''Assessment and Recommendations for Fissile-Material Packaging Exemptions and General Licenses within 10 CFR Part 71,'' July 1998.	Yes	Yes	ML12139A419
Draft Environmental Assessment and Finding of No Significant Impact for the Proposed Rule Amending 10 CFR Part 71.	Yes	Yes	ML12187A109
Draft Regulatory Analysis for Proposed Rulemaking—Compatibility with IAEA Transportation Standards (10 CFR Part 71).	Yes	Yes	ML12187A110

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has attempted to use plain language in promulgating this rule consistent with the Federal Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comments on the proposed rule with respect to the clarity and effectiveness of the language used. Comments should be sent to the NRC as explained in the **ADDRESSES** section of this document.

IX. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC proposes to use and incorporate by reference the following consensus standards: International Organization for Standardization, ISO 2919:1999(E), ''Radiation protection—Sealed radioactive sources—General requirements and classification,'' Second Edition (February 15, 1999), for the Class 4 and Class 5 impact tests and the Class 6 temperature test; and International Organization for Standardization, ISO 9978:1992(E), ''Radiation protection—Sealed radioactive sources—Leakage test methods,'' First Edition (February 15, 1992), for the leaktightness tests. The NRC invites comment on the applicability and use of other standards.

In other portions of this proposed rule, the NRC is revising requirements that do not constitute the establishment of a standard that establishes generally applicable requirements. These revisions to the NRC requirements include changes to: (1) The scope of material falling under an existing exemption for natural materials and ores containing naturally occurring radionuclides at an activity concentration below a specified value; (2) conditions on general licenses; (3) the oversight of quality assurance programs, and (4) the removal of transitional arrangements for previously approved packages.

X. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, not to prepare an environmental impact statement for this proposed rule because the Commission has concluded on the basis of an Environmental Assessment (ADAMS Accession No. ML12187A109) that this proposed rule, if adopted, would not be a major federal action significantly affecting the quality of the human environment.

Many of the proposed changes fall under a categorical exclusion for which the Commission has previously determined that such actions, neither individually nor cumulatively, would have significant impacts on the human environment. The categorical exclusions in 10 CFR 51.22(c)(2) and 10 CFR 51.22(c)(3) were used in the Environmental Assessment. The categorical exclusion at 10 CFR

51.22(c)(2) applies to amendments to 10 CFR part 71 that are corrective or of a minor or non-policy nature and do not substantially modify the regulations. The categorical exclusion at 10 CFR 51.22(c)(3) applies to amendments to 10 CFR part 71 that relate to: (i) Procedures for filing and reviewing applications for licenses or construction permit or early site permit or other forms of permission or for amendments to or renewals of licenses or construction permits or early site permits or other forms of permission; (ii) recordkeeping requirements; (iii) reporting requirements; (iv) education, training, experience, qualification, or other employment suitability requirements; or (v) actions on petitions for rulemaking relating to these amendments.

Those changes not qualifying for a categorical exclusion were evaluated for their environmental impacts and include changes to: (1) Definitions; (2) the exemption of low-level materials; (3) the fissile material exemption for low-enriched fissile material; (4) alternate tests that may be used for the qualification of special form material; (5) preliminary determinations; (6) the A_1 and A_2 values for radionuclides; and (7) the exempt material activity concentrations and exempt consignment activity limits for radionuclides. The effects of these changes are addressed in more detail in the Environmental Assessment. The changes to the fissile material exemption would further reduce the potential for criticality during the transport of low-enriched fissile material under the fissile material exemption. Other changes, such as those relating to the exemption of low-level material, the A_1 and A_2 values for radionuclides, and the exempt material activity concentrations and exempt consignment activity limits for radionuclides have been found to have small or very small impacts. Some natural material and ore may be shipped without being regulated as hazardous material. The low-level material exemption would be changed to allow some additional material to be transported without being regulated as hazardous material. The amount of transported material affected by this change is a very small fraction of the material that already qualifies for the exemption and would be allowed no greater activity than is already allowed for material that may already be transported under the exemption. Although there are changes to A_1 and A_2 values—used to determine the type of packaging, the exempt material activity concentrations, and the exempt consignment activity limits for some radionuclides, the approach for determining the appropriate values has not changed, so there would be very small impacts from these changes.

The determination of this Environmental Assessment is that there will be no significant impact to the public from this action. However, the NRC is providing an opportunity to comment on the Environmental Assessment. Comments on any aspect of the Environmental Assessment may be submitted to the NRC as indicated under the **ADDRESSES** section of this document.

The NRC has sent a copy of the Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment.

XI. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR part 71, Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements.

The form number if applicable: Not applicable.

How often the collection is required: On occasion, for reports of changes reducing commitments to the NRC on quality assurance plans. Every 24 months for all changes to quality assurance plans.

Who will be required or asked to report: General licensees or users of packages, certificate holders and certificate applicants.

An estimate of the number of annual responses: 31.

The estimated number of annual respondents: 250.

An estimate of the total number of hours needed annually to complete the requirement or request: −1,700 hours (a decrease of 1,925 hours reporting + an increase of 100 third party disclosure hours and 125 hours recordkeeping).

Abstract: The NRC is proposing to amend its regulations for the packaging and transportation of radioactive material, including changes to information collections that would affect persons with a quality assurance program approved under 10 CFR part 71. Rather than submitting all quality assurance program changes to the NRC for approval, licensees, certificate holders, and applicants would only need to submit changes to their quality assurance program that would reduce their commitments to the NRC. They would be required to keep records of all quality assurance program changes and submit a report of these changes to the NRC every 24 months. Burden on licensees would be reduced for renewing quality assurance programs, as future approvals of these programs would not expire.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule (or proposed policy statement) and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC public Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html,* for 60 days after the signature date of this document.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the previously stated issues, by June 17, 2013 to the Information Services Branch (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *INFOCOLLECTS.RESOURCE@NRC.GOV* and to the Desk Officer, Chad Whiteman, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0008), Office of Management and Budget, Washington, DC 20503. Comments on the proposed information collections may also be submitted via the Federal rulemaking Web site *http://www.regulations.gov, docket # NRC–2008–0198.* Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or

submitted by telephone at 202–395–4718.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XII. Regulatory Analysis

The Commission has prepared a draft regulatory analysis (ADAMS Accession No. ML12187A110) on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** section of this document.

XIII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule affects NRC licensees who transport or deliver to a carrier for transport, relatively large quantities of radioactive material in a single package; holders of a quality assurance program description issued under 10 CFR parts 50, 71, or 72; and holders of a certificate of compliance for a transportation package. These companies do not typically fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards adopted by the NRC at 10 CFR 2.810. Also, a draft regulatory analysis was performed for this proposed rule. The regulatory analysis included an evaluation of the costs associated with the proposed requirements. The proposed rulemaking includes changes that would reduce the regulatory burden for licensees and certificate holders. Based on the information developed in the regulatory analysis, it is believed that there will not be significant economic impacts on a substantial number of small entities.

XIV. Backfitting

The NRC has determined that the backfit rule (50.109, 70.76, 72.62, or 76.76) and the issue finality provisions in 10 CFR part 52 do not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. Therefore, a backfit analysis is not required for this proposed rule, and the NRC did not prepare a backfit analysis for this proposed rule.

List of Subjects in 10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 71:

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

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

Authority: Atomic Energy Act secs. 53, 57, 62, 63, 81, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act sec. 180 (42 U.S.C. 10175); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005). Section 71.97 also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

§ 71.0 [Amended]

■ 2. In § 71.0, paragraph (d)(1), remove the reference to ''§§ 71.20 through 72.23'' and add, in its place, the reference ''§§ 71.21 through 71.23''.

■ 3. In § 71.4, add in alphabetical order the definition of ''*contamination,*'' and revise the definitions of ''*Criticality Safety Index (CSI),*'' ''*Low Specific Activity (LSA) material,*'' ''*Special form radioactive material,*'' and ''*Uranium—natural, depleted, enriched*'' to read as follows:

§ 71.4 Definitions.

* * * * *

Contamination means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm^2 for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 for all other alpha emitters.

(1) *Fixed contamination* means contamination that cannot be removed from a surface during normal conditions of transport.

(2) *Non-fixed contamination* means contamination that can be removed from a surface during normal conditions of transport.

* * * * *

Criticality Safety Index (CSI) means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in §§ 71.22, 71.23, and 71.59 of this part. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

* * * * *

Low Specific Activity (LSA) material means radioactive material with limited specific activity which is nonfissile or is excepted under § 71.15 of this part, and which satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

(1) LSA–I.

(i) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

(ii) Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

(iii) Radioactive material other than fissile material, for which the A_2 value is unlimited; or

(iv) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with appendix A.

(2) LSA–II.

(i) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(ii) Other material in which the activity is distributed throughout and the average specific activity does not exceed 10^{-4} A_2/g for solids and gases, and 10^{-5} A_2/g for liquids.

(3) LSA–III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of § 71.77 of this part, in which:

(i) The radioactive material is distributed throughout a solid or a collection of solid objects, or is

essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

(ii) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that even under loss of packaging, the loss of radioactive material per package by leaching when placed in water for 7 days would not exceed 0.1 A_2; and

(iii) The estimated average specific activity of the solid, excluding any shielding material, does not exceed 2×10^{-3} A_2/g.

* * * * *

Special form radioactive material means radioactive material that satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 mm (0.2 in); and

(3) It satisfies the requirements of § 71.75 of this part. A special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985; a special form encapsulation designed in accordance with the requirements of § 71.4 of this part in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before [EFFECTIVE DATE OF FINAL RULE] in accordance with the requirements of § 71.75(d) of this part in effect before [EFFECTIVE DATE OF FINAL RULE] may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

* * * * *

Uranium—natural, depleted, enriched:

(1) Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(2) Depleted uranium means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(3) Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

■ 4. In § 71.6, paragraph (b) is revised to read as follows:

§ 71.6 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 71.5, 71.7, 71.9, 71.12, 71.17, 71.19, 71.22, 71.23, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.47, 71.85, 71.87, 71.89, 71.91, 71.93, 71.95, 71.97, 71.101, 71.103, 71.105, 71.106, 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, 71.125, 71.127, 71.129, 71.131, 71.133, 71.135, 71.137, and appendix A, paragraph II.

■ 5. In § 71.14, paragraphs (a)(1) and (2) are revised,and paragraph (a)(3) is added to read as follows:

§ 71.14 Exemption for low-level materials.

(a) * * *

(1) Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A–2, or Table A–3, of this part.

(2) Materials for which the activity concentration is not greater than the activity concentration values specified in appendix A, Table A–2, or Table A–3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in appendix A, Table A–2, or Table A–3, of this part.

(3) Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in § 71.4 of this part.

* * * * *

■ 6. In § 71.15, paragraph (d) is revised to read as follows:

§ 71.15 Exemption from classification as fissile material.

* * * * *

(d) Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.

* * * * *

■ 7. In § 71.17, paragraph (c) introductory text, (c)(1), and (c)(2) are revised to read as follows:

§ 71.17 General license: NRC-approved package.

* * * * *

(c) Each licensee issued a general license under paragraph (a) of this section shall—

(1) Maintain a copy of the CoC, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

(2) Comply with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of subparts A, G, and H of this part; and

* * * * *

■ 8. In § 71.19, paragraphs (b) through (e) are redesignated as paragraphs (a) through (d), and redesignated paragraph (b)(2) is revised to read as follows:

§ 71.19 Previously approved package.

* * * * *

(b) * * *

(2) A package used for a shipment to a location outside the United States is subject to multilateral approval as defined in the DOT regulations at 49 CFR 173.403.

* * * * *

■ 9. In § 71.21, paragraphs (a) and (d) are revised to read as follows:

§ 71.21 General license: Use of foreign approved package.

(a) A general license is issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a package, the design of which has been approved in a foreign national competent authority certificate, that has been revalidated by DOT as meeting the applicable requirements of 49 CFR 171.23.

* * * * *

(d) Each licensee issued a general license under paragraph (a) of this section shall—

(1) Maintain a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and

(2) Comply with the terms and conditions of the certificate and revalidation, and with the applicable requirements of subparts A, G, and H of this part.

§ 71.31 [Amended]

■ 1. In § 71.31, paragraph (b), remove the reference to ''§ 71.13'' and add, in its place, the reference to ''§ 71.19''.

■ 2. Section 71.38 is revised to read as follows:

§ 71.38 Renewal of a certificate of compliance.

(a) Except as provided in paragraph (b) of this section, each Certificate of Compliance expires at the end of the day, in the month and year stated in the approval.

(b) In any case in which a person, not less than 30 days before the expiration of an existing Certificate of Compliance issued pursuant to the part, has filed an application in proper form for renewal, the existing Certificate of Compliance for which the renewal application was filed shall not be deemed to have expired until final action on the application for renewal has been taken by the Commission.

(c) In applying for renewal of an existing Certificate of Compliance, an applicant may be required to submit a consolidated application that is comprised of as few documents as possible. The consolidated application should incorporate all changes to its certificate, including changes that are incorporated by reference in the existing certificate.

■ 3. Add § 71.70 to subpart F to read as follows:

§ 71.70 Incorporations by reference.

(a) The materials listed in this section are incorporated by reference in the corresponding sections noted and made a part of the regulations in 10 CFR part 71. These incorporations by reference were approved by the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval. A notice of any changes made to the material incorporated by reference will be published in the **Federal Register** and the material must be available to the public. The materials are available for purchase at the corresponding address noted in this section. The materials can also be examined at the NRC Public Document Room, O1–F21, 11555 Rockville Pike, Rockville, Maryland 20852 or at the NRC Library, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852; telephone: 301–415–5610; email: *Library.Resource@nrc.gov.* The materials are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) The following material is available for purchase from the American National Standards Institute, 25 West 43rd Street, 4th floor, New York, NY 10036, 212–642–4900, *http://www.ansi.org,* or *Info@ansi.org.*

(1) International Organization for Standardization, ISO 9978:1992(E), ''Radiation protection—Sealed radioactive sources—Leakage test methods,'' First Edition (February 15, 1992), incorporation by reference approved for § 71.75(a) of this part.

(2) International Organization for Standardization, ISO 2919:1999(E), ''Radiation protection—Sealed radioactive sources—General requirements and classification,'' Second Edition (February 15, 1999), incorporation by reference approved for § 71.75(d) of this part.

■ 4. In § 71.75, paragraphs (a)(5), (b)(2)(ii), (b)(2)(iii), (d)(1), and (d)(2) are revised to read as follows:

§ 71.75 Qualification of special form radioactive material.

(a) * * *

(5) A specimen that comprises or simulates radioactive material contained in a sealed capsule need not be subjected to the leaktightness procedure specified in this section, provided it is alternatively subjected to any of the tests prescribed in ISO 9978:1992(E), ''Radiation protection—Sealed radioactive sources—Leakage test methods'' (incorporated by reference in § 71.70 of this part).

(b) * * *

(2) * * *

(ii) The flat face of the billet must be 25 millimeters (mm) (1 inch) in diameter with the edge rounded off to a radius of 3 mm ± 0.3 mm (.12 in ± 0.012 in);

(iii) The lead must be hardness number 3.5 to 4.5 on the Vickers scale and not more than 25 mm (1 inch) thick, and must cover an area greater than that covered by the specimen;

* * * * *

(d) * * *

(1) The impact test and the percussion test of this section, provided that the specimen is:

(i) Less than 200 grams and alternatively subjected to the Class 4 impact test prescribed in ISO 2919:1999(E), ''Radiation protection—Sealed radioactive sources—General requirements and classification'' (incorporated by reference in § 71.70 of this part); or

(ii) Less than 500 grams and alternatively subjected to the Class 5 impact test prescribed in ISO 2919:1999(E), ''Radioactive protection—Sealed radioactive sources—General requirements and classification'' (incorporated by reference in § 71.70 of this part); and

(2) The heat test of this section, provided the specimen is alternatively subjected to the Class 6 temperature test specified in ISO 2919:1999(E), ''Radioactive protection—Sealed radioactive sources—General requirements and classification'' (incorporated by reference in § 71.70 of this part).

■ 5. In § 71.85, paragraphs (a), (b), and (c) are revised and paragraph (d) is added to read as follows:

§ 71.85 Preliminary determinations.

* * * * *

(a) The certificate holder shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

(b) Where the maximum normal operating pressure will exceed 35 kPa (5 lbf/in^2) gauge, the certificate holder shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure, to verify the capability of that system to maintain its structural integrity at that pressure;

(c) The certificate holder shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the NRC. Before applying the model number, the certificate holder shall determine that the packaging has been fabricated in accordance with the design approved by the Commission; and

(d) The licensee shall ascertain that the determinations in paragraphs (a) through (c) of this section have been made.

§ 71.91 [Amended]

■ 1. In § 71.91, paragraph (a), remove the reference to ''§ 71.10'' and add, in its place, the reference to ''§ 71.14''.

■ 2. In § 71.101, paragraphs (a) and (c)(2) are revised to read as follows:

§ 71.101 Quality assurance requirements.

(a) *Purpose.* This subpart describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in this subpart, ''quality assurance'' comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component

will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements. Each certificate holder and applicant for a package approval is responsible for satisfying the quality assurance requirements that apply to design, fabrication, testing, and modification of packaging subject to this subpart. Each licensee is responsible for satisfying the quality assurance requirements that apply to its use of a packaging for the shipment of licensed material subject to this subpart.

* * * * *

(c) * * *

(2) Before the fabrication, testing, or modification of any package for the shipment of licensed material subject to this subpart, each certificate holder, or applicant for a Certificate of Compliance (CoC) shall obtain Commission approval of its quality assurance program. Each certificate holder or applicant for a CoC shall, in accordance with § 71.1 of this part, file a description of its quality assurance program, including a discussion of which requirements of this subpart are applicable and how they will be satisfied.

* * * * *

■ 3. In § 71.103, paragraph (a) is revised to read as follows:

§ 71.103 Quality assurance organization.

(a) The licensee, certificate holder, and applicant for a Certificate of Compliance (CoC) shall be responsible for the establishment and execution of the quality assurance program. The licensee, certificate holder, and applicant for a CoC may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program. These activities include performing the functions associated with attaining quality objectives and the quality assurance functions.

* * * * *

■ 4. Add § 71.106 to subpart H to read as follows:

§ 71.106 Changes to quality assurance program.

(a) Each quality assurance program approval holder shall submit, in accordance with § 71.1(a) of this part, a description of a proposed change to its NRC-approved quality assurance program that would reduce commitments in the program description as approved by the NRC. The quality assurance program approval holder shall not implement the change before receiving NRC approval.

(1) The description of a proposed change to the NRC-approved quality assurance program must identify the change, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the applicable requirements of subpart H of this part.

(2) [Reserved]

(b) Each quality assurance program approval holder may change a previously approved quality assurance program without prior NRC approval, if the change does not reduce the commitments in the quality assurance program previously approved by the NRC. Changes to the quality assurance program that do not reduce the commitments shall be submitted to the NRC every 24 months, in accordance with § 71.1(a) of this part. In addition to quality assurance program changes involving administrative improvements and clarifications; spelling corrections; and non-substantive changes to punctuation or editorial items; the following changes are not considered reductions in commitment:

(1) The use of a quality assurance standard approved by the NRC that is more recent than the quality assurance standard in the certificate holder's or applicant's current quality assurance program at the time of the change;

(2) The use of generic organizational position titles that clearly denote the position function, supplemented as necessary by descriptive text, rather than specific titles, provided that there is no substantive change to either the functions of the position or reporting responsibilities;

(3) The use of generic organizational charts to indicate functional relationships, authorities, and responsibilities, or alternatively, the use of descriptive text, provided that there is no substantive change to the functional relationships, authorities, or responsibilities;

(4) The elimination of quality assurance program information that duplicates language in quality assurance regulatory guides and quality assurance standards to which the quality assurance program approval holder has committed to on record; and

(5) Organizational revisions that ensure that persons and organizations performing quality assurance functions continue to have the requisite authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations.

(c) Each quality assurance program approval holder shall maintain records of quality assurance program changes.

■ 5. Section 71.135 is revised to read as follows:

§ 71.135 Quality assurance records.

The licensee, certificate holder, and applicant for a Certificate of Compliance (CoC) shall maintain sufficient written records to describe the activities affecting quality. These records must include changes to the quality assurance program as required by § 71.106 of this part, the instructions, procedures, and drawings required by § 71.111 of this part to prescribe quality assurance activities and closely related specifications such as required qualifications of personnel, procedures, and equipment. The records must include the instructions or procedures that establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location and assigned responsibility. The licensee, certificate holder, and applicant for a CoC shall retain these records for 3 years beyond the date when the licensee, certificate holder, and applicant for a CoC last engage in the activity for which the quality assurance program was developed. If any portion of the quality assurance program, written procedures or instructions is superseded, the licensee certificate holder and applicant for a CoC shall retain the superseded material for 3 years after it is superseded.

■ 6. In appendix A to part 71, IV.a. and IV.b. are revised, paragraphs IV.c. through IV.f. are redesignated as paragraphs IV.d. through IV.g. and are revised, new paragraph IV.c. is added, paragraph V. is redesignated as paragraph V.a., and new paragraph V.b. is added to read as follows:

Appendix A to Part 71—Determination of A_1 and A_2

* * * * *

IV. * * *

a. For special form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

Where B(i) is the activity of radionuclide i in special form, and $A_1(i)$ is the A_1 value for radionuclide i.

b. For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_2(i)} \leq 1$$

Where B(i) is the activity of radionuclide i in normal form, and $A_2(i)$ is the A_2 value for radionuclide i.

c. If the package contains both special and normal form radioactive material, the activity that may be transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} + \sum_j \frac{C(j)}{A_2(j)} \leq 1$$

Where B(i) is the activity of radionuclide i as special form radioactive material, $A_1(i)$ is the A_1 value for radionuclide i, C(j) is the activity of radionuclide j as normal form radioactive material, and $A_2(j)$ is the A_2 value for radionuclide j.

d. Alternatively, the A_1 value for mixtures of special form material may be determined as follows:

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

Where f(i) is the fraction of activity for radionuclide i in the mixture and $A_1(i)$ is the appropriate A_1 value for radionuclide i.

e. Alternatively, the A_2 value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

Where f(i) is the fraction of activity for radionuclide i in the mixture and $A_2(i)$ is the appropriate A_2 value for radionuclide i.

f. The exempt activity concentration for mixtures of nuclides may be determined as follows:

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

Where f(i) is the fraction of activity concentration of radionuclide i in the mixture and [A](i) is the activity concentration for exempt material containing radionuclide i.

g. The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

Where f(i) is the fraction of activity of radionuclide i in the mixture and A(i) is the activity limit for exempt consignments for radionuclide i.

V.a. * * *

b. When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest [A] (activity concentration for exempt material) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph IV of this appendix. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest [A] or A values for the alpha emitters and beta/gamma emitters, respectively.

* * * * *

■ 7. In appendix A to part 71, Table A–1:

■ a. Add entry for Kr-79 in alphanumeric order;

■ b. Revise the entries for Cf-252, Ir-192, Kr-81, and Mo-99;

■ c. Revise footnotes a and c; and

■ d. Remove footnote h; and

■ e. Redesignate footnote i as footnote h.

The revisions read as follows:

Appendix A to Part 71—Determination of A_1 and A_2

* * * * *

Symbol of radionuclide	Element and atomic No.	A_1 (TBq)	A_1 (Ci)[b]	A_2 (TBq)	A_2 (Ci)[b]	Specific activity (TBq/g)	Specific activity (Ci/g)
*	*	*	*	*	*	*	*
Cf-252		1.0×10^{-1}	2.7	3.0×10^{-3}	8.1×10^{-2}	2.0×10^{1}	5.4×10^{2}
*	*	*	*	*	*	*	*
Ir-192		[c] 1.0	[c] 2.7×10	6.0×10^{-1}	1.6×10^{1}	3.4×10^{2}	9.2×10^{3}
*	*	*	*	*	*	*	*
Kr-79	Krypton (36)	4.0	1.1×10^{2}	2.0	5.4×10^{1}	4.2×10^{4}	1.1×10^{6}
Kr-81		4.0×10^{1}	1.1×10^{3}	4.0×10^{1}	1.1×10^{3}	7.8×10^{-4}	2.1×10^{-2}
*	*	*	*	*	*	*	*
Mo-99 (a)(h)		1.0	2.7×10^{1}	6.0×10^{-1}	1.6×10^{1}	1.8×10^{4}	4.8×10^{5}
*	*	*	*	*	*	*	*

[a] A_1 and/or A_2 values include contributions from daughter nuclides with half-lives less than 10 days, as listed in the following:

Mg-28	Al-28
Ca-47	Sc-47
Ti-44	Sc-44
Fe-52	Mn-52m
Fe-60	Co-60m
Zn-69m	Zn-69

Ge-68	Ga-68
Rb-83	Kr-83m
Sr-82	Rb-82
Sr-90	Y-90
Sr-91	Y-91m
Sr-92	Y-92
Y-87	Sr-87m
Zr-95	Nb-95m
Zr-97	Nb-97m, Nb-97
Mo-99	Tc-99m
Tc-95m	Tc-95
Tc-96m	Tc-96
Ru-103	Rh-103m
Ru-106	Rh-106
Pd-103	Rh-103m
Ag-108m	Ag-108
Ag-110m	Ag-110
Cd-115	In-115m
In-114m	In-114
Sn-113	In-113m
Sn-121m	Sn-121
Sn-126	Sb-126m
Te-127m	Te-127
Te-129m	Te-129
Te-131m	Te-131
Te-132	I-132
I-135	Xe-135m
Xe-122	I-122
Cs-137	Ba-137m
Ba-131	Cs-131
Ba-140	La-140
Ce-144	Pr-144m, Pr-144
Pm-148m	Pm-148
Gd-146	Eu-146
Dy-166	Ho-166
Hf-172	Lu-172
W-178	Ta-178
W-188	Re-188
Re-189	Os-189m
Os-194	Ir-194
Ir-189	Os-189m
Pt-188	Ir-188
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* * * * * * *

[c] The activity of Ir-192 in special form may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

* * * * * * *

[h] A_2 = 0.74 TBq (20 Ci) for Mo-99 for domestic use.

* * * * *

■ 8. In appendix A, Table A–2, the entry for Kr-79 is added, in alphanumeric order, the entries for Kr-81 and Te-121m are revised, and footnote b is revised to read as follows:

Appendix A to Part 71—Determination of A_1 and A_2

* * * * *

TABLE A–2—EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic No.	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
* *	*	*	*	*	*
Kr-79	Krypton (36)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Kr-81		1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
* *	*	*	*	*	*
Te-121m		1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
* *	*	*	*	*	*
* *	*	*	*	*	*

[b] Parent nuclides and their progeny included in secular equilibrium are listed as follows:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108m	Ag-108
Cs-137	Ba-137m
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

* * * * *

■ 9. In appendix A to part 71, Table A–3 is revised to read as follows:

Appendix A to Part 71—Determination of A_1 and A_2

* * * * *

TABLE A–3—GENERAL VALUES FOR A_1 AND A_2

Contents	A_1		A_2		Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limits for exempt consignments (Ba)	Activity limits for exempt consignments (Ci)
	(TBq)	(Ci)	(TBq)	(Ci)				
Only beta or gamma emitting radionuclides are known to be present	1×10^{-1}	2.7×10^{0}	2×10^{-2}	5.4×10^{-1}	1×10^{1}	2.7×10^{-10}	1×10^{4}	2.7×10^{-7}
Alpha emitting nuclides, but no neutron emitters, are known to be present[a]	2×10^{-1}	5.4×10^{0}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}

TABLE A–3—GENERAL VALUES FOR A_1 AND A_2—Continued

Contents	A_1		A_2		Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limits for exempt consignments (Ba)	Activity limits for exempt consignments (Ci)
	(TBq)	(Ci)	(TBq)	(Ci)				
Neutron emitting nuclides are known to be present or no relevant data are available ...	1×10^{-3}	2.7×10^{-2}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}

[a] If beta or gamma emitting nuclides are known to be present, the A_1 value of 0.1 TBq (2.7 Ci) should be used.

* * * * *

Dated at Rockville, Maryland, this 10th day of May, 2013.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 2013–11552 Filed 5–15–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

[NRC–2013–0082; NRC–2008–0198]

RIN 3150–AI11

Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for the packaging and transportation of radioactive material. The NRC is issuing for public comment draft regulatory guide (DG), DG–7009, ''Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material.'' This draft regulatory guide describes a proposed method that the NRC staff considers acceptable for use in complying with the NRC's proposed amendments to its regulations on quality assurance programs related to transport of radioactive materials.

DATES: Submit comments by July 30, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0082. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jessica Glenny, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3285, email: *Jessica.Glenny@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0082 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0082.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource.gov@nrc.gov.* The draft regulatory guide is available in ADAMS under Accession No. ML13079A004. The draft regulatory analysis for the proposed rule may be found in ADAMS under Accession No. ML13079A005. Because this draft regulatory analysis explains the reasons for revising the rule and its implementing guidance, a separate regulatory analysis was not prepared for this draft regulatory guide.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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B. Submitting Comments

Please include Docket ID NRC–2013–0082 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission.

Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Proposed Rule

In the Proposed Rules section of this issue of the **Federal Register**, the NRC published a proposed rule, ''Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements'' (RIN 3150–AI11; NRC–2008–0198), that would amend its regulations for the packaging and transportation of radioactive material in Part 71 of Title 10 of the *Code of Federal Regulations* (10 CFR). These amendments would make the NRC's regulations compatible with the 2009 edition of the International Atomic Energy Agency's (IAEA) transportation standards, ''Regulations for the Safe Transport of Radioactive Material'' (TS–R–1); maintain consistency with changes in the U.S. Department of Transportation's regulations; and make other changes to the requirements for the packaging and transportation of radioactive material.

III. Draft Regulatory Guide

The NRC is issuing for public comment a draft regulatory guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

In conjunction with the proposed rule, the NRC is issuing DG–7009, ''Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material.'' The draft regulatory guide is temporarily identified by its task number, DG–7009. The DG–7009 is proposed Revision 3 of Regulatory Guide 7.10, with the same title, dated March 2005, available in ADAMS under Accession No. ML050540330.

This draft regulatory guide describes a proposed method that the NRC staff considers acceptable for use in complying with the NRC's proposed regulations on quality assurance (QA) programs related to transport of radioactive materials.

This draft regulatory guide is being revised to address changes to the regulation of QA programs issued under 10 CFR part 71. These changes include: (1) establishing requirements to allow some changes to be made to a previously approved QA program without obtaining NRC approval, and (2) removing the requirements for renewal of QA program approvals.

If adopted in final form, DG–7009 would supersede Regulatory Guide 7.10, Revision 2, and would represent the NRC staff's guidance for future users, including licensees, certificate holders, and applicants.

IV. Backfitting and Issue Finality

This draft regulatory guide contains proposed NRC guidance on one acceptable means of addressing NRC requirements in 10 CFR part 71 on QA programs related to transport of radioactive materials. The NRC proposes to determine that the draft regulatory guide may be adopted in final form without preparation of a backfit analysis or further documentation of backfitting and issue finality. There are two bases for the NRC's proposed determination, which are addressed separately in the following paragraphs.

Lack of Backfitting or Issue Finality Provisions Applicable to Entities With Respect to Requirements in 10 CFR Part 71

Part 71 of 10 CFR does not contain any backfitting or issue finality provisions protecting persons and entities subject to its provisions. The NRC recognizes that persons and entities required to comply with the 10 CFR Part 71 QA requirements, such as nuclear power plant licensees, may also be protected by backfitting and issue finality protection under other parts of 10 CFR Chapter I. Nonetheless, it is the NRC's position that those backfitting and issue finality protections are limited to activities directly regulated under those parts, and do not apply to activities regulated under other parts without backfitting or issue finality protections. The exception to this general principle is where the activity regulated under other parts without backfitting or issue finality protections is an inextricable part of the regulated activity subject to backfitting or issue finality.

However, the exception to this principle is not applicable to the issuance of this regulatory guide, which addresses QA for transportation of radioactive materials. Nuclear power plant licensees, for example, are protected by backfitting requirements in 10 CFR 50.109, and (depending upon the circumstance) issue finality requirements in 10 CFR part 52. Nonetheless, quality assurance governing transportation of certain radioactive materials is not an inextricable part of the licensed activity in 10 CFR parts 50 and 52, viz. the design, construction and operation of a nuclear power plant. Analogous arguments also apply with respect to entities protected by backfitting requirements in 10 CFR parts 70, 72, and 76.

First Issuance of Guidance on a New or Amended Regulation

This draft regulatory guide addresses proposed changes to the regulation of QA programs issued under 10 CFR Part 71, which are being published in a companion notice in this issue of the **Federal Register**. These changes include: (1) establishing requirements to allow some changes to be made to a previously approved QA program without obtaining NRC approval, and (2) removing the requirements for renewal of QA program approvals. The first issuance of guidance on a newly-changed or newly-added rule provision does not constitute backfitting or raise issue finality concerns, inasmuch as the guidance must be consistent with the regulatory requirements in the newly-changed or newly-added rule provisions and the backfitting and issue finality considerations applicable to the newly-changed or newly-added rule provisions must logically apply to this guidance. Therefore, issuance of guidance addressing the newly-changed and newly-added provisions of the amended rule does not constitute issuance of ''changed'' or ''new'' guidance within the meaning of the definition of ''backfitting'' in 10 CFR 50.109(a)(1). Similarly, the issuance of the guidance addressing the newly-changed or newly-added provisions of the amended rule, by itself, does not constitute an action inconsistent with any of the issue finality provisions in 10 CFR part 52.

Accordingly, no further consideration of backfitting or issue finality is needed in order to issue this draft regulatory guide in final form.

Dated at Rockville, Maryland, this 30th day of April, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–11551 Filed 5–15–13; 8:45 am]

BILLING CODE 7590–01–P

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