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Presidential Documents

Title 3—

The President

Proclamation 9002 of August 9, 2013

National Health Center Week, 2013

By the President of the United States of America

A Proclamation

Community health centers play a critical role in providing affordable, high-quality preventive and primary health care to millions of Americans. From urban centers to rural towns, they offer vital services regardless of ability to pay—services that help patients stay healthy and avoid emergency room visits. During National Health Center Week, we recognize health centers' significant contributions to keeping America healthy, and we offer our continuing support to the dedicated providers who operate them.

Today, health centers operate thousands of clinics across our country. One in every fifteen people living in the United States depends on their services. They are an important source of jobs in many low-income communities, employing more than 148,000 people nationwide. And with clinical and support staff who are responsive to their communities' needs and cultures, health centers are important partners in our efforts to reduce health disparities. From coast to coast, they coordinate care and build professional, compassionate health care teams focused on improving patient outcomes.

My Administration has worked to strengthen this essential network. Through the Affordable Care Act and the Recovery Act, we have made significant investments that have helped health centers expand their work, which is now reaching more than 20 million people each year.

As millions of Americans gain access to more health insurance options through the Affordable Care Act, health centers remain as valuable as ever. They help community members understand their options, determine their eligibility, and review possibilities for financial assistance. With support and funding from the health care law, health centers are also helping the uninsured enroll in plans made available through the new Health Insurance Marketplace, as well as in Medicaid and the Children's Health Insurance Program.

This week, we celebrate these valuable services and extend our thanks to the women and men who operate America's health centers.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of August 11 through August 17, 2013, as National Health Center Week. I encourage all Americans to celebrate this week by visiting their local health center, meeting health center providers, and exploring the programs they offer to help keep families healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2013–19818
Filed 8–13–13; 8:45 am]
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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531 and 575

RIN 3206–AM13

Pay Under the General Schedule and Recruitment, Relocation, and Retention Incentives

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing final regulations to improve oversight of recruitment and retention incentive determinations; add succession planning to the list of factors that an agency must consider before approving a retention incentive, if applicable; and make additional minor clarifications and corrections.

DATES: *Effective Date:* September 13, 2013.

FOR FURTHER INFORMATION CONTACT: Tom Bustard by telephone at (202) 606–2858; by fax at (202) 606–0824; or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On January 7, 2011, the U.S. Office of Personnel Management (OPM) published proposed regulations (76 FR 1096) on General Schedule pay and recruitment, relocation, and retention incentives (3Rs). The 60-day comment period for the proposed regulations ended March 8, 2011. During the comment period, OPM received 10 comments from individuals and agencies. A summary of the comments received and OPM's responses is provided below.

Recruitment Incentives

OPM proposed revising the recruitment incentive regulations in 5 CFR 575.105(b) to require that an agency review each decision to authorize a recruitment incentive for a group of similar positions at least annually to determine whether the positions are still likely to be difficult to fill. One agency recommended that OPM clarify what ''similar positions'' means (e.g., same occupational series, interdisciplinary positions, title, or duties). We agree and are providing factors that may be used to define the targeted group in section 575.105(b) of the final regulations.

OPM is also revising 5 CFR 575.109(c)(1) to clarify that an authorized agency official may request that OPM waive the 25 percent payment limitation for a group of employees (in addition to an individual employee) based on a critical agency need.

Relocation Incentives

OPM received comments from five agencies regarding the proposal to require an employee to maintain residency in the new geographic area for the duration of the service agreement in order to receive relocation incentive payments. We also received a comment from an individual who agreed with the current regulations at 5 CFR 575.205(b) that require the employee to establish a residence in the new geographic area before the payment of a relocation incentive. The proposed regulations did not change the requirement that an employee establish a residence in the new geographic area and it has been retained in these final regulations.

One agency commented that the proposed regulations would require an employee receiving a relocation incentive to maintain a residence within 50 miles of the new worksite. The agency was concerned that the proposed regulations would require the employee's incentive payment to be terminated if an employee chose to live outside of the 50-mile radius of the worksite. The agency suggested OPM provide agencies the authority to waive the requirement to maintain a residence in the new geographic area on a case-by-case basis.

We believe the suggestion is unnecessary. The regulations did not propose requiring an employee to maintain a residence within 50 miles of his or her official worksite. The current regulations in 5 CFR 575.205(b) allow the payment of a relocation incentive when an employee must relocate to accept a position at a worksite that is 50 or more miles from the worksite of the position held immediately before the move. The employee must establish a residence in the new geographic area before the agency may pay a relocation incentive to the employee. The 50-mile requirement pertains to the distance between the worksites and ensures the new position is in a different geographic area, as required by 5 U.S.C. 5753(b)(2)(B)(ii)(II). There is no regulatory requirement that the employee must establish or maintain a residence within 50 miles of the new official worksite. Under the new provision in 5 CFR 575.205(b), it is up to each agency to define the limits of the new geographic area in which the employee must maintain residency for the duration of the service agreement to continue receiving the relocation incentive. We are clarifying in 5 CFR 575.210(d) that agencies must define what constitutes the ''new geographic area'' in relocation incentive service agreements.

The same agency asked for clarification on how agencies should handle employees who are moved outside of their geographic area as a result of a reorganization or transfer of function prior to the completion of the service period. The agency suggested the employees should continue to receive the relocation incentives if the move was management-driven and was not due to unacceptable performance or conduct.

We disagree. As provided in 5 CFR 575.210(a), before paying a relocation incentive, an agency must require the employee to sign a written service agreement to complete a specified period of employment with the agency (or successor agency in the event of a transfer of function) at the new duty station. If the employee's position is transferred to a worksite outside of the duty station specified in the service agreement, the employee would not be able to fulfill the terms of the service agreement and the agency must terminate the service agreement. The termination provisions in 5 CFR 575.211(e) apply if such moves are a result of a management action under 5 CFR 575.211(a) and the employee would be able to keep any incentive payments already received. If the move is to a worksite that is 50 or more miles from the current worksite and the employee must establish a residence in the new geographic area, the agency could authorize a new relocation incentive if

the position would otherwise be difficult to fill. (If an employee who is receiving a relocation incentive is in a position that is subject to a transfer of function, but is not transferring to a different worksite, the employee could continue to receive the relocation incentive, depending on the specific terms of the service agreement.)

Another agency questioned what the proposed requirement about maintaining a residence in the new geographic location would accomplish. The agency claimed the objective of paying a relocation incentive is to fill a position that is likely to be difficult to fill without an incentive. The objective has been met as long as the employee continues to serve satisfactorily in the position for which the relocation incentive is being paid. The agency also noted that the current regulations allow agencies to include any other terms or conditions in the service agreement, such as a requirement to maintain a residence in the new area for the entire service agreement period.

We agree that the current regulations provide agencies with the flexibility to include terms in its service agreements that require employees to maintain a residence in the new geographic area. However, the purpose of this addition is to further clarify the intent of the law (5 U.S.C. 5753(b)(2)(B)(ii)(II)) to ensure the employee *must* relocate to accept the position. For example, if an employee established a residence in a new geographic location in order to receive a relocation incentive for a position, and shortly after moved back to his or her residence held prior to the relocation and commuted to the new worksite from there, it is apparent the employee did not need to relocate to accept the position.

Three agencies and an individual asked OPM to define or provide guidance on the terms ''establish a residence'' or ''maintain a residence.'' One agency recommended that OPM require employees to provide proof of residency in the new geographic area.

We are not defining ''establish a residence'' or ''maintain a residence'' in these final regulations. The meaning of these terms and the documentation needed to prove residency may vary based on agency policies for using relocation incentives. For example, some agencies may allow for the payment of relocation incentives for a short-term or temporary position change to a worksite in a different geographic area. Other agencies may reserve the use of relocation incentives for permanent geographic moves. Both situations are allowed under the regulations, which provide agencies the flexibility to establish policies for residency criteria and proof to address varying program needs. An agency may not approve a relocation incentive unless it can document in writing that the employee established a residence in the new geographic area; thus, the regulations already require agencies to secure proof of residency from the employee. (See 5 CFR 575.208(a)(1)(iv).)

Another agency explained that some of its employees relocate several times during the course of their careers but maintain a permanent residence where they have family. In many cases, these employees relocate for work but leave family behind, similar to military members assigned to several tours of duty at different locations, but who return home eventually. If an employee lives in a particular location for a particular length of time (as required by the service agreement) the agency considers this to meet the requirement of maintaining residency. The agency recommends that OPM revise the language in the proposed regulation to reflect that employees must relocate their permanent residence to the new geographic area for the duration of the service agreement unless OPM agrees that an employee can maintain a permanent residence and a temporary residence while receiving a relocation incentive.

A revision to the regulations is not needed, as the phrase ''maintain residency'' does not require a change in the employee's *primary* residence. The agency is correct that, while an employee must relocate to the new geographic area, the relocation incentive regulations do not require the employee to change his or her primary residence; that is, the employee does not necessarily have to physically move his or her family, household, goods, etc., from the ''old'' geographic area. If the employee does not change his or her primary residence upon taking a position in a different geographic area, the employee must establish a temporary or second residence (e.g., rent an apartment) in the ''new'' geographic area in order to receive a relocation incentive.

Because of the comments we received on establishing and maintaining a residence, we plan to provide further guidance on this issue outside of the regulations. We encourage agencies to incorporate the guidance OPM provides regarding these issues, including residency criteria and proof, in their own relocation incentive plans, as applicable.

An agency suggested that if OPM made its proposed relocation incentive change final, agencies will need to revise their service agreements. OPM expects that agencies will include the change in any service agreements that are effective after the effective date of the final regulations.

Retention Incentives

General

One individual recommended terminating all retention incentives to reduce the size of the Federal Government. We are not adopting this recommendation. OPM has delegated to agencies the authority to authorize retention incentives to help strategically address its critical workforce needs. Under 5 CFR 575.311, an agency may terminate a retention incentive at any time based solely on management needs of the agency, even if the conditions giving rise to the original determination to pay the incentive still exist. In addition, OPM and the Office of Management and Budget (OMB) have asked agencies to limit their spending on the 3Rs in the current fiscal environment. In a June 10, 2011, memorandum, OPM and OMB asked agencies to ensure that spending on the 3Rs in calendar year 2011 and calendar year 2012, respectively, does not exceed calendar year 2010 levels. (See the memorandum at *http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=3997* for additional information.) OMB continued these spending limitations in an April 4, 2013, memorandum. (See *http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-11.pdf* for additional information.)

Succession Planning

One agency recommended that OPM include information in the text of revised section 575.306(b)(2) of the final regulations that was in the supplementary information for the proposed regulations on how succession planning applies to leadership positions. Also, the agency was concerned that OPM would be removing the current section 575.306(b)(2). The agency stated the current section spoke to workforce planning in a very general sense and would serve to cover positions not included in agency succession planning efforts. The agency believes current paragraph (b)(2) should be retained and a more specific reference to workforce planning should be included in the regulations. It is the agency's view that there is a distinction between succession planning for leadership positions and workforce planning for non-leadership positions.

The current paragraph (b)(2) would not be removed; rather, it is being

redesignated as paragraph (b)(3) in these final regulations. Also, we are not amending the regulations as suggested because succession planning can apply to non-leadership positions. We are clarifying that succession plans for leadership positions are one type of succession plan.

The same agency was also concerned the succession planning requirement would be difficult to apply to some of its more hard-to-fill and highly-specialized positions. The agency stated that there is not a robust cadre of employees from which to choose in many situations. The agency hopes this situation would be taken into account, given the phrasing of the proposed regulations at 5 CFR 575.306(b)(2). We agree. The introductory text of section 575.306(b) remains unchanged in these regulations; it requires simply that the agency ''consider . . . as applicable in the case at hand'' the quality and availability of the potential sources of employees that are identified in the agency's succession plan before authorizing a retention incentive.

Administration and Oversight of Recruitment, Relocation, and Retention Incentives

One individual recommended OPM determine which occupations meet the criteria for the 3Rs (i.e., likely to be difficult to fill or likely to leave the Federal service) to prevent the misuse of 3Rs. The individual suggested OPM base its determination on employee qualifications, agency needs, and recruitment and retention efforts. The individual was particularly concerned about agencies paying a retention incentive to an employee who is not critical to an agency mission or is not likely to leave for a different position.

We are not adopting this recommendation. Agencies have many different missions, and mission-critical occupations vary across the Government. They would likely change over time, based on changing agency needs, and it is not feasible for OPM to identify these positions by regulation. Agencies may list mission-critical occupations in their 3Rs plans. Even if an employee is in an identified mission-critical occupation, an agency must confirm the employee is eligible for a recruitment, relocation, or retention incentive under 5 CFR 575.106(b), 575.206(b), or 575.306(b) and provide the appropriate written determination before approving the incentive. If agencies discover incentives paid in violation of the law and regulations, they are responsible for correcting the personnel action to ensure compliance. (See internal monitoring requirements in 5 CFR 575.112, 575.212, and 575.312.) These final regulations add increased oversight of retention incentives by requiring that all retention incentive authorizations are reviewed at least annually to ensure they are still warranted and, if the original determination to pay an incentive no longer exists, the retention incentive is terminated. (See 5 CFR 575.311(a) and (f).)

The same individual recommended that OPM direct the Government Accountability Office (GAO) to conduct periodic audits of agencies to evaluate their compliance with the regulations. OPM has no authority to direct GAO to conduct periodic audits of agencies' use of the 3Rs; rather, that authority lies with Congress. However, OPM provides oversight by periodically conducting two types of evaluations—human capital management evaluations and delegated examining reviews—and participating in agency-led evaluations. As part of these evaluations, OPM reviews an agency's 3Rs incentive plans, including designation of the proper approval authority, documentation of individual incentive decisions, and agency 3Rs incentive data for compliance with applicable regulations. OPM may require corrective actions or revoke an agency's 3Rs authority if the agency fails to comply with applicable laws and regulations. (See 5 CFR 575.112, 575.212, and 575.312.)

The same individual also commented that the documentation requirements for retention incentives need to be tightened up. The individual claimed there is no requirement for an individual to present a valid private-sector job offer. For example, an employee only needs to convince his or her boss that one has been proffered and there is no requirement for maintaining this documentation that is consistent throughout the Federal Government.

We have purposefully left it up to each agency to determine its own requirements for documenting that an employee is likely to leave Federal employment. Employees may leave the Federal service for reasons other than private-sector employment, such as retirement or personal reasons. Agencies may, in their agency retention incentive plans, require documentation of private-sector job offers or other relevant documentation.

The same individual also commented that OPM should have processes in place regarding recovery of 3Rs payments made to individuals who fail to provide required documentation. We did not amend the regulations in response to this comment. The regulations already require that documentation must be verified prior to the payment of a recruitment, relocation, or retention incentive (see 5 CFR 575.108, 575.208, and 575.308). OPM also requires the repayment of all recruitment incentives that were earned as a result of material false or inaccurate statements, deception, or fraud (see 5 CFR 575.111(j)). Also, under 5 CFR 575.111(b), 575.211(b), and 575.311(b), an authorized agency official must terminate a recruitment, relocation, or retention incentive service agreement if an employee is demoted or separated for cause, if the employee receives a rating of record of less than ''fully successful'' or equivalent, or if the employee otherwise fails to fulfill the terms of the service agreement. Additionally, an authorized agency official may terminate a recruitment, relocation, or retention incentive based solely on management needs of the agency (5 CFR 575.111(a), 5 CFR 575.211(a), 5 CFR 575.311(a)(2)).

Reports

An agency and an individual commented on the reporting requirements for recruitment, relocation, and retention incentives. The individual recommended that OPM establish procedures for agencies to report the status of 3Rs quarterly or annually and publish the results for public viewing. The individual stated this would increase transparency and would help the agencies police themselves. The agency requested that OPM provide additional information regarding the payroll and nature of action code data elements used to verify the Governmentwide 3Rs data. The agency said that knowledge of these data elements would enable agencies to report accurate data to their payroll providers and the Enterprise Human Resources Integration (EHRI) system.

We did not revise the regulations in response to these comments. However, we are removing duplicative reporting requirements. OPM was required by law to submit an annual report to Congress on agencies' use of 3Rs in calendar years 2005–2009, available online at *http://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/#url=Memos-Reports*. The proposed regulations removed this reporting requirement, but provided that OPM may require that each agency submit a report to OPM on its use of incentives in the previous calendar year to support continued monitoring of agency incentive use. We are not including this proposed discretionary reporting requirement in the final regulations consistent with Executive Order 13583 of August 18,

2011, entitled ''Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce''. This Executive order included a requirement that OPM review directives to agencies related to agency human capital and other workforce plans and reports and develop a strategy for consolidating them. After further review, we have determined that a new 3Rs reporting requirement is unnecessary to support continued monitoring of incentive use. Agencies are already required to monitor incentive use under §§ 575.112, 575.212, and 575.312; make 3Rs records available for review upon OPM's request under §§ 575.113, 575.213, and 575.313; and report 3Rs information to OPM central data systems following the standards issued under 5 CFR 9.2. They also may post public information on incentive use at their discretion. Agencies can find instructions for processing 3Rs in chapter 29 of the Guide to Processing Personnel Actions and information on 3Rs payroll data elements in part B of the Guide to Data Standards. These Guides are available on OPM's Web site.

An individual commented that the focus of the regulations should be expanded to include other types of retention tools—for example, merit awards, having a comfortable and healthy working environment, and flexibility to work across bureau lines. OPM agrees that there are alternatives to paying employees retention incentives, as described in 5 CFR 575.306(b)(4). However, these regulations are narrow in focus because they implement the retention incentive law in 5 U.S.C. 5754.

Employee Eligibility

The proposed regulations clarified employee eligibility for recruitment incentives and having pay set using the General Schedule superior qualifications and special needs pay-setting authority. An agency asked OPM to clarify employee eligibility for use of the superior qualifications and special needs pay-setting authority in the proposed 5 CFR 531.212(a). The agency asked for confirmation that an employee converting from a temporary Schedule C appointment to a regular Schedule C appointment would be precluded from the use of the superior qualifications and special needs pay-setting authority unless there was a 90-day break in service, but a 90-day break in service would not be required when converting from a 30-day special needs appointment under 5 CFR 213.3102(i)(2) (a Schedule A appointment) to a Schedule C appointment. This is correct. However, the agency's recommendation to revise 5 CFR 531.212(a)(5)(iii) to read ''a position excepted from the competitive service . . . other than a temporary Schedule C position established under 5 CFR 213.3302'' is not correct. A 90-day break in service is required when the previous employment was a Schedule C appointment, regardless of whether the appointment was temporary. We did not revise the regulations in response to these comments.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 531 and 575

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management

Elaine Kaplan,

Acting Director.

Accordingly, OPM is amending 5 CFR parts 531 and 575 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304 and 5305; E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart B—Determining Rate of Basic Pay

■ 2. In § 531.212—

■ a. Amend paragraph (a)(1)(ii) to remove the word ''and'' and add in its place ''or'';

■ b. Revise paragraph (a)(3); and

■ c. Add a new paragraph (a)(5).

The revision and addition read as follows:

§ 531.212 Superior qualifications and special needs pay-setting authority.

(a) * * *

(3) Except as provided in paragraph (a)(5) of this section, an agency may use the superior qualifications and special needs pay-setting authority for a reappointment without requiring a 90-day break in service if the candidate's civilian employment with the Federal Government during the 90-day period immediately preceding the appointment was limited to one or more of the following:

(i) A time-limited appointment in the competitive or excepted service;

(ii) A non-permanent appointment in the competitive or excepted service;

(iii) Employment with the government of the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;

(iv) An appointment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR part 304;

(v) Employment under a provisional appointment designated under 5 CFR 316.403;

(vi) Employment under an Internship Program appointment under § 213.3402(a) of this chapter ; or

(vii) Employment as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively).

* * * * *

(5) An agency may not apply an exception in paragraph (a)(3) of this section if the candidate's civilian employment with the Federal Government during the 90-day period immediately preceding the appointment was in one or more of the following types of positions:

(i) A position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(ii) A position in the Senior Executive Service as a noncareer appointee (as defined in 5 U.S.C. 3132(a)(7));

(iii) A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character;

(iv) A position to which an individual is appointed by the President without the advice and consent of the Senate;

(v) A position designated as the head of an agency, including an agency headed by a collegial body composed of two or more individual members;

(vi) A position in which the employee is expected to receive an appointment as the head of an agency; or

(vii) A position to which an individual is appointed as a Senior Executive Service limited term

appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel.

* * * * *

PART 575—RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES; SUPERVISORY DIFFERENTIALS; AND EXTENDED ASSIGNMENT INCENTIVES

■ 3. Revise the authority citation for part 575 to read as follows:

Authority: 5 U.S.C. 1104(a)(2) and 5307; subparts A and B also issued under 5 U.S.C. 5753; subpart C also issued under 5 U.S.C. 5754; subpart D also issued under 5 U.S.C. 5755; subpart E also issued under 5 U.S.C. 5757 and sec. 207 of Public Law 107–273, 116 Stat. 1780.

Subpart A—Recruitment Incentives

■ 4. In § 575.102, revise paragraph (3) in the definition of *newly appointed* to read as follows:

§ 575.102 Definitions.

* * * * *

Newly appointed refers to—* * *

(3) An appointment of an individual in the Federal Government when his or her service in the Federal Government during the 90-day period immediately preceding the appointment was not in a position excluded by § 575.104 and was limited to one or more of the following:

(i) A time-limited appointment in the competitive or excepted service;

(ii) A non-permanent appointment in the competitive or excepted service;

(iii) Employment with the government of the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;

(iv) An appointment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR part 304;

(v) Employment under a provisional appointment designated under 5 CFR 316.403;

(vi) Employment under an Internship Program appointment under § 213.3402(a) of this chapter; or

(vii) Employment as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively).

* * * * *

■ 5. In § 575.104—

■ a. Revise paragraph (d)(1);

■ b. Remove ''or'' at the end of paragraph (d)(2);

■ c. Remove the period at the end of paragraph (d)(3) and add a semicolon and ''or'' in its place; and

■ d. Add a new paragraph (d)(4).

The revision and addition read as follows:

§ 575.104 Ineligible categories of employees.

* * * * *

(d) * * *

(1) To which an individual is appointed by the President without the advice and consent of the Senate, except a Senior Executive Service position in which the individual serves as a career appointee (as defined in 5 U.S.C. 3132(a)(4));

* * * * *

(4) To which an individual is appointed as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel.

■ 6. In § 575.105, revise paragraph (b) to read as follows:

§ 575.105 Applicability to employees.

* * * * *

(b)(1) An agency may target groups of similar positions (excluding positions covered by § 575.103(a)(2), (a)(3), or (a)(5) or those in similar categories approved by OPM under § 575.103(a)(7)) that have been difficult to fill in the past or that may be difficult to fill in the future and make the required determination to offer a recruitment incentive to newly-appointed employees on a group basis.

(2) An agency must define a targeted category of positions using factors that relate to the conditions described in § 575.106(b). Factors that may be appropriate include the following: occupational series, grade level, distinctive job duties, unique competencies required for the positions, and geographic location.

(3) An agency must review each decision to target a group of similar positions for the purpose of granting a recruitment incentive at least annually to determine whether the positions are still likely to be difficult to fill. An authorized agency official must certify this determination in writing. If an agency determines the positions are no longer likely to be difficult to fill, the agency may not offer a recruitment incentive to newly-appointed employees in that group on a group basis.

* * * * *

■ 7. In § 575.109, revise paragraph (c)(1) to read as follows:

§ 575.109 Payment of recruitment incentives.

* * * * *

(c)(1) An authorized agency official may request that OPM waive the limitation in paragraph (b)(1) of this section for an employee or group of employees based on a critical agency need. The authorized agency official must determine that the competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of recruitment incentive payments paid to an employee in a service period may not exceed 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. However, in no event may a waiver provide total recruitment incentive payments exceeding 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

* * * * *

§ 575.113 [Amended]

■ 8. In § 575.113, remove paragraph (b) and remove the paragraph (a) designation.

§ 575.114 [Removed]

■ 9. Remove § 575.114.

Subpart B—Relocation Incentives

■ 10. In § 575.204—

■ a. Revise paragraph (d)(1);

■ b. Remove ''or'' at the end of paragraph (d)(2);

■ c. Remove the period at the end of paragraph (d)(3) and add a semicolon and ''or'' in its place; and

■ d. Add a new paragraph (d)(4).

The revision and addition read as follows:

§ 575.204 Ineligible categories of employees.

* * * * *

(d) * * *

(1) To which an individual is appointed by the President without the advice and consent of the Senate, except a Senior Executive Service position in which the individual serves as a career appointee (as defined in 5 U.S.C. 3132(a)(4));

* * * * *

(4) To which an individual is appointed as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5

U.S.C. 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel.

■ 11. In § 575.205, add a new sentence at the end of paragraph (b) to read as follows:

§ 575.205 Applicability to employees.

* * * * *

(b) * * * A relocation incentive may be paid only if the employee maintains residency in the new geographic area for the duration of the service agreement.

* * * * *

■ 12. In § 575.210, revise paragraph (d) to read as follows:

§ 575.210 Service agreement requirements.

* * * * *

(d) The service agreement must include the conditions under which the agency must terminate the service agreement (*i.e.,* if an employee is demoted or separated for cause, receives a rating of record of less than ''Fully Successful'' or equivalent, fails to maintain residency in the new geographic area for the duration of the service agreement, or otherwise fails to fulfill the terms of the service agreement) and the conditions under which the employee must repay a relocation incentive under § 575.211. An agency must define the limits of the new geographic area in the service agreement for the purpose of determining whether an employee maintains residency in that geographic area for the duration of the service agreement.

* * * * *

■ 13. In § 575.211, revise paragraph (b) to read as follows:

§ 575.211 Termination of a service agreement.

* * * * *

(b) An authorized agency official must terminate a relocation incentive service agreement if an employee is demoted or separated for cause (*i.e.,* for unacceptable performance or conduct), if the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than ''Fully Successful'' or equivalent, if the employee fails to maintain residency in the new geographic area for the duration of the service agreement, or if the employee otherwise fails to fulfill the terms of the service agreement.

* * * * *

§ 575.213 [Amended]

■ 14. In § 575.213, remove paragraph (b) and remove the paragraph (a) designation.

§ 575.214 [Removed]

■ 15. Remove § 575.214.

Subpart C—Retention Incentives

■ 16. In § 575.304—

■ a. Revise paragraph (d)(1);

■ b. Remove ''or'' at the end of paragraph (d)(2);

■ c. Remove the period at the end of paragraph (d)(3) and add a semicolon and ''or'' in its place; and

■ d. Add a new paragraph (d)(4).

The revision and addition read as follows:

§ 575.304 Ineligible categories of employees.

* * * * *

(d) * * *

(1) To which an individual is appointed by the President without the advice and consent of the Senate, except a Senior Executive Service position in which the individual serves as a career appointee (as defined in 5 U.S.C. 3132(a)(4));

* * * * *

(4) To which an individual is appointed as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel.

■ 17. In § 575.305, revise paragraph (c) to read as follows:

§ 575.305 Applicability to employees.

* * * * *

(c) An agency may not include in a group retention incentive authorization an employee covered by § 575.303(a)(2), (a)(3), or (a)(5) or those in similar categories of positions approved by OPM to receive retention incentives under § 575.303(a)(7).

* * * * *

■ 18. In § 575.306, redesignate paragraphs (b)(2) through (b)(8) as paragraphs (b)(3) through (b)(9), respectively, and add a new paragraph (b)(2) to read as follows:

§ 575.306 Authorizing a retention incentive.

* * * * *

(b) * * *

(2) The quality and availability of the potential sources of employees that are identified in any agency succession plan (e.g., succession plans required for leadership positions), who possess the competencies required for the position, and who, with minimal training, cost, and disruption of service to the public, could perform the full range of duties and responsibilities of the employee's position at the level performed by the employee;

* * * * *

■ 19. In § 575.311, redesignate paragraphs (a)(1) and (a)(2) as paragraphs (a)(2) and (a)(3), respectively, and add a new paragraph (a)(1) to read as follows:

§ 575.311 Continuation, reduction, and termination of retention incentives.

(a)(1) For each retention incentive that is subject to a service agreement, an authorized agency official must review the determination to pay a retention incentive at least annually to determine whether the original determination still applies or whether payment is still warranted as provided in paragraph (a)(2) of this section, and must certify this determination in writing.

* * * * *

§ 575.313 [Amended]

■ 20. In § 575.313, remove paragraph (b) and remove the paragraph (a) designation.

§ 575.314 [Removed]

■ 21. Remove § 575.314.

§ 575.315 [Redesignated as § 575.314]

■ 22. Redesignate § 575.315 as § 575.314.

■ 23. In the newly designated § 575.314:

■ a. Remove paragraph (i)(2).

■ b. Redesignate paragraph (i)(1) introductory text and paragraphs (i)(1)(i) through (i)(1)(v) as paragraph (i) introductory text and paragraphs (i)(1) through (i)(5) respectively; and

■ c. Revise the redesignated paragraph (i) introductory text.

The revision reads as follows:

§ 575.314 Retention incentives for employees likely to leave for a different position in the Federal service.

* * * * *

(i) *Records and reports.* In addition to the recordkeeping requirements in § 575.313, each agency must submit a written report to OPM by March 31 of each year on the use of retention incentives under this section. Each report must include—

* * * * *

[FR Doc. 2013–19641 Filed 8–13–13; 8:45 am]

BILLING CODE 6325–39–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

[Docket No. CFPB–2012–0050]

RIN 3170–AA33

Electronic Fund Transfers (Regulation E); Correction

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation; correction.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is making a clarificatory amendment and technical correction to a final rule and official interpretation (the 2013 Final Rule) that appeared in the **Federal Register** on Wednesday, May 22, 2013. 78 FR 30662. The 2013 Final Rule modifies the final rules issued by the Bureau in February, July, and August 2012 (collectively the 2012 Final Rule) that implement section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) regarding remittance transfers. This rule makes a clarificatory amendment and a technical correction to the 2013 Final Rule, which amends Regulation E.

DATES: The clarificatory amendment and technical correction to the 2013 Final Rule are effective on October 28, 2013.

FOR FURTHER INFORMATION CONTACT: Eric Goldberg, Ebunoluwa Taiwo, or Lauren Weldon, Counsels; Division of Research, Markets & Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700 or *CFPB_RemittanceRule@consumerfinance.gov.* Please also visit the following Web site for additional information: *http://www.consumerfinance.gov/regulations/final-remittance-rule-amendment-regulation-e/.*

SUPPLEMENTARY INFORMATION:

I. Overview

On May 22, 2013, the Bureau published the 2013 Final Rule, which along with three other final rules [1] implements the Electronic Fund Transfer Act's provisions regarding remittance transfers and the official interpretations to the regulation, which interpret the requirements of Regulation E.

The 2013 Final Rule addresses, among other things, three specific issues. First, the 2013 Final Rule modifies the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution. Second and relatedly, the 2013 Final Rule also makes optional the requirement to disclose taxes collected by a person other than the remittance transfer provider. In place of these two former requirements, the 2013 Final Rule requires, where applicable, disclaimers to be added to the rule's disclosures indicating that the recipient may receive less than the disclosed total due to the fees and taxes for which disclosure is now optional. Finally, the 2013 Final Rule revises the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information, and, in particular, when a sender provides an incorrect account number or recipient institution identifier that results in the transferred funds being deposited into the wrong account.

This rule makes a clarificatory amendment and technical correction to the 2013 Final Rule. First, this rule makes a clarificatory amendment to § 1005.33(c)(2)(iii). That section sets forth the remedies for errors that occur because a sender provided incorrect or insufficient information to the remittance transfer provider. Specifically, the provision requires providers to refund or, at the consumer's request, reapply to a new transfer ''the amount of funds provided by the sender in connection with the remittance transfer that was not properly transmitted.'' This provision also permits providers to ''deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.''

The Bureau believes that properly understood this provision requires a provider to refund or, at the consumer's request, reapply to a new transfer, the total amount that the sender paid to the provider but to permit the provider to deduct from this amount fees actually imposed and, where not otherwise prohibited by law, taxes actually collected as part of the first unsuccessful remittance transfer attempt. The Bureau further explained this provision in comment 33(c)–12, which sets forth several examples regarding how to apply § 1005.33(c)(2)(iii) in situations where an error occurred because the sender provided incorrect or insufficient information. The Bureau is concerned, however, that the rule might be misinterpreted as authorizing providers to deduct such fees and taxes from just the principal amount provided by the sender to the provider.

To clarify the meaning of this provision, this rule revises the first sentence of § 1005.33(c)(2)(iii) so that it now states: ''In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall *provide the remedies required by paragraphs (c)(2)(ii)(A)(1) and (B)* within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund.'' (Emphasis added.)

Second, the 2013 Final Rule incorrectly numbered comment 33(c)–6, *Form of refund,* in the 2013 Final Rule as comment 33(c)–5. As a result, the Bureau inadvertently deleted from the 2013 Final Rule what was, in the 2012 Final Rule, comment 33(c)–5, *Amount appropriate to resolve the error.* In this rule, the Bureau is correcting this numbering error and, as a result, restoring in the rule what was previously comment 33(c)–5.

II. Basis for the Clarificatory Amendment and Technical Correction

The Bureau is publishing the clarificatory amendment and technical correction as a final rule. The clarificatory amendment and technical correction to the 2013 Final Rule will be effective on October 28, 2013, which is the same effective date as the 2013 Final Rule. Notice and comment are not necessary for the clarificatory amendment to § 1005.33(c)(2)(iii), which merely makes explicit in the regulation the Bureau's continuing interpretation that in the event of an error under § 1005.33(a)(1)(iv) that occurred because the sender provided incorrect or insufficient information, the provider may deduct from the total amount that the sender paid to the provider the fees actually imposed and taxes actually collected as part of the first unsuccessful remittance transfer attempt. *See, e.g.,* comment 33(c)–12.

Moreover, the Bureau finds that there is good cause to publish this final rule without notice and comment. *See* 5 U.S.C. 553(b)(B). Notice and comment are unnecessary because the rule makes a merely technical change to clarify that

[1] 77 FR 6194 (February 7, 2012), 77 FR 40459 (July 10, 2012), and 77 FR 50244 (August 20, 2012).

the 2013 Final Rule operates in a way that should already have been apparent to many market participants and because the rule corrects an inadvertent, technical error. The Bureau believes that there is minimal, if any, basis for substantive disagreement with the clarificatory amendment or the technical correction.

III. Corrections to FR Doc. 2013–10604

In FR Doc. 2013–10604 appearing on page 30661 in the **Federal Register** on Wednesday May 22, 2013, the following corrections are made:

§ 1005.33 [Corrected]

■ 1. On page 30705, in the first column, § 1005.33 is corrected by revising paragraph (c)(2)(iii) to read as follows:

(iii) In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall provide the remedies required by paragraphs (c)(2)(ii)(A)(*1*) and (B) within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.

* * * * *

Supplement I to Part 1005 [Corrected]

■ 2. On page 30715, in the first column, amendatory instruction 7.D.ii. is corrected to read ''Under comment 33(c), paragraphs 2, 3, 4, 5 and 6 are revised, and paragraphs 11 and 12 are added.''

■ 3. On page 30719, in the second column, comment 33(c)–5 is redesignated as comment 33(c)–6 and republished, and comment 33(c)–(5) is added. These corrections read as follows:

5. *Amount appropriate to resolve the error.* For purposes of the remedies set forth in § 1005.33(c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(ii)(A)(*1*), and (c)(2)(i)(A)(*2*) the amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the remittance transfer had been effected without error. The amount appropriate to resolve the error does not include consequential damages.

6. *Form of refund.* For a refund provided under § 1005.33(c)(2)(i)(A), (c)(2)(ii)(A)(*1*), (c)(2)(ii)(B), or (c)(2)(iii), a remittance transfer provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer. For example, if the sender originally provided a credit card as payment for the transfer, the remittance transfer provider may issue a credit to the sender's credit card account in the appropriate amount. However, if a sender initially provided cash for the remittance transfer, a provider may issue a refund by check. For example, if the sender originally provided cash as payment for the transfer, the provider may mail a check to the sender in the amount of the payment.

Dated: August 7, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–19503 Filed 8–13–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9623]

RIN 1545–BI99

Application of Section 108(i) to Partnerships and S Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations and removal of temporary regulations (TD 9623) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39973). The final regulations are relating to the application of section 108(i) of the Internal Revenue Code to partnerships and S corporations and provides rules regarding the deferral of discharge of indebtedness income and original issue discount deductions by a partnership or an S corporation with respect to reacquisitions of applicable debt instruments after December 31, 2008, and before January 1, 2011.

DATES: This correction is effective on August 14, 2013 and applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Joseph R. Worst, at (202) 622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9623) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9623) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.108(i)–2 is amended by revising paragraphs (b)(6)(i)(A)(*4*), (c)(3)(i)(A)(*5*), and (d)(2)(iii) *Example 2.* (ii) to read as follows:

§ 1.108(i)–2 Application of section 108(i) to partnerships and S Corporations.

* * * * *

(b) * * *

(6) * * *

(i) * * *

(A) * * *

(*4*) In the taxable year that includes the day before the day on which the electing partnership files a petition in a title 11 or similar case.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(*5*) In the taxable year that includes the day before the day on which the electing S corporation files a petition in a title 11 or similar case.

* * * * *

(d) * * *

(2) * * *

(iii) * * *

Example 2. * * *

(ii) Under paragraph (d)(2) of this section, ABC partnership's deferred OID deduction

for 2012 is the lesser of: $23.25 ($31 of OID that accrues on the new debt instrument in 2012 less $7.75 of this OID that is allowed as a deduction to A in 2012) or $9.75 (the excess of $75 (ABC partnership's deferred COD income of $150 less A's share of ABC partnership's deferred COD income that is included in A's income for 2012 of $75) over $65.25 (the aggregate amount of OID that accrued in previous taxable years of $87 less the aggregate amount of such OID that has been allowed as a deduction by A in 2012 of $21.75)). Thus, of the $31 of OID that accrues in 2012, $9.75 is deferred under section 108(i).

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2013–19680 Filed 8–13–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9623]

RIN 1545–BI99

Application of Section 108(i) to Partnerships and S Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations; correction.

SUMMARY: This document contains corrections to final regulations and removal of temporary regulations (TD 9623) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39973). The final regulations are relating to the application of section 108(i) of the Internal Revenue Code to partnerships and S corporations and provides rules regarding the deferral of discharge of indebtedness income and original issue discount deductions by a partnership or an S corporation with respect to reacquisitions of applicable debt instruments after December 31, 2008, and before January 1, 2011.

DATES: This correction is effective on August 14, 2013 and applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Joseph R. Worst, at (202) 622–3070 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9623) that are the subject of this correction is under section 108(i) of the Internal Revenue Code.

Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9623) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations and removal of temporary regulations (TD 9623), that are the subject of FR Doc. 2013–15585, are corrected as follows:

On page 39974, column 3, in the preamble, under the paragraph heading ''1. Bankruptcy Issues'', in the first full paragraph, the language ''Title 11'' is corrected to read ''title 11'' wherever it appears.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2013–19682 Filed 8–13–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9628]

RIN 1545–BK87

Regulations Pertaining to the Disclosure of Return Information To Carry Out Eligibility Requirements for Health Insurance Affordability Programs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the disclosure of return information under section 6103(l)(21) of the Internal Revenue Code, as enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010. The regulations define certain terms and prescribe certain items of return information in addition to those items prescribed by statute that will be disclosed, upon written request, under section 6103(l)(21).

DATES: *Effective date:* These regulations are effective on August 14, 2013.

Applicability date: For date of applicability, see § 301.6103(l)(21)–1(d).

FOR FURTHER INFORMATION CONTACT: Steven Karon, (202) 622–4570; (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 6103(l)(21) of the Internal Revenue Code (the Code) permits the disclosure of return information to assist Exchanges in performing certain functions set forth in the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (the Affordable Care Act) for which income verification is required (including determinations of eligibility for the insurance affordability programs described in the Affordable Care Act), as well as to assist State agencies administering a State Medicaid program under title XIX of the Social Security Act, a State's children's health insurance program under title XXI of the Social Security Act (CHIP), or a basic health program (BHP) under section 1331 of the Affordable Care Act (if applicable). Section 6103(l)(21) identifies specific items of return information that will be disclosed. For taxpayers whose income is relevant in determining eligibility for an insurance affordability program, Medicaid, CHIP, or BHP, section 6103(l)(21) explicitly authorizes the disclosure of the following items of return information: Taxpayer identity information, filing status, the number of individuals for whom a deduction is allowed under section 151 of the Code, the taxpayer's modified adjusted gross income as defined under section 36B of the Code (MAGI), and the taxable year to which any such information relates or, alternatively, that such information is not available. Section 6103(l)(21) also authorizes the disclosure of such other information prescribed by regulation that might indicate whether an individual is eligible for the premium tax credit under section 36B of the Code, or cost-sharing reductions under section 1402 of the Affordable Care Act, and the amount thereof.

The Treasury Department and the IRS published a notice of proposed rulemaking (REG–119632–11) in the **Federal Register**, 77 FR 25378, on April 30, 2012, proposing additional items to be disclosed pursuant to section 6103(l)(21). A public hearing was scheduled for August 31, 2012. The IRS did not receive any requests to testify at the public hearing, and the public hearing was cancelled. Five written comments responding to the proposed regulations were received. All comments were considered and are available for public inspection at

http://www.regulations.gov or upon request. Additionally, the IRS received information from the Department of Health and Human Services (HHS) that pertains to the disclosure of items pursuant to section 6103(l)(21). After consideration of the written comments and the information provided to the IRS by HHS, the proposed regulations under section 6103(l)(21) are adopted as revised by this final regulation. The public comments, the information HHS provided to the IRS, and the revisions are discussed in the following section.

Summary of Comments and Explanation of Provisions

The IRS received five written comments in response to the proposed regulations. Two commentators expressed support for the proposed regulations and had no suggested changes. A third commentator provided a comment, discussed in this section, concerning the items disclosed under section 6103(l)(21) and the proposed regulations. The remaining commentators made comments, also discussed in this section, pertaining to section 6103 generally, but did not make comments specific to the proposed regulations under section 6103(l)(21) and the additional items to be disclosed under that section.

A commentator stated that the premium tax credit under section 36B applies to low income filers. The commentator stated that, when a filer's income exceeds the maximum income allowable for the credit, the IRS should only disclose that the individual's income is above the maximum allowable amount, and not provide the return information as described by section 6103(l)(21) or the proposed regulations. As noted in the preamble to the proposed regulations, the Affordable Care Act and HHS's final regulations (77 FR at 18456–18458) require that Exchanges use alternative means to verify income where information is not available from, or verified by, the IRS. Providing the specific delineated items described by section 6103(l)(21) and these regulations, as opposed to simply stating that an applicant's income is above the threshold for a premium tax credit, will inform an Exchange of the degree to which alternative verification may be needed. Therefore, disclosing these items to an Exchange will assist the Exchange in determining an individual's eligibility for, and the amount of, any advance payment of the premium tax credit or cost-sharing reductions. Accordingly, after careful consideration of the comment, the regulations remain unchanged.

The commentator additionally noted that taxpayers should be able to request that the IRS tell them if anyone requested information about their return using this regulation. No changes were made to these regulations as a result of this comment. Section 6103(l)(21) and these regulations concern the disclosure of items of return information to HHS, Exchanges, and certain State agencies, and not the disclosure of whether anyone requested a taxpayer's return information under section 6103 in general. Section 6103(p)(3) describes certain requirements with respect to the maintenance of a system of records or accountings of all requests for inspection or disclosure of return or return information under section 6103 generally.

The commentator also stated that the regulation should contain a penalty for individuals that fraudulently request information. The commentator further suggested that the regulation should contain a penalty for HHS, Exchanges, and any other organizations that do not comply with the data protection requirements. No changes were made in response to these comments. Section 6103(l)(21) does not permit the Treasury Department or the IRS to establish penalties under these regulations. The Treasury Department and the IRS note, however, that section 1411(h)(1)(B) of the Affordable Care Act states that any person who knowingly and willfully provides false or fraudulent information shall be subject to a penalty of not more than $250,000 in addition to any other penalties prescribed by law. Additionally, penalties may be imposed under sections 7213, 7213A, and 7431 of the Code for unauthorized disclosures of return information obtained under section 6103(l)(21).

One commentator expressed concerns about taxpayer privacy and wanted assurances that HHS and other agencies receiving return information are required to adopt the safeguarding requirements of section 6103. By operation of law, the safeguards established by section 6103(p)(4) apply to those entities described in section 6103(l)(21), namely HHS, the Exchanges established under the Affordable Care Act, and the State agencies administering a State program described under section 6103(l)(21), as well as their contractors. No regulatory changes are needed to have section 6103(p)(4) apply to those entities. The commentator also noted that section 1411(g)(2)(b) of the Affordable Care Act imposes penalties on HHS employees and contractors who improperly use or disclose tax return information, and suggested that the regulations should clarify that this penalty may be imposed in addition to the penalty imposed under section 7213 of the Code when there are certain unauthorized disclosures of return information. The commentator is correct that both statutory provisions provide for civil or criminal penalties for the improper use or disclosure of tax return information. Because those provisions govern the imposition of those penalties, no changes are needed with respect to these regulations.

Finally, another commentator remarked about the timing and characteristics of particular communications made from Exchanges to an applicant, stating that notices should be sent throughout the application process. The commentator stated the notices should be in language appropriate for all populations, suggesting that existing guidance from the Department of Justice (DOJ) and HHS on providing appropriate documents to limited English proficiency populations may be helpful. These comments regarding the timing and characteristics of such communications are outside the scope of section 6103(l)(21) and these regulations.

After the Treasury Department and the IRS published the proposed regulations, HHS informed the IRS that it may be receiving certain items of information from the Social Security Administration (SSA). One of the items that HHS expects to receive from SSA is the total amount of the social security benefits for each individual whose income is relevant to the determination of eligibility for health insurance affordability programs described in the Affordable Care Act. If the IRS also provides HHS with the amount of social security benefits included in gross income under section 86, an Exchange or State agency will be generally able to determine the amount of social security benefits not included in gross income under section 86. This amount is one of the components of an individual's MAGI. Eligibility for the premium tax credit, and advance payments of the credit, is based on the household income of the applicant, which is the sum of the MAGI of those individuals who comprise the household. As a result, providing the amount of social security benefits included in gross income under section 86, along with other items contained in these regulations, will help an Exchange determine whether a taxpayer is eligible for the premium tax credit under section 36B or cost-sharing reductions under section 1402 of the Affordable Care Act, and the amount of the credit or

reductions. Section 301.6103(l)(21)–1(a) of these final regulations, therefore, includes the amount of social security benefits included in gross income under section 86 as an item that will be disclosed to HHS pursuant to section 6103(l)(21).

In the proposed regulations, a relevant taxpayer, for whom return information would be disclosed under section 6103(l)(21), was defined as any individual listed by name and social security number or adoption taxpayer identification number (ATIN) on an application submitted pursuant to Title I, Subtitle E, of the Affordable Care Act whose income may bear upon a determination of eligibility for a health insurance affordability program. Subsequent to the publication of the proposed regulations, the IRS recognized that requests relating to ATINs would not be received because individuals' identification numbers will first be verified against SSA records. Under section 1411(c) of the Affordable Care Act, HHS is to provide the name, date of birth, and social security number of each individual on the application to the SSA for a determination that the information provided is consistent with the information in SSA records. HHS will only request return information for those individuals whose numbers are verified. Since the SSA has no records of ATINs, these numbers will not be verified and HHS will not request return information for individuals using adoption taxpayer identification numbers. While the income of an individual with an ATIN may be relevant for determining household income and, therefore, eligibility for a health insurance affordability program, an Exchange or State agency will use alternate verification procedures as provided under regulations prescribed by HHS, including procedures under part 155.320 of chapter 45 of the Code of Federal Regulations, instead of getting return information under section 6103(l)(21). Accordingly, § 301.6103(l)(21)–1(b) of these final regulations removes the reference to ATINs.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that, because the regulations proposed do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received from that office.

Drafting Information

The principal author of the regulations is Steven L. Karon of the Office of the Associate Chief Counsel, Procedure and Administration.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding the entry for § 301.6103(l)(21) to read in part as follows:

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

Section 301.6103(l)(21)–(1) also issued under 26 U.S.C. 6103(l)(21) and 6103(q). * * *

■ **Par. 2.** Add § 301.6103(l)(21)–1 to read as follows:

§ 301.6103(l)(21)–1 Disclosure of return information to the Department of Health and Human Services to carry out eligibility requirements for health insurance affordability programs.

(a) *General rule.* Pursuant to the provisions of section 6103(l)(21)(A) of the Internal Revenue Code, officers and employees of the Internal Revenue Service will disclose, upon written request, for each relevant taxpayer on a single application those items of return information that are described under section 6103(l)(21)(A) and paragraphs (a)(1) through (7) of this section, for the reference tax year, as applicable, to officers, employees, and contractors of the Department of Health and Human Services. Such information shall be provided solely for purposes of, and to the extent necessary in, establishing an individual's eligibility for participation in an Exchange established under the Patient Protection and Affordable Care Act, verifying the appropriate amount of any premium tax credit under section 36B or cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or determining eligibility for the State programs described in section 6103(l)(21)(A).

(1) With respect to each relevant taxpayer for the reference tax year where the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code of that relevant taxpayer is unavailable:

(i) The aggregate amount of the following items of return information—

(A) Adjusted gross income, as defined by section 62 of the Internal Revenue Code;

(B) Any amount excluded from gross income under section 911 of the Internal Revenue Code; and

(C) Any amount of interest received or accrued by the taxpayer during the taxable year that is exempt from tax.

(ii) Information indicating that the amount of social security benefits not included in gross income under section 86 of the Internal Revenue Code is unavailable.

(2) Adjusted gross income, as defined by section 62 of the Internal Revenue Code, of a relevant taxpayer for the reference tax year, in circumstances where the modified adjusted gross income (MAGI), as defined by section 36B(d)(2)(B) of the Internal Revenue Code, of that relevant taxpayer is unavailable, as well as information indicating that the components of MAGI other than adjusted gross income must be taken into account to determine MAGI;

(3) The amount of social security benefits of the relevant taxpayer that is included in gross income under section 86 of the Internal Revenue Code for the reference tax year;

(4) Information indicating that certain return information of a relevant taxpayer is unavailable for the reference tax year because the relevant taxpayer jointly filed a U.S. Individual Income Tax Return for that year with a spouse who is not a relevant taxpayer listed on the same application;

(5) Information indicating that, although a return for an individual identified on the application as a relevant taxpayer for the reference tax year is available, return information is not being provided because of possible authentication issues with respect to the identity of the relevant taxpayer;

(6) Information indicating that a relevant taxpayer who is identified as a dependent for the tax year in which the premium tax credit under section 36B of the Internal Revenue Code would be claimed, did not have a filing requirement for the reference tax year based upon the U.S. Individual Income Tax Return the relevant taxpayer filed for the reference tax year; and

(7) Information indicating that a relevant taxpayer who received advance payments of the premium tax credit in the reference tax year did not file a tax return for the reference tax year reconciling the advance payments of the premium tax credit with any premium tax credit under section 36B of the Internal Revenue Code available for that year.

(b) *Relevant taxpayer defined.* For purposes of paragraph (a) of this section, a relevant taxpayer is defined to be any individual listed, by name and social security number, on an application submitted pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act, whose income may bear upon a determination of any advance payment of any premium tax credit under section 36B of the Internal Revenue Code, cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act, or eligibility for any program described in section 6103(l)(21)(A) of the Internal Revenue Code.

(c) *Reference tax year defined.* For purposes of section 6103(l)(21)(A) of the Internal Revenue Code and this section, the reference tax year is the first calendar year or, where no return information is available in that year, the second calendar year, prior to the submission of an application pursuant to Title I, Subtitle E, of the Patient Protection and Affordable Care Act.

(d) *Effective/applicability date.* This section applies to disclosures to the Department of Health and Human Services on or after August 14, 2013.

Beth Tucker,

Acting Deputy Commissioner for Services and Enforcement.

Approved: July 10, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–19728 Filed 8–13–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 13–1615]

Inflation Adjustment of Maximum Forfeiture Penalties

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document increases the maximum civil monetary forfeiture penalties available to the Commission under its rules governing monetary forfeiture proceedings to account for inflation. The inflation adjustment is necessary to implement the Debt Collection Improvement Act of 1996 (DCIA), which requires federal agencies to adjust ''civil monetary penalties provided by law'' at least once every four years.

DATES: Effective September 13, 2013.

FOR FURTHER INFORMATION CONTACT: Kimbarly Taylor, Enforcement Bureau, Telecommunication Consumers Division, 202–418–1188.

SUPPLEMENTARY INFORMATION: This is a summary of the Order by the Commission, DA 13–1615, adopted on August 1, 2013, and released on August 1, 2013. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street SW., Washington, DC and also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., at (202) 488–5300, Room CY–B402, Portals II at 445 12th Street SW., Washington, DC.

This Order amends § 1.80(b) of the Commission's rules, 47 CFR 1.80(b), to increase the maximum civil penalties established in that section to account for inflation since the last adjustment to these penalties. The adjustment procedure is set forth in detail in § 1.80(b)(9) of the Commission's rules. That section implements the Debt Collection Improvement Act of 1996, 28 U.S.C. 2461 note, which requires federal agencies to adjust maximum statutory civil monetary penalties at least once every four years.

This Order adjusts the maximum penalties to account for the cost-of-living increase in the Consumer Price Index (CPI) between June of the year the forfeiture amount was last set or adjusted,[1] and June 2012. Once the cost-of-living adjustment is calculated for the relevant period, each existing maximum penalty is multiplied by the cost-of-living adjustment percentage. *See* 28 U.S.C. 2461 note 5(a). Each result is then rounded using the statutorily defined rules, which are set forth in the Commission's rules at 47 CFR 1.80(b)(9)(ii).[2] Finally, the rounded result is added to the existing penalty amount to adjust each maximum monetary forfeiture penalty accordingly.[3]

Because Congress has mandated these periodic rule changes and the Commission is required to make them, we find that, for good cause, compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. *See* 5 U.S.C 553(b)(B).

Likewise, because a notice of proposed rulemaking is not required for these rule changes, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* does not apply.

Further, the Commission has analyzed the actions taken here with respect to the Paperwork Reduction Act of 1995

[1] Under the rounding rules set forth in § 1.80(b)(9)(ii), 47 CFR 1.80(b)(9)(ii), the inflationary adjustment for a statutory forfeiture amount must reach a specific threshold before the Commission may increase the maximum forfeiture amount. That adjustment is based on the difference between the CPI of ''June of the preceding year'' (here, June 2012) and that of June of the year a particular forfeiture was ''last set or adjusted.'' 47 CFR 1.80(b)(9)(i). Thus, different CPIs may be used to calculate the inflation factors for different statutory forfeitures, depending on when a particular forfeiture was last increased. Specifically, we calculate the difference between the CPI for June 2012 and: June 2011 (to adjust the penalties for 227(e) of the Communications Act of 1934, as amended (Communications Act or Act)), June 2010 (to adjust the penalties for Section 503(b)(2)(F)), June 2008 (to adjust the penalties for Sections 202(c), 203(e), 220(d), 223(b), 364(a), 386(a), 503(b)(2)(A), 503(b)(2)(B), 503(b)(2)(D), 506(a), and 634), June 2007 (to adjust the penalties for Section 503(b)(2)(C)), June 2004 (to adjust the penalties for Sections 205(b), 214(d), and 219(b)), and June 1997 (to adjust the penalties for Sections 364(b), 386(b), and 506(b)).

[2] Based on our application of the rounding rules, there are a number of penalties currently set forth in § 1.80(b) of the Commission's rules that do not require adjustments for inflation at this time, including the penalties imposed pursuant to Sections 202(c), 203(e), 214(d), 219(b), 220(d), 227(e) (the amounts for a single violation or single day of a violation), 364(a) & (b), 386(a) & (b), 503(b)(2)(A) (the amount for a single violation or single day of a violation), 503(b)(2)(D) (the amount for a single violation or single day of a violation), 506(a) & (b), and 634 of the Act. We also do not alter the penalties imposed pursuant to Sections 6507(b)(4) and 6507(b)(5) of the Middle Class Tax Relief and Job Creation Act of 2012 because the Commission only implemented the Tax Relief Act in 2012. *See* Implementation of the Middle Class Tax Relief and Job Creation Act of 2012, 72 FR 71131, 71134 (November 29, 2012). Accordingly, the only penalties adjusted in this order are those set forth in Sections 205(b), 223(b), 227(e) (for continuing violations), 503(b)(2)(A) (for continuing violations), 503(b)(2)(B), 503(b)(2)(C), 503(b)(2)(D) (for continuing violations), and 503(b)(2)(F).

[3] Pursuant to the DCIA, § 1.80(b)(9) includes a note that specifies one further consideration: ''[T]he first inflation adjustment [of a given penalty] cannot exceed 10 percent of the [existing] statutory maximum amount,'' 47 CFR 1.80(b)(9) note. The § 1.80(b)(9) note was inadvertently omitted from § 1.80(b) of the Commission's rules when the penalties in that section were previously adjusted. This order corrects that omission by reinserting the § 1.80(b)(9) note in the § 1.80 rules. Relevant to the § 1.80(b)(9) note requirement, there are three sets of penalties addressed in this order that the Commission has not previously adjusted for inflation: the penalties set forth in Section 227(e) of the Act (continuing violations), those set forth in Section 503(b)(2)(C) of the Act, and those set forth in Section 503(b)(2)(F) of the Act. With respect to Section 227(e), Section 503(b)(2)(C), and Section 503(b)(2)(F) of the Act, our adjustments do not exceed 10 percent of the existing statutory maximum forfeiture amounts.

(PRA), and we find them to impose no new or modified information collection subject to the PRA. In addition, therefore, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission's actions do not impose any new or modified ''information collection burden for small business concerns with fewer than 25 employees.'' *See* 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

Federal Communications Commission.

David Kolker,

Deputy Bureau Chief, Enforcement Bureau.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 et seq., 47 U.S.C. 151, 154(i) and (j), 155, 157, 225, 227, 303(r), and 309.

§ 1.80 [Amended]

■ 2. Amend § 1.80 as follows:
■ a. Revise paragraphs (b)(1) through (b)(4).
■ b. Revise paragraph (b)(7).
■ c. Redesignate the note to paragraph (b)(5) as note to paragraph (b)(8) and revise the third and fourth sentences of its introductory text.
■ d. Revise the table in Section III of the note to paragraph (b)(8).
■ e. Revise the fourth sentence in paragraph (b)(9)(i).
■ f. Revise the table in paragraph (b)(9)(iii).
■ g. Add note to paragraph (b)(9).

§ 1.80 Forfeiture proceedings.

* * * * *

(b) *Limits on the amount of forfeiture assessed.* (1) If the violator is a broadcast station licensee or permittee, a cable television operator, or an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument of authorization issued by the Commission, except as otherwise noted in this paragraph, the forfeiture penalty under this section shall not exceed $37,500 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $400,000 for any single act or failure to act described in paragraph (a) of this section. There is no limit on forfeiture assessments for EEO violations by cable operators that occur after notification by the Commission of a potential violation. See section 634(f)(2) of the Communications Act. Notwithstanding the foregoing in this section, if the violator is a broadcast station licensee or permittee or an applicant for any broadcast license, permit, certificate, or other instrument of authorization issued by the Commission, and if the violator is determined by the Commission to have broadcast obscene, indecent, or profane material, the forfeiture penalty under this section shall not exceed $350,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,300,000 for any single act or failure to act described in paragraph (a) of this section.

(2) If the violator is a common carrier subject to the provisions of the Communications Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $160,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,575,000 for any single act or failure to act described in paragraph (a) of this section.

(3) If the violator is a manufacturer or service provider subject to the requirements of section 255, 716, or 718 of the Communications Act, and is determined by the Commission to have violated any such requirement, the manufacturer or service provider shall be liable to the United States for a forfeiture penalty of not more than $105,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,050,000 for any single act or failure to act.

(4) Any person determined to have violated section 227(e) of the Communications Act or the rules issued by the Commission under section 227(e) of the Communications Act shall be liable to the United States for a forfeiture penalty of not more than $10,000 for each violation or three times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,025,000 for any single act or failure to act. Such penalty shall be in addition to any other forfeiture penalty provided for by the Communications Act.

* * * * *

(7) In any case not covered in paragraphs (b)(1) through (b)(6) of this section, the amount of any forfeiture penalty determined under this section shall not exceed $16,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $122,500 for any single act or failure to act described in paragraph (a) of this section.

(8) * * *

Note to paragraph (b)(8): * * * The forfeiture ceilings per violation or per day for a continuing violation stated in section 503 of the Communications Act and the Commission's rules are described in § 1.80(b)(9). These statutory maxima became effective September 13, 2013. * * *

* * * * *

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors

* * * * *

Violation	Statutory amount ($)
Sec. 202(c) Common Carrier Discrimination	$9,600, 530/day.
Sec. 203(e) Common Carrier Tariffs	9,600, 530/day.
Sec. 205(b) Common Carrier Prescriptions	23,200.
Sec. 214(d) Common Carrier Line Extensions	1,320/day.
Sec. 219(b) Common Carrier Reports	1,320.
Sec. 220(d) Common Carrier Records & Accounts	9,600/day.
Sec. 223(b) Dial-a-Porn	80,000/day.

Violation	Statutory amount ($)
Sec. 227(e)	10,000/violation. 30,000/day for each day of continuing violation, up to 1,025,000 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships)	7,500 (owner).
Sec. 364(b) Forfeitures (Ships)	1,100 (vessel master).
Sec. 386(a) Forfeitures (Ships)	7,500/day (owner).
Sec. 386(b) Forfeitures (Ships)	1,100 (vessel master).
Sec. 634 Cable EEO	650/day.

(9) * * *

(i) * * * Round off this result using the rules in paragraph (b)(9)(ii) of this section. * * *

* * * * *

(iii) * * *

U.S. Code citation	Maximum penalty after DCIA adjustment ($)
47 U.S.C. 202(c)	9,600
	530
47 U.S.C. 203(e)	9,600
	530
47 U.S.C. 205(b)	23,200
47 U.S.C. 214(d)	1,320
47 U.S.C. 219(b)	1,320
47 U.S.C. 220(d)	9,600
47 U.S.C. 223(b)	80,000
47 U.S.C. 227(e)	10,000
	30,000
	1,025,000
47 U.S.C. 362(a)	7,500
47 U.S.C. 362(b)	1,100
47 U.S.C. 386(a)	7,500
47 U.S.C. 386(b)	1,100
47 U.S.C. 503(b)(2)(A)	37,500
	400,000
47 U.S.C. 503(b)(2)(B)	160,000
	1,575,000
47 U.S.C. 503(b)(2)(C)	350,000
	3,300,000
47 U.S.C. 503(b)(2)(D)	16,000
	122,500
47 U.S.C. 503(b)(2)(F)	105,000
	1,050,000
47 U.S.C. 507(a)	750
47 U.S.C. 507(b)	110
47 U.S.C. 554	650

Note to paragraph (b)(9): Pursuant to Public Law 104–134, the first inflation adjustment cannot exceed 10 percent of the statutory maximum amount.

* * * * *

[FR Doc. 2013–19770 Filed 8–13–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA–2010–0009]

Notice of Availability of New Starts and Small Starts Policy Guidance

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of policy guidance.

SUMMARY: The Federal Transit Administration (FTA) is issuing final policy guidance to sponsors of New Starts and Small Starts projects. This guidance is available both on the docket and the agency's public Web site. This final guidance includes changes made in response to comments received on the guidance proposed in January 2013, and accompanies the final rule for Major Capital Investment Projects promulgated in January 2013. The rule sets the framework for the New Starts and Small Starts evaluation and rating process; the policy guidance complements the rule by providing technical details about the methods for calculating the project justification and local financial commitment criteria used to evaluate and rate New Starts and Small Starts projects.

DATES: This final policy guidance is effective August 14, 2013.

FOR FURTHER INFORMATION CONTACT: For program matters, Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366–5159 or *Elizabeth.Day@dot.gov.* For legal matters, Scott Biehl, FTA of Chief Counsel, telephone (202) 366–0826 or *Scott.Biehl@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5309(g)(5), FTA is obliged to publish policy guidance on the review and evaluation process and criteria for capital investment projects each time the agency makes significant changes to the process and criteria, and in any event, at least once every two years. Also, FTA is obliged to invite public comment on the guidance, and to publish its response to comments. In this instance, FTA is publishing final policy guidance after having reviewed the comments received on the proposed policy guidance published on January 9, 2013, at 78 FR 2038. The final policy guidance is available in its entirety on FTA's public Web site at *http://www.fta.dot.gov* and in the docket at *http://www.regulations.gov.* It is approximately 40 typewritten pages in length. The final policy guidance addresses, in detail, measures and methods for calculating the project justification and local financial commitment criteria for New Starts and Small Starts projects. The final policy guidance sets forth breakpoints for determining whether a project rates ''high,'' ''medium-high,'' ''medium,'' ''low-medium,'' or ''low'' on each of the various criteria. Additionally, the final policy guidance addresses the weighting of the criteria and measures to arrive at an overall project rating. The final policy guidance accompanies the final rule for Major Capital Investment projects issued on January 9, 2013, at 78 FR 1992–2037, and codified at 49 CFR Part 611.

FTA received 392 separate comments on the proposed policy guidance from 50 commenters, including cities, transit operators, state agencies, metropolitan planning organizations, non-profit organizations, a private business, and an interested citizen. Again, FTA's summary and response to these comments is available both on the agency's public Web site at *http://www.fta.dot.gov* and in the docket at *http://www.regulations.gov.* The public comments are available, in their entirety, on the docket at *http://www.regulations.gov.*

This final policy guidance is effective immediately. This policy guidance provides technical details necessary for FTA to apply the evaluation and rating criteria codified in the final rule at 49 CFR Part 611, which took effect on April 9, 2013. Sponsors of New Starts and Small Starts projects need this final guidance to gather and submit the data and information on which their projects will be evaluated and rated, so that their projects can move forward. In turn, FTA

needs these data and information from the project sponsors to prepare the agency's annual report to Congress on capital investment funding recommendations for the forthcoming Federal fiscal year, as required by 49 U.S.C. 5309(o)(1). For these reasons, and in accordance with the Administrative Procedure Act, 5 U.S.C. 553(d), FTA finds good cause for an exception to the requirement for 30-day publication prior to an effective date.

Please note, however, that both the rule for major capital investment projects at 49 CFR Part 611 and the final policy guidance pertain only to the evaluation and rating of New Starts and Small Starts projects. Neither the rule nor the policy guidance address the Core Capacity Improvement program created by the Moving Ahead for Progress in the 21st Century Act (''MAP–21''), effective October 1, 2012, nor the evaluation of Programs of Interrelated Projects, the pilot program for expedited project delivery, or the process for expedited review of project sponsors' technical capacity, all of which were created by MAP–21. Nor does the rule or the policy guidance address the procedural changes made to the steps in the New Starts process, such as the elimination of Alternatives Analysis, the newly defined Project Development phase, and the newly defined Engineering phase, which were enacted by MAP–21. Those subjects will be addressed through future rulemakings and policy guidance.

Peter Rogoff,

Administrator, Federal Transit Administration.

[FR Doc. 2013–19681 Filed 8–13–13; 8:45 am]

BILLING CODE P

Proposed Rules

Federal Register

Vol. 78, No. 157

Wednesday, August 14, 2013

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575–AC96

Rural Development Voucher Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service, an agency within the Rural Development mission area, is adding new regulations to implement its Rural Development Voucher Program (RDVP). Section 542 of the Housing Act of 1949, as amended, authorizes RDVP. Since 2006, RD has conducted a demonstration voucher program which was funded and authorized by Congress to protect eligible multi-family housing (MFH) tenants in properties financed through Rural Development's Section 515 Rural Rental Housing program who may be subject to economic hardship through prepayment or foreclosure of the Rural Development mortgage. This demonstration program has been operating by utilizing a Notice of Funding Availability (NOFA) published annually in the **Federal Register**. Rural Development now proposes to establish a permanent regulation for this program.

DATES: Written comments must be received on or before October 15, 2013 to be assured for consideration. The comment period for the information collection under the Paperwork Act of 1995 continues through October 15, 2013.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Stephanie White, U.S. Department of Agriculture, Rural Development, Multifamily Housing Portfolio Management Division, 1400 Independence Avenue SW., STOP 0782, Washington, DC 20250–0782; email: *stephanie.white@wdc.usda.gov;* telephone (202) 720–1615.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

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

Authority

The RDVP is administered, subject to appropriations, by the U.S. Department of Agriculture as authorized under Section 542 of the Housing Act of 1949, as amended (42 U.S.C. 1490r).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act 1995 (UMRA) of Public Law 104–4 establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RHS has determined that this action does not constitute a major federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings in accordance with the 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 13132, Federalism

It has been determined, under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in the rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect both small and large entities in the same manner. This rule proposes no significant changes in

information collection or regulatory requirements that would have a negative impact on either small or large entities in an economic way.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' available in any RHS office, on the Internet at *http://www.rurdev.usda.gov/rd_instructions.html,* and in 7 CFR part 3015, subpart V.

Programs Affected

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this program is 10.448, Rural Housing Service Multi-Family Housing Rural Housing Voucher Demonstration Program. The Catalog is available on the Internet and the General Services Administration's (GSA's) free CFDA Web site at *https://www.cfda.gov.* The CFDA Web site also contains a PDF file version of the Catalog that, when printed, has the same layout as the printed document that the Government Printing Office (GPO) provides. GPO prints and sells the CFDA to interested buyers. For information about purchasing the CFDA from GPO, call the Superintendent of Documents at (202) 512–1800 or toll free at (866) 512–1800, or access GPO's online bookstore at *http://bookstore.gpo.gov/.*

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, RHS is now seeking OMB approval of the reporting and recordkeeping requirements contained in this proposed rule. This information collection requirement will not become effective until approved by OMB. Upon approval of this information collection, RHS will publish a rule in the **Federal Register**.

Title: Rural Development Voucher Program.

OMB Number: 0575–NEW.

Type of Request: New collection.

Abstract: Information is completed by tenants, voucher holders, and landlords to obtain or renew a Rural Development Voucher. The forms and information provide the basis for determining the eligibility of the tenant for an Rural Development Voucher, the voucher holder and landlord's responsibilities, the eligibility of a rental unit, and the Rural Development Voucher amount information is also collected to assure compliance with the terms and conditions of the lease, Rural Development Housing Assistance Payments contract, and the voucher itself.

The collection of information will ensure that these federally funded grants are made to eligible applicants for authorized purposes. This information will enable the Agency to provide the necessary guidance and supervision to tenants, voucher holders, and landlords to assure Congress and the public that Rural Development vouchers will be used for the purposes for which they are intended.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Recipients of RHS Federal financial assistance.

Estimated Number of Respondents: 2415.

Estimated Number of Responses: 2415.

Estimated Total Annual Burden on Respondents: 3985 hours.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions Rural Development including whether the information will have practical utility; (b) the accuracy of Rural Development estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This Executive Order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the rule is not subject to the requirements of Executive Order 13175.

E-Government Act Compliance

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

Background

Section 542 of the Housing Act of 1949, as amended, authorizes the U.S. Department of Agriculture (USDA) to make vouchers available to assist very-low income families to reside in rental housing in rural areas. Since 2006, Congress has funded the RDVP as a demonstration program, through appropriations acts, to provide vouchers to any low-income tenants of properties financed through the Section 515 Rural Rental Housing Program who may be subject to an increase in their rents after prepayment of the Section 515 mortgage after September 30, 2005.

Prior appropriation language has established some different program requirements than set out Section 542 of the Housing Act of 1949 (42 U.S.C. 1490r) (Housing Act), such as the method of voucher value calculation and whether vouchers may only be used in rural areas. Under the demonstration program, Rural Development allowed the voucher to be used at the prepaid property or any other rental unit in the United States and its territories that passed Agency physical inspection standards and where the landlord accepted the voucher. Many Rural Development-financed multifamily housing properties that prepay the Rural Development mortgage or are subject to a foreclosure action are no longer located in rural areas. To limit use of vouchers only to rural areas would result in a hardship on tenants who wish to use their voucher and remain in such former Rural Development-financed properties. Consequently, the Agency has elected to issue this proposed rule with language that is based on what has been provided consistently in recent appropriations language similar to its prior

demonstration program, in anticipation of a continuation of such legislation.

Prior appropriations language further differs from the Housing Act with respect to eligibility (low income vs. very low income in the Housing Act); voucher value calculation method (Housing and Urban Development section 8 market rent approach vs. 30 percent of adjusted income approach); and circumstances when vouchers can be issued (mortgage prepayment and foreclosure vs. no such precedents to issuance). The Agency proposes to continue its demonstration program policies in anticipation of similar legislative authority. If such authority is not provided or is revised in future legislation, the agency will revise its voucher program policies accordingly.

Program Outline

After the receipt of prepayment or after the foreclosure action of a Section 515 mortgage, the Agency will notify tenants of the Section 515 property that they may be eligible to receive a voucher. Tenants are eligible if they are low income, and all members of a tenant's household must meet the citizenship requirements established herein. A tenant interested in receiving a voucher must return a signed document requesting the voucher and include requested materials pertaining to the tenant's household eligibility.

Upon verification of eligibility, the Agency will send the tenant a Rural Development Voucher packet containing all the information on the voucher process and documentation to provide a perspective landlord evidence of the voucher rent assistance from the Agency to a prospective landlord.

Section 542 of the Housing Act of 1949, as amended, limits the voucher amount to what exceeds 30 percent of the household's monthly adjusted income and limits the voucher to 10 percent of the household's gross monthly income. However, since 2006 the appropriations language has authorized Rural Development to calculate the amount of the voucher as the difference between the household's total rent prior to prepayment or foreclosure, and the market rent for a comparable unit. Rural Development anticipates this authority will continue. This proposed rule provides that so long as permitted by law, the voucher amount will be calculated according to the appropriations language.

Once the tenant has found a unit, the Agency will ensure that the unit meets Rural Development inspection standards as defined in this part, once verified, the Agency will execute a Rural Development Assistance Payments (RDAP) contract with the landlord. The landlord must also execute a one-year lease with the tenant that meets the requirements specified in this proposed rule. The term of the RDAP contract and the lease should be concurrent. The Agency will make electronic payments to the landlord following execution of the RDAP contract and lease. Subject to appropriations, voucher holders may choose to renew their vouchers in accordance with this proposed rule. If the tenant wishes to move, the Agency sends a new voucher packet so that the tenant may begin the search for a new unit. Vouchers may be terminated if either the tenant or the landlord does not fulfill their responsibilities under this rule and related agreements.

List of Subjects in 7 CFR 3560

Fair housing, Grant programs—Housing and Community Development, Low- and moderate-income housing, Public housing, Rent subsidies.

For the reasons set forth in the preamble, chapter XXXV, title 7, Code of Federal Regulations, part 3560, is proposed to be amended to read as follows:

PART 3560—DIRECT MULTI-HOUSEHOLD HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

■ 2. The part heading for part 3650 is revised as set forth above.

■ 3. In § 3560.1, add paragraph (a)(4) to read as follows:

§ 3560.1 Applicability and purpose.

(a) * * *

(4) *Section 542 Rural Housing Voucher Program.* A tenant-based voucher program designed to offer protection to eligible multi-family housing tenants in properties financed through the Section 515 Rural Rental Housing program who may be subject to economic hardship through prepayment of the RHS mortgage. The program is administered as the Rural Development Voucher Program.

* * * * *

■ 4. In § 3560.11, add definitions for ''Rural Development Assistance Payment Contract,'' ''Voucher,'' ''Voucher assistance,'' ''Voucher holder,'' ''Voucher household,'' and ''Voucher value'' in alphabetical order to read as follows:

§ 3560.11 Definitions.

* * * * *

Rural Development Assistance Payment Contract (RDAP). An agreement between the landlord and the Agency providing for voucher assistance on behalf of a voucher holder in exchange for the landlord agreeing to comply with requirements outlined in this subpart.

* * * * *

Voucher. The Agency document that authorizes the voucher holder to use voucher assistance at an eligible unit in accordance with this subpart.

Voucher assistance. The Agency housing subsidy paid pursuant to a voucher to a landlord for a unit occupied by a voucher holder.

Voucher holder. A tenant in receipt of a current voucher.

Voucher household. The voucher holder and the persons living with the voucher holder, but not including a resident assistant.

Voucher value. The maximum voucher assistance calculated as described in this subpart available to the voucher holder.

* * * * *

■ 5. Add subpart Q to read as follows:

Subpart Q—Rural Development Voucher Program

Sec.

3560.801 Overview.
3560.802 Purpose and definition.
3560.803 Voucher holder and voucher household eligibility.
3560.804 Voucher holder and voucher household responsibilities.
3560.805 [Reserved]
3560.806 Eligible units.
3560.807 Voucher, lease, and RDAP requirements.
3560.808 Landlord responsibilities.
3560.809 [Reserved]
3560.810 Voucher value and assistance.
3560.811 Using the voucher.
3560.812 Voucher term and renewal.
3560.813 [Reserved]
3560.814 Terminations and unauthorized assistance.
3560.815 Monitoring and enforcement.
3560.816–3560.849 [Reserved]
3560.850 OMB control number.

§ 3560.801 Overview.

This subpart contains the policies and the requirements for tenants and landlords who participate in the Rural Development Voucher Program (RDVP).

§ 3560.802 Purpose and definition.

(a) The Rural Development Voucher Program provides voucher assistance to tenants of projects financed through a Rural Rental Housing loan that has either been prepaid by the owner or foreclosed upon by the Agency after September 30, 2005.

(b) As used in this subpart, landlord means a legal person that rents a unit to a voucher holder.

§ 3560.803 Voucher holder and voucher household eligibility.

Participation in the RDVP is voluntary and a tenant must apply for participation in this program. Paragraphs (a) through (f) of this section list the criteria for participation in the program. If the Agency makes a determination that the tenant is ineligible for a voucher, the Agency will provide administrative appeal rights pursuant to 7 CFR part 11 and § 3560.9. To be eligible as a voucher holder, the tenant must:

(a) Reside in a Rural Rental Housing property on the date of the prepayment of the Rural Rental Housing loan or upon foreclosure of the Rural Rental Housing loan by the Agency. The prepayment or foreclosure must have occurred after September 30, 2005;

(b) Be low-income on the date of prepayment or foreclosure;

(c) Must not be in breach of any unauthorized assistance repayment agreement with the Agency;

(d) Along with members of the household, must not have been has been evicted from federally assisted housing in the last 5 years;

(e) Along with all individuals residing in the household, be United States citizens, United States non-citizen nationals, or qualified aliens, pursuant to Section 214 of the Housing and Community Development Act of 1980 [42 U.S.C. 1436a]; and

(f) Return all documentation required by the Agency, including any and all information that the Agency deems necessary to determine eligibility, within timeframes specified by the Agency. All responses must be true and complete to the tenant's knowledge.

§ 3560.804 Voucher holder and voucher household responsibilities.

Voucher holder responsibilities are the responsibilities of the voucher holder. Noncompliance by the voucher holder and/or the voucher household may lead to termination of the voucher holder from the Rural Development Voucher Program and other remedies as permitted by law.

(a) The voucher holder must promptly notify the Agency of any violation of any of the responsibilities in this section.

(b) For continued eligibility, the voucher holder must return all documentation within timeframes specified by the Agency, and the information must be true and complete to the voucher holder's knowledge. This includes any and all information that the Agency determines necessary in the administration of the program. Voucher holders will be provided a list of the required documentation that must be submitted along with the timeframe to submit the documentation for continued eligibility.

(c) The voucher holder is responsible for finding a unit with a landlord willing to accept a voucher.

(d) The voucher holder must provide the Agency a copy of the lease signed by the landlord and the voucher holder.

(e) The voucher holder must have legal capacity to enter into a lease.

(f) The voucher holder and members of the voucher household may not commit any violations of the terms of lease that are substantial and repeated.

(g) The voucher holder must occupy the unit as his or her only residence and may not be absent from the unit for more than 90 consecutive days. The voucher holder must promptly notify the Agency in writing if and when the voucher holder is away from the unit for over 90 days.

(h) The voucher holder must not sublet the unit or assign the lease.

(i) The voucher holder must promptly notify the Agency if and when the voucher holder makes a change in rental units that is voluntary (e.g. moving from one unit to another) or mandatory (e.g. eviction by the owner).

(j) The voucher holder must supply information requested by the Agency to verify that the voucher holder is living in the unit or information related to the household's absence from the unit. The Agency will provide the voucher holder a list of information that is needed for the verification.

(k) The voucher holder must allow the Agency, or its representative, to inspect the unit at reasonable times and after reasonable notice.

(l) The voucher holder must promptly notify the Agency in writing of any change in voucher household composition.

(m) The voucher holder must give the Agency a copy of any landlord eviction notice.

(n) The voucher holder must pay utility bills and provide and maintain any appliances that the landlord is not required to provide for under the lease.

(o) The voucher holder and each household member must not:

(1) Own or have any financial interest in the unit (other than in a cooperative, or be the owner of a manufactured home leasing a manufactured home space).

(2) Engage in abuse of drugs or alcohol, drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

(3) Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.

§ 3560.805 [Reserved]

§ 3560.806 Eligible units.

Rural Development Voucher can be used at the prepaid property or for any other housing unit in the United States or its territories that meet the requirements specified in paragraphs (a) through (d) of this section.

(a) The unit must be maintained using the standards set forth at § 3560.103. The Agency must determine that these standards are met prior to approving the use of the voucher. As necessary, the Agency may conduct re-inspections of units to ensure ongoing compliance with applicable standards.

(b) The landlord must indicate willingness to accept vouchers by executing a RDAP contract with the Agency as described in § 3560.807.

(c) Vouchers cannot be used in combination with any other Federal, State, or local housing subsidy of tenant rent payment. (e.g. the Agency's Rental Assistance (RA) program, HUD's Housing Choice Voucher or other tenant-based RA programs, or HUD's Public Housing program).

(d) The unit must be for rental housing, subject to a lease as described in § 3560.807. Vouchers cannot be used to pay for services provided in group homes, nursing homes, or other housing arrangements that bundle services and housing.

§ 3560.807 Voucher, lease, and RDAP requirements.

A voucher, lease, and RDAP contract are used to document the responsibilities of the Agency, landlord, and voucher holder. The required contents of each document are described in this section.

(a) The Agency will provide to an eligible tenant that accepts the offer of a voucher an executed voucher, in a form specified by the Agency, describing the amount and requirements of the voucher.

(b) Voucher holders and landlords must execute and sign a written lease for the unit. The lease must include the following information:

(1) Names of the landlord and tenants;

(2) Unit address and apartment number, if applicable;

(3) Term of the lease, including initial term of one year and provisions for renewal;

(4) Amount of monthly rent; and

(5) The Agency prescribed Rural Development Tenancy Addendum, as described in paragraph (c)(3)(vii) of this section, that sets forth the tenancy requirements for the program.

(c) Landlords must execute the RDAP contract with the Agency before Voucher payments can be made.

(1) The term of the RDAP contract must be concurrent with the term of the lease. The RDAP contract cannot be effective prior to the date of the voucher holder's lease or the Rural Rental Housing loan prepayment or mortgage foreclosure.

(2) The RDAP contract must be executed within 60 days of the beginning of the lease term. If the RDAP contract is not executed within 60 days of the beginning of the lease term, the landlord and voucher holder will execute a new lease so that it will coincide with the RDAP contract. The Agency may make retroactive voucher payments to cover a period of no more than 60 days prior to execution of the RDAP, if a valid lease is in place. In no case will Rural Development make payment on a voucher prior to the obligation of funds by the Agency regardless lease status.

(3) The RDAP contract must include:

(i) A description of the purpose of the contract, lease requirements, the term of the contract, and the amount of payment to the landlord;

(ii) Certification of compliance with voucher program regulations and the applicable civil rights laws as set forth in § 3560.2(d);

(iii) A description of what actions will cause a breach of the contract and associated remedies;

(iv) Acknowledgement of access to premises and records for purposes described in § 3560.815;

(v) The requirements for assignment of the RDAP contract;

(vi) Other provisions as deemed necessary by the Agency; and

(vii) A Rural Development Tenancy Addendum, that must be signed by both the landlord and voucher holder, which include provisions required by the Agency to delineate the legal terms of the lease, tenant and landlord rights and remedies related to the use of the unit, and any Agency programmatic requirements such as those necessary to assure equal access.

(4) If ownership of the unit is subject to a RDAP contract, the new landlord must execute a new RDAP contract with the Agency.

(5) The RDAP contract may be assigned according to the terms of the agreement.

§ 3560.808 Landlord responsibilities.

The landlord must promptly notify the Agency if he or she is in violation of any of the responsibilities in this subpart. Noncompliance by the landlord may lead to termination of the landlord from the Rural Development Voucher Program.

(a) The landlord must comply with the RDAP contract, lease, and Rural Development Tenancy Addendum;

(b) The landlord must carry out standard landlord functions during the lease term, such as enforcing the lease, performing maintenance, collecting the appropriate rent from the tenant, and charging tenants for any damage to the unit;

(c) The landlord must maintain the unit in compliance with § 3560.103;

(d) The landlord must comply with fair housing and equal opportunity requirements;

(e) The landlord must pay for utilities, maintenance, and other services unless these are paid for by the tenant as specified in the lease; and

(f) The landlord must promptly notify the Agency in writing of any of the following:

(1) A voucher holder's absence from the unit for a period exceeding 90 consecutive days;

(2) A change in the voucher holder's rental unit that is voluntary (e.g. moving from one unit to another) or mandatory (e.g. eviction by the landlord); or

(3) A change in the ownership status of the unit occupied by the voucher holder.

(g) The Agency may choose to terminate the RDAP contract with the landlord if the unit does not meet Agency requirements or the Agency determines that the landlord has otherwise breached the RDAP contract. If the Agency chooses to terminate the RDAP contract due to a breach by the landlord, the voucher holder remains eligible to use his or her voucher elsewhere. The RDAP contract will be terminated if:

(1) The voucher holder moves from the unit;

(2) The voucher holder relinquishes his or her voucher;

(3) The Agency terminates program assistance for the voucher holder;

(4) The landlord or voucher holder terminates the lease;

(5) The landlord evicts the voucher holder; or

(6) The landlord engages in or threatens abusive or violent behavior to Agency representatives.

§ 3560.809 [Reserved]

§ 3560.810 Voucher value and assistance.

The value of vouchers is the difference between the comparable market rent for unit in the former Rural Development-financed property and the tenant rent contribution on the date of prepayment or foreclosure.

(a) The Agency may adjust the voucher value for inflation; otherwise the voucher value does not change over time.

(b) The voucher value is not affected by the rent in the unit selected by the voucher holder, except as noted in paragraph (c) of this section.

(c) The voucher assistance cannot exceed the rent amount specified in the tenant's lease. As a result, the voucher assistance paid to the landlord may be less than the full voucher value, if the rent amount specified in the tenant's lease is less than the full value of the voucher.

§ 3560.811 Using the voucher.

(a) The voucher is issued to the household in the name of the primary tenant, as the voucher holder.

(b) Should the voucher holder's household composition change, the voucher will remain with the voucher holder, provided that the voucher holder remains eligible to receive assistance.

(c) The voucher is not transferable from the voucher holder to any other household member except in the case of the voucher holder's death or involuntary household separation such as the incarceration of the voucher holder, transfer of the voucher holder to an assisted living or nursing home facility, or divorce. Upon receiving documentation of such cases and Agency approval, the voucher may be transferred to another tenant on the voucher holder's lease.

§ 3560.812 Voucher term and renewal.

Vouchers are issued to a voucher holder to provide assistance for 12 monthly payments. In order to be eligible for renewal, a voucher holder must certify that the voucher household is low income and provide, within the timeframes specified by the Agency, any information requested by the Agency as it pertains to the voucher holder's continued eligibility to participate in the program.

§ 3560.813 [Reserved]

§ 3560.814 Terminations and unauthorized assistance.

(a) The voucher holder may terminate tenancy after the lease term expires. If the voucher holder terminates the lease

early, the RDAP contract terminates and voucher payments to the landlord stop. To remain eligible for a new voucher after terminating tenancy, the voucher holder must meet the following requirements:

(1) If the voucher holder terminates tenancy during the lease term, the voucher holder must document landlord's consent to the termination of the lease.

(2) The voucher holder must notify the Agency immediately upon terminating tenancy.

(b) The landlord may terminate tenancy only in accordance with the provisions of the voucher holder's lease. The landlord may not terminate the tenancy or charge a penalty to the tenant or Agency if the Agency fails to pay the housing assistance payment or pays it late. Lease provisions under which the landlord may terminate tenancy include the following:

(1) Violations of the terms of lease that are substantial and repeated;

(2) Violations of Federal, State, or local law that directly relate to the occupancy or use of the unit or premises;

(3) Other causes specified in the lease.

(c) The Agency may terminate assistance to the voucher holder if he or she is subject to a court ordered eviction or if the voucher holder relinquishes the voucher and no longer participates in the program. The Agency may also terminate assistance under the following circumstances:

(1) If the voucher holder or voucher household violates any of the obligations under the program as defined in § 3560.804;

(2) If the voucher holder or voucher household commits fraud, bribery, or other corrupt or criminal acts related to any Rural Development MFH program;

(3) If the voucher holder or voucher household owes funds to the Agency in connection with the Rural Development Voucher Program; or

(4) If the voucher holder or voucher household has engaged in or threatened abusive or violent behavior to Agency representatives.

(d) The Agency may recapture any unauthorized assistance that was provided to a landlord or voucher holder. Unauthorized assistance may be the result of submission of inaccurate or false information by the landlord or voucher holder or an error by the Agency personnel. Unauthorized assistance will be processed in accordance with subpart O of this part. The Agency will provide notice to the landlord or voucher holder upon determining that unauthorized assistance was received. The notice will specify, in detail, the reason(s) that the assistance was determined to be unauthorized, the amount of unauthorized assistance to be repaid, and the process by which a review may be requested.

(e) In making termination decisions, the Agency has discretion to consider the seriousness of the issue, the level of involvement of household members, mitigating circumstances, such as the disability of a household member, and the effects of termination on non-involved household members. The Agency may permit a voucher holder to continue receiving assistance while imposing a condition that the household member or members who engaged in wrongful activity will not reside with the voucher holder.

§ 3560.815 Monitoring and enforcement.

The Agency will monitor voucher holders and landlords participating in the Rural Development Voucher Program. The Agency or its representatives, Inspector General of the U.S Department of Agriculture and Comptroller General of the United States have full and free access to all premises and to all accounts and other records that are relevant to the Rural Development Voucher Program. Upon request, voucher holders and landlords must assist in accessing any accounts or records. The Agency, at its discretion and in accordance with Agency regulations, may pursue civil monetary penalties from the landlord or voucher holder in an attempt to remedy violations of program regulations.

§§ 3560.816–3560.849 [Reserved]

§ 3560.850 OMB control number.

The information collection requirements contained in this regulation has been forwarded to the Office of Management and Budget (OMB) for approval. Public reporting burden for this collection of information is averaged at 15 minutes response, including time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Dated: August 7, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–19769 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0693; Directorate Identifier 2013–NM–059–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 757–200 and –200PF series airplanes. This proposed AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. This proposed AD would require an inspection of the left- and right-hand wing fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations, and to replace any door with an impact-resistant access door if necessary. This proposed AD also would require an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. This proposed AD would also require revising the maintenance program to incorporate changes to the airworthiness limitations section. We are proposing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

DATES: We must receive comments on this proposed AD by September 30, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this 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: Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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–2013–0693; Directorate Identifier 2013–NM–059–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 received reports of a standard access door located where an impact-resistant access door is required, and stencils missing from some spare impact-resistant access doors. This condition, if not corrected, could result in foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

Relevant Service Information

We reviewed Boeing Service Bulletin 757–28–0118, dated January 12, 2012; and critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Doors,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Requirements (CMRs) of Boeing 757 Maintenance Planning Data Document D622N001–9, Revision August 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0693.

FAA's Determination

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

Proposed AD Requirements

The FAA issued section 121.316 of the Federal Aviation Regulations (14 CFR 121.316) requiring that each turbine powered transport category airplane meet the requirements of section 25.963(e) of the Federal Aviation Regulations (14 CFR 25.963(e)). Section 25.963(e) outlines the certification requirements for fuel tank access covers on turbine powered transport category airplanes.

This proposed AD would require inspecting fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations and replacing any door with an impact-resistant access door if necessary; inspecting application of stencils and index markers of impact-resistant access doors and application of new stencils or index markers if necessary; and revising the maintenance program.

This proposed AD requires revisions to certain operator maintenance documents to include a new CDCCL. Compliance with CDCCLs is required by section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator might not be able to accomplish the actions 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 the procedures specified in paragraph (j) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

Costs of Compliance

We estimate that this proposed AD affects 86 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
Inspection	8 work-hours × $85 per hour = $680	$0	$680	$58,480
Maintenance Program Revision	1 work-hour × $85 per hour = $85	0	85	7,310

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement per door	3 work-hours × $85 per hour = $255	$8,000	$8,255
Stencil and index marker	4 work-hours × $85 per hour = $340	0	340

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

Authority for This Rulemaking

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

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

Regulatory Findings

We 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–2013–0693; Directorate Identifier 2013–NM–059–AD.

(a) Comments Due Date

We must receive comments by September 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200 and –200PF series airplanes; certificated in any category; as identified in Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. We are issuing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

(f) Compliance

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

(g) Inspections

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(1) Do a general visual inspection of the left- and right-hand wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations. If any standard access door is found, before further flight, replace with an impact-resistant access door, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(2) Do a general visual inspection of the left- and right-hand wing fuel tank impact-resistant access doors to verify stencils and index markers are applied. If a stencil or index marker is missing, before further flight, apply stencil or index marker, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(h) Maintenance Program Revision

Within 60 days after the effective date of this AD, revise the maintenance program to incorporate critical design configuration control limitations (CDCCLs) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Doors,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Requirements (CMRs) of Boeing 757 Maintenance Planning Data Document D622N001–9, Revision August 2012.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) 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.

(k) Related Information

(1) For more information about this AD, contact Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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 August 6, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 68

[Docket No. DOD–2013–OS–0093]

RIN 0790–AJ06

Voluntary Education Programs

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Proposed rule.

SUMMARY: In this proposed rule, the Department of Defense (DoD) discusses new policy, responsibilities, and procedures for the operation of voluntary education programs within DoD. The new policies discussed in the rule include the following.

All educational institutions providing education programs through the DoD Tuition Assistance (TA) Program will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school; not use unfair, deceptive, and abusive recruiting practices; and provide academic and student support services to Service members and their families. New criteria are created to strengthen existing procedures for access to military installations by educational institutions. An annual review and notification process is required if there are changes made to the uniform semester-hour (or equivalent) TA caps and annual TA ceilings. Military Departments will be required to provide their Service members with a joint services transcript (JST). The DoD Postsecondary Education Complaint System is implemented for Service members, spouses, and adult family members to register student complaints. The Military Departments are authorized to establish Service-specific TA eligibility criteria and management controls.

DATES: Comments must be received by September 30, 2013.

FOR FURTHER INFORMATION CONTACT: For general information concerning DoD Voluntary Education Programs, send a written inquiry to Ms. Carolyn Baker, at the Office of the Under Secretary of Defense (Personnel & Readiness), Military Community & Family Policy, State Liaison and Educational Opportunities, 4800 Mark Center Drive, Suite 14E08, Alexandria, Virginia 22350–2300 (Phone: 571–372–5355 or email: *carolyn.baker@osd.mil*).

SUPPLEMENTARY INFORMATION:

Executive Summary

This proposed rule implements Voluntary Education Programs for Military Service members. This rule includes educational programs that enable Service members to earn a degree on their off-duty time. Congress has held that men and women serving in the Armed Forces should have at least the same opportunity to advance academically as do civilians who remain outside the military.

Funding for Voluntary Education Programs is authorized by law and is subject to the availability of funds from each Service. Voluntary education programs include tuition assistance (TA) (per 10 U.S.C. 2007), which is administered uniformly across the Services. Subject to appropriations, each Service pays no more than $250.00 per semester-unit (or equivalent) for tuition. Each Service member participating in off-duty, voluntary education is eligible for up to $4,500.00, in aggregate, for each fiscal year. TA can only be used for courses offered by postsecondary institutions accredited by a national or regional accrediting body recognized by the U.S. Department of Education.

A March 2011 Government Accountability Office report on the DoD TA program recommended the Department take steps to enhance its oversight of schools receiving TA funds (available at *http://www.gao.gov/new.items/d11300.pdf*). As a result, a DoD Memorandum of Understanding (MOU) requirement was included in this rule, which is designated not only to improve Departmental oversight but also to account for our Service members' unique lifestyle requirements. The purpose of the DoD MOU is to establish a partnership between the Department and institutions to improve educational opportunities while protecting the integrity of each institution's core educational values. This partnership serves to ensure a quality, viable program exists that provides for our Service members to realize their educational goals, while allowing for judicious oversight of taxpayer dollars.

Background

The purpose of voluntary education programs is to provide active duty Service members with opportunities to enhance their academic achievement which in turn improves job performance and promotion potential. A final rule for DoD's Voluntary Education Programs was published in the **Federal Register** on December 6, 2012 (77 FR 72941–72956). The rule established the new requirement for a standardized memorandum of understanding (MOU) between DoD and the Institutions of Higher Learning (IHLs) prior to participating in DoD Voluntary Education Programs, such as the military tuition assistance program. As of June 25, 2013, 3,155 IHLs with a total of 4,180 sub-campuses have signed the DoD MOU.

This new proposed rule includes requirements stated in the President's Executive Order 13607, *''Establishing Principles of Excellence for Educational Institutions Servicing Service Members, Veterans, Spouses, and Other Family Members'',* signed April 27, 2012 (available at *http://www.gpo.gov/fdsys/pkg/FR-2012-05-02/pdf/2012-10715.pdf*). In implementing the EO, three interagency working groups were established (information, compliance, and report), along with an aggressive timeline to ensure that the policies take effect as soon as possible. The E.O. directed DoD to coordinate with the Departments of Veterans Affairs and Education, and in consultation with the Department of Justice and the Consumer Financial Protection Bureau, to implement and promote compliance with the principles stated in the E.O. Several of these principles were covered

in the previous 2012 final rule; the remaining principles are now included in this proposed rule. The President requested the principles be implemented for school year 2013–2014.

New requirements covered in the proposed rule include:

(1) Require all educational institutions providing education programs through the DoD Tuition Assistance (TA) Program:

(a) Will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school.

(b) Will not use unfair, deceptive, and abusive recruiting practices.

(c) Will provide academic and student support services to Service members and their families.

(2) Implement rules to strengthen existing procedures for access to military installations by educational institutions.

(3) Require DoD to conduct an annual review and notification process is required if there are changes made to the uniform semester-hour (or equivalent) TA caps and annual TA ceilings.

(4) Require the Military Departments to provide their Service members with a joint services transcript (JST).

(5) Implement the DoD Postsecondary Education Complaint System for Service members, spouses, and adult family members to register student complaints.

(6) Authorize the Military Departments to establish Service-specific TA eligibility criteria and management controls.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been certified that 32 CFR part 68 is an economically significant regulatory action. The rule has an annual effect on the economy of $100 million or more.

The rule does not:

(1) Adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Funding for Voluntary Education Programs is authorized by law and is subject to the availability of funds from each Service. Voluntary education programs include tuition assistance (per section 2007 of title 10, United States Code), which is administered uniformly across the Services. Each Service pays no more than $250.00 per semester-unit (or equivalent) for tuition. Each Service member participating in off-duty, voluntary education is authorized up to $4,500.00, in aggregate, for each fiscal year. As per the National Defense Authorization Act (NDAA) FY08, each of the Services may also provide TA to activated Service members of the Selected Reserves and Individual Ready Reserve. Tuition assistance costs for Service members participating in high school completion and accredited undergraduate or graduate education programs totaled approximately $562 million in FY11 and approximately $568 million in FY12. During FY11, 325,324 Service members received TA for 866,788 courses. During FY12, 286,665 Service members received TA for 874,094 courses. A total of 45,220 degrees/diplomas/certificates were earned in FY11 and 50,497 in FY12. Operational costs totaled approximately $102 million in FY11 and $92 million in FY12. Operational costs for DoD Voluntary Education Programs include such items as salaries, TDY, training, supplies, and equipment.

Funding for the new E.O. 13607 requirement to establish a DoD complaint system for students receiving Federal military educational benefits, such as military tuition assistance, included approximately $13,500 for the estimated labor cost to DoD and approximately $400,000 to build the system.

Congressional Review Act, 5 U.S.C. 801

We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold and, hence, also a major rule under the Congressional Review Act. Accordingly, we have prepared a regulatory impact analysis that, to the best of our ability, presents the costs and benefits of the rulemaking.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that 32 CFR part 68 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that 32 CFR part 68 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule updates policy and procedures for the voluntary education programs within DoD for Service members and their adult eligible family members. Guidance on voluntary education programs is available through the Education Centers located on military installations.

Public Law 96–511, ''Paperwork Reduction Act''

It has been certified that 32 CFR part 68 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The requirements for the new student complaint system were submitted to the Office of Management and Budget and approved under OMB Control Number 0704–0501, ''Postsecondary Education Complaint Intake System.'' While DoD believes that the collection instrument and burden numbers will not change, DoD welcomes additional comments on this collection of information.

Section 68.1(c)(5) of this proposed rule contains information collection requirements. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology.

Title: Postsecondary Education Complaint Intake System.

Type of Request: New.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 17 hours.

Needs and Uses: The information collection requirement is necessary to obtain, document, and respond to complaints, questions, and other information concerning postsecondary education and services provided to military students, veterans, and their

adult family members. The President's Executive Order 13607, signed on April 27, 2012, calls for the creation of a robust, centralized complaint process for students receiving Federal military and veterans' educational benefits. The web based intake documents information electronically such as the level of study of the student, school the student is attending, type of education benefits being used, branch of the military service, substance of the complaint or issue, and preferred contact information for the person making the complaint.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to Ms. Carolyn Baker, at the Office of the Under Secretary of Defense (Personnel & Readiness), Military Community & Family Policy, State Liaison and Educational Opportunities, 4800 Mark Center Drive, Suite 14E08, Alexandria, Virginia 22350–2300. Comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method:

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

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.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Carolyn Baker, at the Office of the Under Secretary of Defense (Personnel & Readiness), Military Community & Family Policy, State Liaison and Educational Opportunities, 4800 Mark Center Drive, Suite 14E08, Alexandria, Virginia 22350–2300, or call Ms. Baker at 571–372–5355.

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 68 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 68

Adult education, Armed forces, Colleges and universities, Education, Educational study programs, Government contracts, Military personnel, Student aid.

Accordingly, 32 CFR part 68 is proposed to be revised to read as follows:

PART 68—VOLUNTARY EDUCATION PROGRAMS

Sec.

68.1 Purpose.
68.2 Applicability.
68.3 Definitions.
68.4 Policy.
68.5 Responsibilities.
68.6 Procedures.
Appendix A to Part 68—DoD Voluntary Education Partnership Memorandum of Understanding (MOU) Between DoD Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) and [Name of Educational Institution]
Appendix B to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Air Force (USAF)
Appendix C to Part 68—Addendum for Education Services Between [Name of Educational Institution] AND THE U.S. Army
Appendix D to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Marine Corps
Appendix E to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Navy

Authority: 10 U.S.C. 2005, 2007.

§ 68.1 Purpose.

This part:

(a) Implements policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs in the DoD.

(b) Establishes policy stating the eligibility criteria for tuition assistance (TA) and the requirement for a memorandum of understanding (MOU) from all educational institutions providing educational programs through the DoD TA Program.

(c) Establishes new policy that:

(1) All educational institutions providing education programs through the DoD Tuition Assistance (TA) Program:

(i) Will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school.

(ii) Will not use unfair, deceptive, and abusive recruiting practices.

(iii) Will provide academic and student support services to Service members and their families.

(2) Creates rules to strengthen existing procedures for access to military installations by educational institutions.

(3) Requires an annual review and notification process of uniform semester-hour (or equivalent) TA caps and annual TA ceilings.

(4) Requires the Military Departments to provide their Service members with a joint services transcript (JST).

(5) Implements the DoD Postsecondary Education Complaint System for Service members, spouses, and adult family members to register student complaints.

(6) Authorizes the Military Departments to establish Service-specific TA eligibility criteria and management controls.

(d) Establishes the Interservice Voluntary Education Board.

§ 68.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the DoD, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this part as the ''DoD Components'').

§ 68.3 Definitions.

The following terms and their definitions are for the purpose of this part:

Academic. Relating to education, educational studies, an educational institution, or the educational system.

Academic institution. A college, university, or other postsecondary educational institution of higher education.

Academic institution representative. An employee of the academic institution.

Academic skills. Competencies in English, reading, writing, speaking, mathematics, and computer skills that are essential to successful job performance and new learning. Also referred to as functional or basic skills.

Active Guard and Reserve (AGR). National Guard or Reserve members of the Selected Reserve (SELRES) who are ordered to active duty or full-time National Guard duty for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the Reserve Component units or duties as prescribed in 10 U.S.C. 12310. All AGR members must be assigned against an authorized mobilization position in the unit they support. (Includes Navy full-time support (FTS), Marine Corps Active Reserve (ARs), and Coast Guard Reserve Personnel Administrators (RPAs)).

American Council on Education. The major coordinating body for all of the Nation's higher education institutions. Seeks to provide leadership and a unifying voice on key higher education issues and publishes the ''Guide to the Evaluation of Educational Experiences in the Armed Services.''

Annual TA Ceiling. The maximum dollar amount authorized for each Service member for TA per fiscal year. Each Service member participating in off-duty voluntary education programs will be entitled to the full amount authorized each fiscal year in accordance with DoD policy.

Army/American Council on Education Registry Transcript System. An automated official document generated by the Army/ACE Registry Transcript System which can be sent directly from the Army American Council on Education Registry Transcript System Center to the educational institution to articulate a soldier's military experience and training and the American Council on Education-recommended college credit for this training and experience. The Army/ACE Registry Transcript System is incorporated in the joint services transcript.

Degree requirements. A planning document provided by the educational institution that outlines general required courses to complete an educational program. The planning document presents the general education and major-related course requirements, degree competencies (e.g., foreign language, computer literacy), and elective course options that students may choose for specified program of study.

Education advisor. A professionally qualified, subject matter expert or program manager in the Education Services Series 1740 at the installation education center. The following position titles may also be used for an education advisor: Education Services Specialist, Education Services Officer (ESO), Voluntary Education Director, Navy College Office Director, and Education and Training Section (ETS) Chief.

Education center. A military installation facility, including office space, classrooms, laboratories, and other features, that is staffed with professionally qualified personnel and to conduct voluntary education programs. For Navy, this is termed the ''Navy College Office.''

Educational plan. A planning document provided by the educational institution that outlines general degree requirements for graduation. Typically an educational plan presents the general education and major-related course requirements, degree competencies (e.g., foreign language, computer literacy), and elective course options that students may choose for a specified program of study. This document is required from the institution prior to the enrollment of the Service member at the institution.

Eligible adult family member. The adult family member, over the age of 18, of an active duty, Reserve, National Guardsman, or DoD civilian with a valid DoD identification card.

Evaluated educational plan. An official academic document provided by the educational institution that:

(1) Articulates all degree requirements required for degree completion or in the case of a non-degree program, all educational requirements for completion of the program;

(2) Identifies all courses required for graduation in the individual's intended academic discipline and level of postsecondary study; and

(3) Includes an evaluation of all successfully completed prior coursework, and evaluated credit for military training and experience, and other credit sources applied to the institutional degree requirements. At a minimum, the evaluated education plan will identify required courses, College Level Examination Program, and DSST (formally known as the DANTES Subject Standardized Tests) Program, and potential American Council on Education recommended college credits for training and experiences, which are applicable to courses study leading to a degree. Education advisors will assist Service members in developing their education plan for final approval by the educational institution. For participating SOC Degree Network System institutions, SOC Army Degrees, SOC Navy Degrees, SOC Marine Corps Degrees, or SOC Coast Guard Degrees Student Agreement serves as this documented educational plan.

Individual Ready Reserve (IRR). A manpower pool consisting principally of individuals who have had training, have previously served in the Active Component or in the SELRES, and have some period of their military service obligation or other contractual obligation remaining. Some individuals volunteer to remain in the IRR beyond their military service or contractual obligation and participate in programs providing a variety of professional assignments and opportunities for earning retirement points and military benefits.

Joint services transcript. An official education transcript tool for documenting the recommended ACE college credits for a variety of professional military education, training courses, and occupational experience of Service members across the Services. The joint services transcript incorporates data from documents such as the Army/ACE Registry Transcript System, the Sailor/Marine ACE Registry Transcript System, the Community College of the Air Force transcript, and the Coast Guard Institute transcript.

Needs assessment. A process used to determine the staffing requirements, course offerings, size of facilities, funding, or other standards for delivery of educational programs.

Off-duty. Time when the Service member is not scheduled to perform official duties.

Ready Reserve. Composed of military members of the Reserve and National Guard, organized in units or as individuals, or both, and liable for involuntary order to active duty in time of war or national emergency pursuant to 10 U.S.C. 12310 and 12301 and 14 U.S.C. 712 in the case of members of the Coast Guard Reserve. The Ready Reserve consists of the SELRES, the IRR, and the Inactive National Guard.

Sailor/Marine American Council on Education Registry Transcript System. An automated official document generated by the Sailor/Marine American Council on Education Registry Transcript System, which can be sent directly from the Sailor/Marine ACE Registry Transcript System Operations Center to the educational institution to articulate a Sailor's or Marine's military experience and training and the American Council on Education recommended college credit for this training and experience. The Sailor/Marine ACE Registry Transcript

System is incorporated in the joint services transcript.

Semester-hour TA cap. The maximum dollar amount authorized for TA per semester-hour (or equivalent) credit. A Service will pay no more than the established DoD cap per semester-unit (or equivalent) for tuition.

SOC or *Servicemembers Opportunity Colleges.* A consortium of over 1,800 colleges and universities, created in 1972 that seeks to enhance the educational opportunities to Service members who may have difficulty in completing college programs due to frequent military moves.

TA or *tuition assistance.* Funds provided by the Military Services or U.S. Coast Guard to pay a percentage of the charges of an educational institution for the tuition of an active duty, Reserve or National Guard member of the Military Services, or Coast Guard member, enrolled in approved courses of study during off-duty time.

Third Party Education Assessment. A third-party evaluation of voluntary education programs covered by the DoD Voluntary Education Partnership MOU.

Top-Up. An option, under chapter 30 of the Montgomery G.I. Bill and Post-9/11 G.I. Bill, that enables active duty Service members to receive from the VA those tuition costs that exceed or are not authorized in the amount of TA provided to the Service member by his or her Service. The G.I. Bill entitlement is charged differently depending on which G.I. Bill program a Service member uses. The Montgomery G.I. Bill entitlement is charged based on the dollar amount of benefits VA pays to the individual. The Service member will be charged one month of entitlement for each payment received that is equal to the full-time monthly rate for the G.I. Bill. The Post-9/11 entitlement is charged based on the enrolled amount of time. If a Service member is attending classes part-time or at the ½ time level, the charge is ½ month of Post-9/11 G.I. Bill benefits for each month enrolled and receiving G.I. benefits.

Troops-to-Teachers program (TTT). A Department of Education program administered by the DoD to help recruit quality teachers for schools that serve low-income families throughout America. TTT helps relieve teacher shortages, especially in math, science, special education, and other high-needs subject areas, and assists military personnel in making successful transitions to second careers in teaching.

Voluntary education programs. Continuing, adult, or postsecondary education programs of study that Service members elect to participate in during their off-duty time, and that are available to other members of the military community.

§ 68.4 Policy.

It is DoD policy, consistent with DoD Directive 1322.08E, ''Voluntary Education Programs for Military Personnel'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/132208p.pdf*), that:

(a) Members of the Military Services serving on active duty and members of the Selected Reserve (SELRES) will be afforded the opportunity to complete their high school education through a state-funded or Service component sponsored program; earn an equivalency diploma, improve their academic skills or level of literacy, enroll in career and technical education schools, receive college credit for military training and experience in accordance with the American Council on Education (ACE) Guide to the Evaluation of Educational Experiences in the Armed Services (available at *http://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx*), take tests to earn college credit, and enroll in postsecondary education programs that lead to industry-recognized credentials, and undergraduate and graduate degrees.

(b) On an annual basis, the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), in coordination with the Military Departments no later than the end of second quarter of the current fiscal year, will review the uniform semester-hour (or equivalent) TA caps and annual TA ceilings to determine possible changes for the upcoming year. If there are any changes in the uniform semester-hour (or equivalent) caps and annual TA ceilings, a memorandum will be released from the USD(P&R), in coordination with the Military Departments, and a corresponding notice will be published in the **Federal Register**. Service members' costs to participate in the DoD Voluntary Education Program as authorized by 10 U.S.C. 2007, will be reduced through financial support, including TA that is administered uniformly across the Military Services.

(c) Information and professional adult academic education counseling about voluntary education programs will be readily available and easy to access so that Service members can make informed decisions concerning educational opportunities available. Education counseling will be provided by qualified professional (Education Services Series 1740 or individual with equivalent qualifications) individuals in sufficient numbers to operate voluntary education programs as determined by individual Service standards.

(d) In accordance with Executive Order (E.O.) 13607,

(1) Educational institutions receiving funding from Federal military educational benefits programs, such as the DoD TA Program, will:

(i) Provide meaningful information to students on the financial cost and attendance at an educational institution so military students can make informed decisions on where to attend school.

(ii) Prevent unfair, deceptive, and abusive recruiting practices that target Service members.

(iii) Provide academic and student support services specific to the institutions' programs to all Service members, spouses and adult family members.

(2) DoD will implement a complaint system for Service members, spouses, and adult family members that will register, track, and respond to student complaints on-line. Educational institutions that have an MOU with DoD with reoccurring complaints or an unwillingness to resolve complaints will be removed from the DoD MOU Participating Institutions list and will not be authorized to participate in the DoD TA Program.

(e) Institutions accredited by a national or regional accrediting agency recognized by the U.S. Department of Education (ED) will be encouraged to provide degree programs on military installations and the Military Services will facilitate their operations on the installations referred to in paragraph (c) of § 68.6.

(f) To the extent that space is otherwise available, eligible adult family members of Service members, DoD civilian employees and their eligible adult family members, and military retirees may enroll in postsecondary education programs offered on a military installation at no cost to the individual Service TA programs.

§ 68.5 Responsibilities.

(a) The USD(P&R):

(1) Monitors implementation of and ensures compliance with this part and DoD Directive 1322.08E.

(2) Establishes rates of tuition assistance (TA) and ensures uniformity across the Military Services as required by DoD Directive 1322.08E and this part. The uniform semester-hour (or equivalent) TA caps and annual TA ceilings will be reviewed annually and if changed, a memorandum from the USD(P&R) will be released following coordination with each of the Military Departments. Additionally, if the

uniform TA rates are changed, a notice will be published in the **Federal Register** at approximately the start of the fiscal year.

(3) Establishes, under the provisions of DoD Instruction 5105.18, ''DoD Intergovernmental and Intragovernmental Committee Management Program'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/510518p.pdf*), the Interservice Voluntary Education Board, which will be composed of full-time or permanent part-time federal employees.

(4) Maintains a program to assess the effectiveness of the voluntary education programs.

(5) Issues written supplemental guidance annually for the funding and operation of the Defense Activity for Non-Traditional Education Support (DANTES) for those items not reflected in paragraph (f) of § 68.6.

(b) The Assistant Secretary of Defense for Readiness and Force Management (ASD(R&FM)), under the authority, direction, and control of the USD(P&R) will:

(1) Provide administrative assistance to the Deputy Assistant Secretary of Defense for Military Community and Family Policy (DASD(MCFP)), in support of the voluntary education programs.

(2) Respond to matters that are referred by the DASD(MCFP).

(c) The DASD(MCFP), under the authority, direction, and control of the ASD(R&FM), will:

(1) Monitor compliance with this part and DoD Directive 1322.08E and related issuances by personnel under his or her authority, direction, and control.

(2) Oversee the DoD Voluntary Education Program.

(3) Provide ongoing and routine clarifying guidance for the DoD Voluntary Education Program.

(4) Provide representatives to professional education and cross-agency panels addressing issues impacting the DoD Voluntary Education Program, its regulatory scope, clientele, and partners.

(5) Designate the Voluntary Education Chief within the Office of the DASD(MCFP) as the Chair of the Interservice Voluntary Education Board and oversee implementation of Board and DANTES procedures as detailed in § 68.6 of this part.

(6) Oversee the DoD Postsecondary Education Complaint System through which Service members, spouses, and adult family members receiving Federal military and veterans educational benefits can register on-line complaints that will be tracked and responded to by the Departments of Defense, Veterans Affairs, Justice, and Education, the Consumer Finance Protection Bureau, and other relevant agencies. The DoD Postsecondary Education Complaint System is Web-based and accessible on-line at *https://afaems.langley.af.mil/vemis/DoD.Postsecondary.ED.Complaint.System.* This complaint system contains the uniform procedures for the processing of the complaint intake form (DD Form 2961, DoD Postsecondary Education Complaint Intake).

(7) Oversee the Third-Party Education Assessment, which is a third party review process to assess the quality, delivery, and coordination of the voluntary education programs provided to military personnel on the installation, in the community, and via distance learning (DL). It assists in improving the quality of the delivery of these programs through recommendation to institutions, installations, and the Military Services.

(i) DASD(MCFP) will monitor actions by the Military Services to resolve recommendations for improvement identified on the respective Military Service's installation during the Third Party Education Assessment.

(ii) DASD(MCFP) will monitor actions provided to the DoD Voluntary Education Chief by institutions operating off the military installation or via DL to resolve recommendations for improvement identified during Third Party Education Assessments. These institutions will provide corrective actions taken within 6 months of the assessment to the DoD Voluntary Education Chief. In instances when the issue cannot be resolved within the 6 month timeframe, the institution will submit a status report every 3 months to the DoD Voluntary Education Chief until the recommendation is resolved.

(8) Prepare written supplemental guidance annually for USD(P&R) regarding the funding and operation of DANTES for those items not reflected in paragraph (f) of § 68.6.

(9) Oversee the policy of the joint services transcript (JST).

(d) The Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), under the authority, direction, and control of the USD(P&R), will:

(1) Monitor compliance with this part and DoD Directive 1322.08E and related issuances by personnel under his or her authority, direction, and control.

(2) Appoint a representative to serve on the Interservice Voluntary Education Board.

(3) Arrange the assignment of, on a rotating basis, a field grade officer, to serve as the Reserve Component Advisor to the Voluntary Education Chief and a representative on the Interservice Voluntary Education Board.

(e) The Secretaries of the Military Departments will:

(1) Monitor compliance with this part and DoD Directive 1322.08E and related issuances by personnel under their respective authority, direction, and control.

(2) Establish, maintain, coordinate, and operate voluntary education programs that encompass a broad range of educational experiences including, but not limited to, academic skills development, high school completion programs, vocational programs, career and technical programs, and programs leading to the award of undergraduate and graduate degrees.

(3) Require that sufficient funding is available to provide Service members with TA support consistent with the requirements in § 68.6 and appendices A, B, C, D, and E to this part.

(4) Require that educational counseling is available to Service members so they will have sufficient information and guidance to plan an appropriate program of study. Educational counseling will be provided by qualified professional (Education Services Series 1740 or individual with equivalent qualifications) individuals.

(5) Require that voluntary education programs participate in the DoD established third-party review process entitled the Third Party Education Assessment.

(i) Within 6 months following the Third Party Education Assessment on their installation, the responsible Military Service will resolve recommendations received as a result of the assessment and provide the resolutions to the DoD Voluntary Education Chief. In instances when the issue cannot be resolved within the 6 month timeframe, the Military Service will submit a status report every 3 months to the DoD Voluntary Education Chief until the recommendation is resolved.

(ii) If the recommendation(s) requires involvement of an institution operating on their respective installation, the Military Service will coordinate the submission of corrective actions taken by institution(s) through the appropriate Education Advisor, and forward through their respective Military Service leadership to the DoD Voluntary Education Chief.

(iii) Waivers to the Third Party Education Assessment must be submitted to and approved by the DoD Voluntary Education Chief.

(6) Provide one representative to serve on the Interservice Voluntary Education Board responsible for their Services' voluntary education policy from each of the following Military Services: Army,

Navy, Air Force, and Marine Corps. Each Service representative's membership will be on a permanent basis and changed only when their voluntary education policy position is changed.

(7) Assign, on a rotating basis, a senior enlisted Service member in the military pay grade E–9 to serve as the DANTES enlisted advisor.

(8) Assign, on a rotating basis, a field-grade officer to serve as the DANTES RC advisor.

(9) Require that military test control officers and test centers comply with the guidance and procedures published in the DANTES Examination Program Handbook, available at *http://www.dantes.doded.mil/Programs/Docs/DEPH_part1.pdf.*

(10) Require that personnel who provide counseling, advice, and program management related to voluntary education programs have access to the DoD Voluntary Education homepage and other Web sites so they can provide current and accurate information to Service members.

(11) Provide opportunities for Service members to access the Internet, where available, to enroll in and complete postsecondary courses that are part of their approved educational plan leading to an educational goal.

(12) Submit requested quarterly and annual information for the Voluntary Education Management Information System (VEMIS) by the 20th day of the month after the end of each fiscal quarter for the quarterly reports and November 15th each year for the annual report. Reporting information includes, but is not limited to voluntary education program data on enrollments, participation, and costs.

(13) Respond to and resolve Service-specific student complaints received and managed through the DoD Postsecondary Education Complaint System.

(14) Provide Service members with a JST. At a minimum, the JST will include documented military student data, courses, and military occupations evaluated by ACE, including descriptions, learning outcomes and equivalent college credit recommendations, as well as national college-level exam results. The Air Force will continue to use the Community College of the Air Force (CCAF) to document airmen's academic and military credit.

(f) *Secretary of the Navy.* The Secretary of the Navy, as the DoD Executive Agent (DoD EA) for DANTES pursuant to DoD Directive 1322.08E and DoD Directive 5101.1, ''DoD Executive Agent'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/510101p.pdf*), and in addition to the responsibilities in this section, will:

(1) Transmit supplemental annual guidance issued by the USD(P&R) to DANTES for those items not reflected in paragraph (f) of this section.

(2) Require that the Director, DANTES, provide updates on DANTES plans, operations, and activities to the USD(P&R).

(3) Through its civilian personnel system, advertise the position of Director, DANTES, when the position is vacated and appoint the Director, DANTES, in accordance with the procedures outlined in § 68.6.

§ 68.6 Procedures.

(a) *TA for Service members participating in education programs.*

(1) TA will be available for Service members participating in high school completion and approved courses from accredited undergraduate or graduate education programs or institutions. Approved courses are those that are part of an identified course of study leading to a postsecondary certificate or degree and non-degree oriented language courses integral to the Defense Language Transformation Roadmap (available at *http://www.defense.gov/news/Mar2005/d20050330roadmap.pdf*).

(i) Use of TA for non-degree oriented language courses is limited to those published by the Under Secretary of Defense (P&R) on the DoD Strategic Language List.

(ii) Dominant-in-the-force languages and languages deemed by DoD as already having sufficient strategic capacity will not be funded under 10 U.S.C. 2007, except for assignments outside the continental United States.

(2) TA will be applied as follows:

(i) For 100 percent of the cost of approved high school completion programs for Service members who have not been awarded a high school or equivalency diploma and who are enrolled in such programs.

(ii) In support of the voluntary education of active duty Service members during their off-duty periods, each Military Service will pay all or a portion, as specified in paragraphs (a)(2)(ii)(A) through (F) of this section, of the charges of an educational institution for education and training during the member's off-duty periods. TA funding will only be paid to educational institutions accredited by an accrediting organization recognized by ED, approved for Department of Veterans Affairs (VA) funding, and participating in Federal student aid programs through the Department of Education under Title IV of the Higher Education Act of 1965. Whenever ED withdraws the recognition of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, may, notwithstanding the withdrawal, continue to participate in the TA program for a period not to exceed 18 months from the date of the withdrawal of recognition.

(A) When an institution's charges are equal to or less than the established cap per semester-hour of credit or its equivalent, the responsible Service will pay the entire amount charged by the institution. In computing credit equivalency, the following conversions will apply: 1 quarter-hour credit = ⅔ semester-hour credit; and 45 contact hours will be considered equivalent to one semester-hour credit when neither semester- nor quarter-hours are specified for the education or training for which the Service member is enrolled.

(B) When an institution's charges exceed the established cap per semester-hour of credit, or its equivalent, the responsible Service, will pay no more than the established cap per semester-unit (or equivalent) for tuition.

(C) Each Service member participating in off-duty, voluntary education will be allowed up to the established ceiling, in aggregate, for each fiscal year.

(D) Covered charges include those that are submitted to the Service by the educational institution for tuition only.

(E) TA funds are not to be used for the purchase of books and fees. Additionally, institutional education revenue generated from military TA funds cannot be used to support textbook grants or scholarships.

(F) To be eligible to receive TA, a Service member must meet the minimum requirement of successfully completing basic training. Reserve Component members are exempt from the requirement to first attend basic training before authorized to receive TA. Additional, respective Service requirements must be met to include training qualification, unit assignment, and time in service criteria.

(iii) The TA rate, credit-cap, and annual per capita ceiling, will be reviewed annually in consideration of inflation and other effects, and will be applicable uniformly whether instruction is delivered traditionally in-the-classroom or through distance education. Rates of TA other than as identified in paragraphs (a)(2)(ii)(A) through (F) of this section are not authorized.

(3) *Service-specific TA Eligibility Requirements.*

(i) Service-specific eligibility criteria and management controls are determined by each Military Service.

(ii) Service-specific TA eligibility criteria and management controls may include, but are not limited to, applying TA:

(A) For courses leading to a certificate or required for a credentialing program. All payments for courses must comply with the allowable caps and ceilings.

(B) For graduate studies through the master's degree level. All payments for courses must comply with the allowable caps and ceilings.

(C) For same level degrees, subject to availability of funds. However, TA is primarily intended to raise the academic degree level of the Service member.

(4) TA is available to a commissioned officer on active duty, other than an officer serving in the Ready Reserves (addressed in paragraphs (a)(5)(i) and (a)(6)(i) of this section), only if the officer agrees to remain on active duty, for a period of at least two years after the completion of the education or training for which TA was paid (see 10 U.S.C. 2007).

(5) The Secretary of the Military Department concerned may only make TA available to a member of the SELRES, pursuant to 10 U.S.C. 2007, under the following conditions:

(i) In the case of a commissioned officer, the officer must agree to remain a member of the SELRES for at least four years after completion of the education or training for which TA is paid.

(ii) In the case of an enlisted member, the Secretary concerned may require the member of the SELRES to enter into an agreement to remain a member of the SELRES for up to four years after completion of the education or training for which TA is paid.

(6) The Secretary of the Military Department concerned may only make TA available to a member of the IRR who has a military occupational specialty designated by the Secretary concerned pursuant to 10 U.S.C. 2007 and only under the following conditions:

(i) In the case of a commissioned officer, the officer must agree to remain a member of the SELRES or IRR for at least four years after completion of the education or training for which TA was paid.

(ii) In the case of an enlisted member, the Secretary concerned may require the member of the IRR to enter into an agreement to remain a member of the IRR for up to four years after completion of the education or training for which TA is paid.

(7) Members performing Active Guard and Reserve (AGR) duty under either 10 U.S.C. 12310 or active duty under 14 U.S.C. 712 are eligible for TA under paragraph (a)(4) of this section.

(8) The Secretary of the Military Department concerned may make TA available to National Guard members in accordance with paragraph (a)(4), except for National Guard members assigned to the Inactive National Guard.

(9) Reimbursement and repayment requirements:

(i) If a commissioned officer or member of the RR does not fulfill a specified Service obligation as required by 10 U.S.C. 2007, they are subject to the repayment provisions of 37 U.S.C. 303a(e).

(ii) For other conditions pursuant to 10 U.S.C. 2005, the Secretary concerned may require a Service member to enter into a written agreement when providing advanced education assistance. If the Service member does not fulfill any terms or conditions as prescribed by the Secretary concerned, the Service member will be subject to the repayment provisions of 37 U.S.C. 303a(e).

(iii) Pursuant to 37 U.S.C. 303a(e), the Secretary concerned may establish procedures for determining the amount of the repayment required from the Service member and the circumstances under which an exception to the required repayment may be granted.

(iv) Reimbursement will be required from the Service member if a successful course completion is not obtained. For the purpose of reimbursement, a successful course completion is defined as a grade of ''C'' or higher for undergraduate courses, a ''B'' or higher for graduate courses and a ''Pass'' for ''Pass/Fail'' grades. Reimbursement will also be required from the Service member if he or she fails to make up a grade of ''I'' for incomplete within the time limits stipulated by the institution or 6 months after the completion of the class, whichever comes first. The Secretary of the Military Department will establish recoupment processes for unsuccessful completion of courses.

(10) Students using TA must maintain a cumulative grade point average (GPA) of 2.0 or higher after completing 15 semester hours, or equivalent, in undergraduate studies, or a GPA of 3.0 or higher after completing 6 semester hours or equivalent, in graduate studies, on a 4.0 grading scale. If GPA falls below these minimum GPA limits, TA will not be authorized and Service members will use alternative funding (such as financial aid or personal funds) to enroll in courses to raise the cumulative GPA to 2.0 for undergraduate studies or 3.0 for graduate studies.

(11) TA will not be authorized for any course for which a Service member receives reimbursement in whole or in part from any other Federal source when the payment would constitute a duplication of benefits. Academic institutions have the responsibility to notify the Service if there is any duplication of benefits, determine the amount of credit that should be returned, and credit the amount back to the Service. The use of funds related to veterans' benefits to supplement TA received by active duty and Reserve component personnel is authorized in accordance with applicable VA guidelines.

(12) Pell Grants may be used in conjunction with TA assistance to pay that portion of tuition costs not covered by TA.

(13) TA will be provided for courses provided by institutions awarding degrees based on demonstrated competency, if:

(i) Competency rates are equated to semester or quarter units of credit, and

(ii) The institution publishes traditional grade correlations with ''Pass/Fail'' grades, and

(iii) The institution provides a breakdown by course equivalent for Service members.

(14) Enrollment in a professional practicum integral to these types of programs is also authorized. However, normal DoD TA caps and ceilings apply; the cost of expanded levels of enrollment over and above these enrollment levels and normal caps and ceilings must be borne by the student.

(15) When used for postsecondary education, TA will be provided only for courses offered by postsecondary institutions whose home campus is operating within the United States, to include the District of Columbia and U.S. territories, which are accredited by a national or regional accrediting body recognized by the ED.

(16) On a date to be determined, but not earlier than 60 days following the publication of this part in the **Federal Register**, to receive TA, all institution home campuses must sign the revised DoD Voluntary Education Partnership Memorandum of Understanding (MOU) in appendices A, B, C, D, and E to this part, and the name of the institution must be posted on the DoD MOU Web site under the 'Participating Institutions' tab (located at *http://www.dodmou.com*). One signed, revised DoD Voluntary Education Partnership MOU with the institution's home campus will cover any program offered by the institution, regardless of location.

The requirement to sign the revised DoD MOU contained in this part applies to institutions with a previously approved and signed DoD MOU posted on the DoD MOU Web site.

(17) To the extent that any provision of the standard language of the DoD Voluntary Education Partnership MOU template in appendices A, B, C, D, and E to this part, results from DoD policy that conflicts with a state law or regulation, the DASD(MCFP) may authorize amending the standard language of the DoD Voluntary Education Partnership MOU template on a case-by-case basis to the extent permissible by Federal law or regulation.

(18) A DoD MOU with an institution may be suspended or terminated by DoD in the following circumstances:

(i) The DoD MOU with an institution may be terminated by the ASD(R&FM) following written notice and an opportunity to respond for the failure to comply with any element of this part of the DoD MOU. In addition, an otherwise qualified institution may be suspended from participating in the tuition assistance program by the ASD(R&FM) following written notice and an opportunity to respond through either the termination of an existing DoD MOU or the refusal by DoD to enter into a new DoD MOU upon indictment of the institution or any senior official of the institution on a criminal charge related to the operation of the institution. The decision of the ASD(R&FM) in either of these cases may be appealed to the USD(P&R), and the decision of the USD(P&R) will be deemed to be the final administrative action by DoD on the matter.

(ii) An otherwise qualified institution may also be immediately suspended from participating in the tuition assistance program through either the termination of an existing DoD MOU or the refusal to enter into a new DoD MOU by the USD(P&R) on national security grounds. Written notice of the action shall be provided to the institution, and, if practicable without damaging national security, the written notice shall include a short unclassified summary of the reasons for the action. Such a decision of the USD(P&R) is only appealable to the Secretary of Defense, who has authorized the Deputy Secretary of Defense to act on such an appeal.

(iii) The authorities under this part are not delegable.

(b) *Guidelines for establishing, maintaining, and operating voluntary education programs.*

(1) Education programs established under this part by each Military Service will:

(i) Provide for the academic, technical, intellectual, personal, and professional development of Service members, thereby contributing to the readiness of the Military Services and the quality of life of Service members and their families.

(ii) Increase Service members' opportunities for advancement and leadership by reinforcing their academic skills and occupational competencies with new skills and knowledge.

(iii) Lead to a credential, such as a high school diploma, certificate, or college degree, signifying satisfactory completion of the educational program.

(iv) Include an academic skills program, which allows personnel to upgrade their reading, writing, computation, and communication abilities in support of academic skills and military occupations and careers. Academic skills programs may include English as a Second Language, mathematics and basic science.

(v) Include programs and college offerings that support findings from periodic needs assessments conducted by the appropriate installation official (normally the Education Services Officer) for programs provided on the installation. The installation needs assessment process is used to determine such items as staffing requirements, course offerings, size of facilities, funding, or other standards for delivery of educational programs. Duplication of course offerings on an installation should be avoided. However, the availability of similar courses through correspondence or electronic delivery will not be considered duplication.

(vi) Be described in a publication or on-line source that includes on-installation educational programs, programs available at nearby installations, and colleges and universities nearby the installation.

(2) Each Military Service, in cooperation with community educational service providers, will provide support essential to operating effective education programs. This support includes:

(i) Adequate funds for program implementation, administration, and TA.

(ii) Adequately trained staff to determine program needs, counsel students, provide testing services, and procure educational programs and services. Education counseling will be provided by qualified professional (Education Services Series 1740 or individual with equivalent qualifications) individuals.

(iii) Adequate and appropriate classroom, laboratory, and office facilities and equipment, including computers to support local needs.

(iv) Access to telecommunications networks, computers, and physical or online libraries at times convenient to active duty personnel.

(3) In operating its programs, each Military Service will:

(i) Provide to newly assigned personnel, as part of their orientation to each new installation or unit of assignment for Reserve component personnel, information about voluntary education programs available at that installation, unit, or State for RC personnel.

(ii) Maintain participants' educational records showing education accomplishments and educational goals.

(iii) Provide for the continuing professional development of their education services staff, including the participation of field staff in professional, as well as Service-sponsored, conferences, symposiums, and workshops.

(iv) Provide educational services, including TA counseling, academic advice and testing to their personnel and to personnel of other Services (including the U.S. Coast Guard when operating as a service in the Navy) who are assigned for duty at installations of the host Service. These educational services will be provided by qualified professional (Education Services Series 1740 or individual with equivalent qualifications) individuals in sufficient numbers to operate voluntary education programs as determined by individual Service standards. Outcomes from these educational services will include the following:

(A) A prior learning assessment that includes a review of all education transcripts to include the joint services transcript, the Community College of the Air Force transcript, and academic transcript recommendations for ACE recommended credit.

(B) An assessment of readiness for the education plan that is in support of the Service member's career goals and a discussion of academic skills development programs.

(C) Discussion and review of technical credentials that can be obtained concurrent to academic pursuits.

(D) Discussion of credit-by-examination options.

(E) Review of academic program options, leading to a degree plan.

(F) Discussion with prospective military students on payment options and the use of education benefits for postsecondary courses to include DoD TA Program, Department of Veterans

Affairs education benefit programs, state and federal grants and loans, commercial lending, and out-of-pocket costs for the Service member. Discussion will include streamlined tools and information to compare educational institutions using key measures of affordability and value through the VA eBenefits portal at *http://www.ebenefits.va.gov.* The eBenefits portal is updated by VA to facilitate access to school performance information and key Federal financial aid documents.

(v) Continually assess the state of its voluntary education programs and periodically conduct a formal needs assessment by the appropriate installation official (normally the Education Services Officer) to ensure that the best possible programs are available to their members at each installation or in their State or area command for RC personnel. It is essential that a formal needs assessment be conducted if there is a significant change in the demographic profile of the installation population.

(4) Eligible adult family members of Service members, DoD civilian employees and their eligible adult family members, and military retirees may participate in installation postsecondary education programs on a space-available basis at no cost to the individual Service TA programs.

(5) At locations where an educational program that is offered on an installation is not otherwise conveniently available outside the installation, civilians who are not directly employed by the DoD or other Federal agencies, and who are not eligible adult family members of DoD personnel, may be allowed to participate in installation educational programs. While such participation contributes to positive community relations, participation must be on a student-funded, space-available basis at no cost to the individual Service TA programs, after the registration of Service members, DoD civilian employees, eligible adult family members, and military retirees. Additionally, a review of these potential participants by the relevant installation ethics counselor may be required as part of the installation commander's access requirements. Participation may also be subject to the terms of status-of-forces or other regulating agreements.

(6) Education centers and Navy College offices will maintain liaison with appropriate State planning and approving agencies and coordinating councils to ensure that planning agencies for continuing, adult, or postsecondary education are aware of the educational needs of military personnel located within their jurisdiction.

(7) In supporting a high school completion program, each Military Service will:

(i) Ensure that all Service members with less than a high school education have the opportunity to attain a high school diploma or its equivalent.

(ii) Ensure that neither a Military Service nor DANTES issues a certificate or similar document to Service members based on performance on high school equivalency tests. Military Services will recognize attainment of high school completion or equivalency only after a State- or territory-approved agency has awarded the appropriate credential.

(iii) Pay 100 percent of the cost of high school equivalency instruction or proficiency testing and credentialing for Service members.

(iv) Ensure that Service sponsored high school diploma programs are delivered by institutions that are State-funded or a Service component program accredited by a regional accrediting body or recognized by a State's secondary school authority.

(c) *Procedures for the installation education advisor, on behalf of the installation commander, to follow to obtain voluntary education programs and services from postsecondary institutions of higher learning.*

(1) Since contacts by a school with a Service member for the purpose of asking or encouraging the member to sign up for one of the school's programs (assuming the program has some cost) are considered personal commercial solicitations, ensure schools comply with DoD Instruction 1344.07, ''Personal Commercial Solicitation on DoD Installations'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134407p.pdf*) and all requirements established by the installation commander for solicitation.

(2) Do not allow installation access to marketing firms or companies that own, operate, or represent higher-learning institutions; this privilege is reserved only for academic institution employees meeting the requirements as stated in the policy section of this part.

(3) Educational institutions interested in providing education, guidance, training opportunities, and participating in education fairs on a military installation provide their requests to the installation education advisor, who will review and analyze these requests on behalf of the installation commander.

(4) The installation education advisor will ensure all education institutions granted access to military bases to provide education, guidance, training opportunities, and participate in education fairs to Service members:

(i) Adhere to federal law, DoD Instruction 1344.07, DoD Instruction 1322.19, ''Voluntary Education Programs in Overseas Areas'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/132219p.pdf;* and the cognizant Military Service's policies and regulations.

(ii) Comply with applicable installation policies and procedures designated by the installation commander on such matters as fire and safety, environment, physical security, personnel background checks, vehicle inspection and registration, and any other applicable statutes or regulations designated by the installation commander.

(5) Monitor institutions granted access to an installation to ensure they do not:

(i) Use unfair, deceptive, abusive or fraudulent devices, schemes, or artifices, including misleading advertising or sales literature.

(ii) Engage in unfair, deceptive, or abusive marketing tactics such as unit briefings or assemblies, open recruiting efforts or distribution of marketing materials on the installation.

(iii) Market to or recruit newly assigned military personnel to the installation, unless the Service member has received information about voluntary education programs and educational services available at that installation, to include TA, from their education services staff or as part of their orientation to the new installation.

(6) Ensure institutions of higher learning granted access to military installations to provide programs, services, or education guidance to their students meet the following criteria:

(i) Have a signed MOU with DoD.

(ii) Are in compliance with state requirements where services will be rendered.

(iii) Are State approved for the use of veteran's education benefits. For DL courses and programs, State approval for the use of veteran's education benefits will be certified in the State where the DL course or program originated or is managed. Copies of the certification will be filed with the appropriate state approving agency for the military or veteran student.

(iv) Are participating in Federal student aid programs through the U.S. Department of Education under title IV of the Higher Education Act of 1965.

(v) Are accredited by a national or regional accrediting body recognized by the U.S. Department of Education and conduct programs only from among those offered or authorized by the main administrative and academic office in

accordance with standard procedures for authorization of degree programs by the institution.

(7) Military installations seeking an institution to provide on-installation education programs, through the installation education advisor, must:

(i) Communicate the installation's educational needs to a wide variety of potential providers.

(ii) Seek favorable tuition rates, student services, and instructional support from providers.

(iii) Provide to interested providers:

(A) The level of services, instruction desired and specific degree programs being sought.

(B) A demographic profile of the installation population and probable volume of participation in the program.

(C) Facilities and level of security at no charge to the institution.

(D) Cost associated with equipment and supporting services provided at the discretion of the installation.

(E) A copy of this part.

(F) Special requirements such as:

(1) Format (e.g., distance, evening, or weekend classes), independent study, short seminar, or other mode of delivery of instruction.

(2) Unique scheduling problems related to the operational mission of the installation.

(3) Any installation restrictions, limitations, or special considerations relevant to using an alternate delivery system (DL, etc.).

(4) Available computer hardware and supporting equipment.

(5) Electrical, satellite, and network capabilities at the site.

(8) In evaluating proposals, installation education advisors must ensure potential providers meet, at a minimum, the following criteria:

(i) Programs satisfy objectives defined by the most recent needs assessment.

(ii) Programs, courses, and completion requirements are the same as those at the provider's main administrative and academic campus.

(iii) The institution granting undergraduate academic credit must adhere to the Servicemembers Opportunity Colleges (SOC) Principles and Criteria (available at *http://www.soc.aascu.org/socconsortium/PublicationsSOC.html*) regarding the transferability of credit, the awarding of credit for military training and experience, and residency requirements.

(iv) The provider is prepared to:

(A) Offer academic counseling and flexibility in accommodating special military schedules.

(B) Ensure main administrative and academic office approval in faculty selection, assignment, and orientation; and participation in monitoring and evaluation of programs. Adjunct or part-time faculty will possess comparable qualifications as full-time permanent faculty members.

(C) Conduct on-installation courses that carry identical credit values, represent the same content and experience, and use the same student evaluation procedures as courses offered through the main administrative and academic campus. All substantive course change requirements must follow the schools accreditation agencies requirements. If the institution's accrediting agency's substantive change policy requires new courses or program offerings to be submitted to the agency for approval, the institution will be required to submit such items for approval prior to admitting Service members using military TA.

(D) Maintain the same admission and graduation standards that exist for the same programs at the main administrative and academic office, and include credits from courses taken off-campus in establishing academic residency to meet degree requirements.

(E) Provide library and other reference and research resources, in either print or electronic format, that are appropriate and necessary to support course offerings.

(F) Establish procedures to maintain regular communication between central institutional academic leadership and administrators and off-campus representatives and faculty. Any institution's proposal must specify these procedures.

(G) Provide students with regular and accessible academic and financial counseling services either electronically or in-person. At a minimum, this includes Title IV and VA education benefits.

(H) Charge tuition that is not more than tuition charged to nonmilitary students.

(I) Have established policies for awarding credit for military training by examinations, experiential learning, and courses completed using modes of delivery other than instructor-delivered, on-site classroom instruction.

(J) Conduct programs only from among those offered or authorized by the main administrative and academic office in accordance with standard procedures for authorization of degree programs by the institution.

(d) *Requirements and procedures for institutions seeking access to the military installation solely to provide education guidance.*

(1) Institutions must meet the criteria in paragraphs (c)(6)(i) through (c)(6)(v) of this section.

(2) Institutions must have an on installation student population of at least 20 active duty military students, except in overseas locations covered by DoD Instruction 1322.19. For this exception, only contracted institutions are permitted on overseas installations.

(3) Institutions must request access through the installation education advisor or Navy College Office Director via a written proposal. If a request is received from an institution seeking access to a joint military installation, the education advisor or Navy College Office Director from the installation education centers will work together to determine the appropriate Military Service to work the request. The request should include as a minimum:

(i) Institution name and intent or purpose of the visit.

(ii) Number and names of school representatives that will be available.

(iii) Counseling delivery method: By appointment or walk-in.

(iv) Communication process used to inform students of their availability for counseling.

(4) The installation education advisor will review and analyze the request on behalf of the installation commander. The installation commander has the final authority to approve, deny, suspend, or withdraw installation access permission from an institution, as deemed appropriate.

(5) If a request is received from an institution seeking access to a military installation, the installation education advisor or Navy College Office Director will:

(i) Fully consider requests from those institutions complying with requirements as stated in paragraphs (d)(1) through (d)(3) of this section and be consistent in treatment of institutions in accordance with this part. Also, consider the value to the Service member as it relates to geographic location, accessibility and mission tempo.

(ii) If request is denied, provide a timely response to the institution; inform institution they may reapply for access once reasons for denial are addressed.

(iii) Maintain copies of all correspondence in accordance with the installation records management schedule and disposition, with a minimum time requirement of two years.

(6) If an installation grants access to an institution to provide guidance to their students, the institution will:

(i) Only advise or counsel students at the education center or at a location approved by the education advisor.

(ii) Maintain a list of students counseled and provide a copy to the education office. List will annotate type of program and status of the Service member (current or reenrollment).

(iii) Comply with applicable installation policies and procedures designated by the installation commander on such matters as fire and safety, environment, physical security, personnel background checks, vehicle inspection and registration, and any other applicable statutes or regulations designated by the installation commander.

(e) *Interservice Voluntary Education Board.* Under the direction of the Voluntary Education Chief, the Interservice Voluntary Education Board is composed of full-time or permanent part-time employees of DoD or military members, and consists of one representative responsible for policy from the Office of the ASD(RA), and the senior voluntary education advisor responsible for policy each from the Army, Navy, Air Force, and Marine Corps The Director, DANTES, will serve as an ex-officio member. Meeting quarterly, the Board will:

(1) Provide a forum for the exchange of information and discussion of issues related to voluntary education programs.

(2) Develop recommendations for changes in policies and procedures.

(3) Develop recommendations for DANTES' activities and operations that support voluntary education programs.

(4) Review and prioritize DANTES activities that support DoD voluntary education programs, to include budget execution and recommend execution year adjustments.

(5) Develop recommended policy and program guidance for DANTES for the Future-Year Defense Program.

(f) *DANTES.*

(1) Guidance and recommendations for DANTES will be developed with the advice of the Interservice Voluntary Education Board.

(2) The selection and rating of the Director, DANTES will be as follows:

(i) The DASD(MCFP) will convene and chair the search committee responsible for replacing the Director, DANTES, when the position is vacated. At the request of the USD(P&R), the Secretaries of the Military Departments will provide a senior manager to sit on the search committee. The committee will recommend the best qualified candidate to the DoD EA for DANTES, for possible appointment as the Director, DANTES.

(ii) The DoD EA for DANTES will designate the rater of the Director, DANTES. The Director, State Liaison and Educational Opportunity within the Office of the USD(P&R), MCFP, will provide input to the DoD EA designated rater concerning the performance of the Director, DANTES.

(3) DANTES will:

(i) Support the Service voluntary education programs by executing the program outlined in this part and the annual USD(P&R) supplemental guidance for those items not reflected in this paragraph of this section.

(ii) Provide execution information to the Interservice Voluntary Education Board quarterly and provide information required to assist with the program objective memorandum development as requested by the Board.

(iii) Support DoD off-duty, voluntary education programs and conduct special projects and developmental activities in support of education-related DoD functions.

(iv) Assist the Military Services in providing high-quality and valuable educational opportunities for Service members, their eligible adult family members, and DoD personnel, and assist personnel in achieving professional and personal educational objectives. This role includes the consolidated management of programs that prevent duplication of effort among the Services. Through its activities, DANTES supports DoD recruitment, retention, and the transition efforts.

(v) Assume responsibilities and functions that include:

(A) Managing and facilitating the delivery of a wide variety of examinations including the General Equivalency Diploma test, college admissions, credit-by-examination programs, and an extensive number of certification examinations.

(B) Upon request, issuing transcripts for the United States Armed Forces Institute and the examination and certification programs.

(C) Managing the contract through which former DoD Dependents Schools students can obtain copies of archived transcripts.

(D) Managing the contract and functions related to the evaluation of educational experiences in the Military Services that are covered by the contract.

(E) Providing or developing and distributing educational materials, reference books, counseling publications, educational software, and key educational resource information to DoD Components and the installations.

(F) Managing the SOC program contract and related functions.

(G) Managing the DoD contract that provides for periodic third-party reviews of DoD voluntary education programs entitled the Third Party Education Assessment.

(H) Managing the data received on the voluntary education programs for the Voluntary Education Management Information System (VEMIS), which includes gathering, collating, and verifying participation and cost data from the Services. Providing requisite consolidated reports to USD(P&R). Requested data from the Military Services on voluntary education programs is located and stored at *https://afaems.langley.af.mil/vemis.* A user guide containing voluntary education program data and report information for the Military Services and DANTES is also available at this Web site, under the ''Resources'' tab.

(I) Managing the DoD independent study catalog and its support systems, as required.

(J) Negotiating, administering, and coordinating contracts for DoD Worldwide Education Symposiums in support of and in conjunction with the Interservice Voluntary Education Board.

(K) Establishing, refining, updating, and maintaining information on worldwide education support of DoD off-duty, voluntary education programs on the Internet. Maintaining necessary infrastructure to ensure that information on the Internet is always current and available to leadership, agency personnel, the public, and others.

(L) Administering the TTT program in accordance with section 1154 of chapter 58 of 10 U.S.C.

(M) Monitoring new technological developments, providing reports, cost analyses, and recommendations on educational innovations, and conducting special projects requested by the Department of Defense and the Services, approved by the Interservice Voluntary Education Board, and as reflected and approved in DANTES' annual policy guidance.

(N) Conducting staff development training on DANTES' policies, procedures, and practices related to voluntary education testing programs, and providing additional training as requested by the Office of the Secretary of Defense and the Services.

(O) Serving as the Defense Media Activity's point of contact for information on DANTES programs for military personnel.

(P) Providing support, as requested, to DoD and Service Quality of Life and Transition support programs.

(Q) Providing other support in mission areas as directed by the USD(P&R) and the DASD(MCFP).

(R) Managing DoD Contingency Tri-Service Contracts, which provide educational opportunities for deployed

Service members with guidance and oversight from the DoD Voluntary Education Chief.

(S) Monitoring and maintaining liaison with the office responsible for consolidating and distributing the joint services transcript for the Services.

(vi) Maintain liaison with education services officials of the Military Services, and appropriate Federal and State agencies and educational associations, in matters related to the DANTES mission and assigned functions.

(vii) Serve on panels and working groups designated by the DASD(MCFP).

(viii) Serve as the Executive Secretary at the Interservice Voluntary Education Board meeting convened annually to review DANTES programs and to develop recommendations for inclusion in annual policy guidance for DANTES. In this role, the Director, DANTES, will coordinate the meeting, prepare the agenda, review and analyze DANTES programs and initiatives outlined in the prior year's operational plan, and provide minutes after the meeting.

(ix) Maintain the repository for the DoD Voluntary Education Partnership MOU between USD(P&R) and partner institutions, to include Service-specific addendums (see the Appendix to this section for template of DoD MOU). DANTES will:

(A) Administer and update the system that stores the repository of the MOUs per guidance from USD(P&R).

(B) Create, track, and maintain a centrally managed database for all signed documents.

(C) Publish an Internet-based list of all institutions that have a signed partnership DoD MOU.

(D) Generate reports in accordance with guidance from the USD(P&R) and procedures in DTM 12–004, ''DoD Internal Information Collections'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/DTM-12-004.pdf*) and DoD 8910–1–M, ''Department of Defense Procedures for Management of Information Requirements'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/891001m.pdf*).

(x) Provide data analyses and generate reports required by DoD and the Interservice Voluntary Education Board as needed.

Appendix A to Part 68—DoD Voluntary Education Partnership Memorandum of Understanding (MOU) Between DoD Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) and [Name of Educational Institution]

1. *Preamble.*

a. Providing access to quality postsecondary education opportunities is a strategic investment that enhances the U.S. Service member's ability to support mission accomplishment and successfully return to civilian life. A forward-leaning, lifelong learning environment is fundamental to the maintenance of a mentally powerful and adaptive leadership-ready force. Today's fast-paced and highly mobile environment, where frequent deployments and mobilizations are required to support the Nation's policies and objectives, requires DoD to sponsor postsecondary educational programs using a variety of learning modalities that include instructor-led courses offered both on- and off-installation, as well as distance learning options. All are designed to support the professional and personal development and progress of the Service members and our DoD civilian workforce.

b. Making these postsecondary programs available to the military community as a whole further provides Service members, their eligible adult family members, DoD civilian employees, and military retirees ways to advance their personal education and career aspirations and prepares them for future vocational pursuits, both inside and outside of DoD. This helps strengthen the Nation by producing a well-educated citizenry and ensures the availability of a significant quality-of-life asset that enhances recruitment and retention efforts in an all-volunteer force.

2. *Purpose.*

a. This MOU articulates the commitment and agreement educational institutions provide to DoD by accepting funds via each Service's tuition assistance (TA) program in exchange for education services.

b. This MOU is not an obligation of funds, guarantee of program enrollments by DoD personnel, their eligible adult family members, DoD civilian employees, and retirees in an educational institution's academic programs, or a guarantee for installation access.

c. This MOU covers courses delivered by educational institutions through all modalities. These include, but are not limited to, classroom instruction, distance education (i.e., web-based, CD–ROM, or multimedia) and correspondence courses.

d. This MOU includes high school programs, academic skills programs, and adult education programs for military personnel and their eligible adult family members.

e. This MOU articulates regulatory and governing directives and instructions:

(1) Eligibility of DoD recipients is governed by Federal law, DoD Instruction 1322.25, DoD Directive 1322.08E, and the cognizant Military Service's policies, regulations, and fiscal constraints.

(2) Postsecondary educational programs provided to Service members using TA on military installations outside of the United States, will be operated in accordance with guidance from DoD Instruction 1322.25, DoD Instruction 1322.19, section 1212 of Public Law 99–145, as amended by section 518 of Public Law 101–189; and under the terms of the Tri-Services contract currently in effect.

f. This MOU is subject at all times to Federal law and the rules, guidelines, and regulations of DoD. Any conflicts between this MOU and such Federal law, rules, guidelines, and regulations will be resolved in favor of the Federal law, rules, guidelines, or regulations.

3. *Educational Institution (Including Certificate and Degree Granting Educational Institutions) Requirements for TA.* Educational institutions must:

a. Sign and adhere to requirements of this MOU, including Service-specific addendums as appropriate, prior to being eligible to receive TA payments.

(1) Those educational institutions that have a current MOU with DoD will sign this MOU:

(a) At the expiration of their current MOU;

(b) At the request of DoD or the specific Military Service holding a separate current MOU. The DoD Voluntary Education Partnership MOU (which includes the Service-specific addendums) is required for an institution to participate in the DoD TA Program. An ''installation MOU'' (which is separate from this MOU) is only required if an institution is operating on a military installation. The installation MOU:

1. Contains the installation-unique requirements that the installation's education advisor coordinated, documented, and retained; is approved by the appropriate Service voluntary education representative; and is presented to the installation commander for final approval.

2. Cannot conflict with the DoD Voluntary Education Partnership MOU and governing regulations.

(2) Educational institutions must comply with this MOU and the requirements in Service-specific addendums that do not conflict with governing Federal law and rules, guidelines, and regulations, which include, but are not limited to, Title 10 of the U.S. Code; DoD Directive 1322.08E, ''Voluntary Education Programs for Military Personnel''; DoD Instruction 1322.25, ''Voluntary Education Programs''; DoD Instruction 1322.19, ''Voluntary Education Programs in Overseas Areas''; and all installation requirements imposed by the installation commander, if the educational institution has been approved to operate on a particular base. Educational institutions failing to comply with the requirements set forth in this MOU may receive a letter of warning, be denied the opportunity to establish new programs, have their MOU terminated, be removed from the installation, and may have the approval of the issuance of TA withdrawn by the Service concerned.

b. Be accredited by a national or regional accrediting agency recognized by the U.S. Department of Education, approved for VA funding, and participating in Federal student aid programs through the Department of Education under Title IV of the Higher Education Act of 1965.

c. Comply with the regulatory guidance provided by DoD and the Services.

d. Participate in the Third Party Education Assessment process when requested. This requirement applies not only to institutions providing courses on military installations, but also to those institutions that provide postsecondary instruction that is not located on the military installation or via DL.

(1) If an institution is operating on the military installation, the institution will

resolve the assessment report findings and provide corrective actions taken within six months following the Third Party Education Assessment to the appropriate education advisor on the military installation, the appropriate Service Voluntary Education Chief, and the DoD Voluntary Education Chief.

(2) If an institution is operating off the military installation or via DL, the institution will resolve the assessment report findings and provide corrective actions taken within six months following the Third Party Education Assessment to the DoD Voluntary Education Chief.

(3) In instances when the resolution action cannot be completed within the six month timeframe, the institution will submit a status report every three months to the appropriate education advisor on the military installation if the institution is operating on the military installation, and the DoD Voluntary Education Chief, until the recommendation is resolved.

e. Prior to enrollment, provide each student with specific information on locating, understanding, and using the following tools:

(1) The College Scorecard is a consumer planning tool and resource to assist prospective students and their families as they evaluate options in selecting a school and is located at: *http://collegecost.ed.gov/scorecard/.*

(2) The Department of Education's Financial Aid Shopping Sheet is used by institutions to assist prospective students and their families better understand the costs of attending an institution before making the final decision on where to enroll. The Shopping Sheet is located at *http://collegecost.ed.gov/shopping_sheet.pdf.*

(3) The Consumer Financial Protection Bureau, located at *http://www.consumerfinance.gov.* The Web site allows prospective students to enter the names of up to three schools and receives detailed financial information on each one and to enter actual financial aid award information.

f. Designate a point of contact or office for academic and financial advising, including access to disability counseling, to assist Service members with completion of studies and with job search activities.

(1) The designated person or office will serve as a point of contact for Service members seeking information about available, appropriate academic counseling, financial aid counseling, and student support services at the institution;

(2) Point of contact will have:

(a) Basic understanding of the military tuition assistance program, Department of Education Title IV funding, education benefits offered by the VA, and familiarity with institutional services available to assist Service members; and

(b) The point of contact does not need to be exclusively dedicated to providing these services and, as appropriate, may refer the Service member to other individuals with an ability to provide these services, both on- and off-campus.

g. Prior to offering, recommending, arranging, signing-up, dispersing, or enrolling Service members for private student loans, provide Service members access to an institutional financial aid advisor who will make available appropriate loan counseling to include but not limited to:

(1) Providing a clear and complete explanation of available financial aid, to include Title IV of the Higher Education Act of 1965, as amended;

(2) Describing the differences between private and Federal student loans and how Federal student loans generally offer more favorable terms, conditions, repayment and forgiveness options;

(3) Disclosing the institution's student loan Cohort Default Rate (CDR), the percentage of its students who borrow, and how its CDR compares to the national average. If the institution's CDR is greater than the national average CDR, it must disclose that information and provide the student with loan repayment data; and

(4) Explaining that students have the ability to refuse all or borrow less than the maximum student loan amount allowed.

h. Have a readmissions policy for Service members:

(1) Allow Service members and reservists to be readmitted to a program if they are temporarily unable to attend class or have to suspend their studies due to service requirements.

(2) Follow the regulation released by the Department of Education (34 CFR 668.8) regarding readmissions requirements for returning Service members seeking readmission to a program that was interrupted due to a Military service obligation, and to apply those provisions to Service members that are temporarily unable to attend classes for less than 30 days within a semester or similar enrollment period due to a Military service obligation. A description of the provisions for U.S. Armed Forces members and their families is provided in Chapter 3 of Volume 2 of the Federal Student Aid Handbook.

i. Have policies in place and within compliance with the regulations issued by the Department of Education (34 CFR 688.71–668.75 and 668.14) related to program integrity issues, including restrictions on recruitment, misrepresentation, and payment of incentive compensation. Adopt an institutional policy banning inducements (including any gratuity, favor, discount, entertainment, hospitality, loan, transportation, lodging, meals, or other item having a monetary value of more than a de minimus amount) to any individual or entity (other than salaries paid to employees or fees paid to contractors in conformity with all applicable laws) for the purpose of securing enrollments of Service members or obtaining access to TA funds as part of efforts to eliminate unfair, deceptive, and abusive marketing aimed at Service members.

j. Have policies in place and within compliance with the regulations issued by the Department of Education (34 CFR 688.43, 668.71–668.75, 668.14 and 600.9) related to program integrity issues, including State authorization. Refrain from high-pressure recruitment tactics as part of efforts to eliminate unfair, deceptive, and abusive marketing aimed at Service members. Such tactics include making multiple unsolicited phone calls to Service members for the purpose of securing their enrollment.

k. Refrain from providing any commission, bonus, or other incentive payment based directly or indirectly or use third party lead generators on securing enrollments or Federal financial aid (including TA funds) to any persons or entities engaged in any student recruiting, admission activities, or making decisions regarding the award of student financial assistance. These tactics are discouraged as part of efforts to eliminate unfair, deceptive, and abusive marketing aimed at Service members.

l. Refrain from automatic program renewals, bundling courses or enrollments. The student and Military Service must approve all course enrollments prior to the start date of the class.

m. If the institution is a member of the Servicemembers Opportunity Colleges (SOC), in addition to the requirements stated in paragraphs 3.a through 3.l of this DoD MOU, the institution will:

(1) Adhere to the SOC Principles, Criteria, and Military Student Bill of Rights. (located at *http://www.soc.aascu.org/socconsortium/PublicationsSOC.html).*

(2) Provide processes to determine credit awards and learning acquired for specialized military training and occupational experience when applicable to a Service member's degree program.

(3) Recognize and use the ACE Guide to the Evaluation of Educational Experiences in the Armed Services to determine the value of learning acquired in military service. Award credit for appropriate learning acquired in military service at levels consistent with ACE Guide recommendations and/or those transcripted by the Community College of the Air Force, when applicable to a Service member's program.

n. If an institution elects not to be a member of SOC, in addition to the requirements stated in paragraphs 3.a. through 3.l. of this DoD MOU, the institution will:

(1) Disclose its transfer credit policies prior to a Service member's enrollment.

(a) If the institution accepts transfer credit from other accredited institutions, then the institution agrees to evaluate these credits in conformity with the principles set forth in the Joint Statement on the Transfer and Award of Credit developed by members of the American Association of Collegiate Registrars and Admissions Officers, the American Council on Education, and the Council for Higher Education Accreditation. The institution will then award appropriate credit, to the extent practicable within the framework of its institutional mission and academic policies.

(b) Decisions about the amount of transfer credit accepted, and how it will be applied to the student's program, will be left to the institution.

(2) Disclose its policies on how they award academic credit for prior learning experiences, including military training and experiential learning opportunities provided by the Military Services, at or before a Service member's enrollment.

(a) In so far as the institution's policies generally permit for the award of credit for comparable prior learning experiences, the institution agrees to evaluate the learning experiences documented on the Service member's official Service transcripts, and, if appropriate, award credit.

(b) The joint services transcript is an official education transcripts tool for documenting the recommended college credits for professional military education, training courses, and occupational experiences of Service members across the Services. The joint services transcript incorporates data from documents such as the Army/ACE Registry Transcript System, the Sailor/Marine ACE Registry Transcript System, the Community College of the Air Force transcript, and the Coast Guard Institute transcript.

(c) Decisions about the amount of experiential learning credit awarded, and how it will be applied to the student's program, will be left to the institution. Once an institution has evaluated a particular military training or experiential learning opportunity for a given program, the institution may rely on its prior evaluation to make future decisions about awarding credit to Service members with the same military training and experience documentation, provided that the course content has not changed.

(3) If general policy permits, transfer credit or credit awarded for prior learning may:

(a) Replace a required course within the major;

(b) Apply as an optional course within the major;

(c) Apply as a general elective;

(d) Apply as a basic degree requirement; or

(e) Waive a prerequisite.

(4) Disclose to Service members any academic residency requirements pertaining to the student's program of study, including total and any final year or final semester residency requirement at or before the time the student enrolls in the program.

(5) Disclose basic information about the institution's programs and costs, including tuition and other charges to the Service member. This information will be made readily accessible without requiring the Service member to disclose any personal or contact information.

(6) Prior to enrollment, provide Service members with information on institutional ''drop/add,'' withdrawal, and readmission policies and procedures to include information on the potential impact of military duties (such as unanticipated deployments or mobilization, activation, and temporary duty assignments) on the student's academic standing and financial responsibilities. For example, a Service member's military duties may require relocation to an area where he or she is unable to maintain consistent computer connectivity with the institution, which could have implications for the Service member's enrollment status. This information will also include an explanation of the institution's grievance policy and process.

(7) Conduct academic screening and competency testing; make course placement based on student readiness.

4. *TA Program Requirements for Educational Institutions*

a. *One Single Tuition Rate.* All Service members attending the same institution, at the same location, enrolled in the same course, will be charged the same tuition rate without regard to their Service component. This single tuition rate includes active duty Service members and the National Guard and Reservists who are activated under Title 10 and using Title 10 Military Tuition Assistance, in order to assure that tuition rate distinctions are not made based on the Service members' branches of Service.

(1) It is understood tuition rates may vary by mode of delivery (traditional or online), at the differing degree levels and programs, and residency designations (in-state or out-of-state). Tuition rates may also vary based on full-time or part-time status, daytime vs. evening classes, or matriculation date, such as in the case of a guaranteed tuition program.

(2) It is also understood that some States have mandated State rates for Guard and Reservists within the State. (Those Guard and Reservists not activated on title 10, U.S. Code orders).

b. *Course Enrollment Information.* The educational institutions will provide course enrollment, course withdrawal, course cancellation, course completion or failure, grade, verification of degree completion, and billing information to the TA issuing Service's education office, as outlined in the Service's regulations and instructions.

(1) Under section 1232g of title 20, United States Code (also known as ''The Family Educational Rights and Privacy Act'' and hereinafter referred to as ''FERPA''), DoD recognizes that institutions are required to obtain consent before sharing personally identifiable non-directory information with a third party. Service members must authorize the institutions to release and forward course enrollment information required in 4.b. to DoD prior to approval of course enrollment using tuition assistance.

(2) If an institution wants to ensure confidentiality during the transmission of data to the third party, then the institution can contact the appropriate Service TA management point of contact to discuss security and confidentiality concerns prior to transmitting information.

c. *Degree Requirements and Evaluated Education Plans*

(1) Institutions will disclose general degree requirements for the Service member's educational program (education plan) to the member and his or her Service prior to the enrollment of the Service member at the institution. These requirements, typically articulated in the institution's course catalog, should:

(a) Include the total number of credits needed for graduation.

(b) Divide the coursework students must complete in accordance with institutional academic policies into general education, required, and elective courses.

(c) Articulate any additional departmental or graduate academic requirements, such as satisfying institutional and major field grade point average requirements, a passing grade in any comprehensive exams, or completion of a thesis or dissertation.

(2) In addition to providing degree requirements, the institution will provide to Service members who have previous coursework from other accredited institutions and relevant military training and experiential learning an evaluated educational plan that indicates how many, if any, transfer credits it intends to award and how these will be applied toward the Service member's educational program. The evaluated educational plan will be provided within 60 days after the individual has selected a degree program and all required official transcripts have been received.

(3) When a Service member changes his or her educational goal or major at the attending school and the Services' education advisor approves the change, then the institution will provide a new evaluated educational plan to the Service member and the Service. Only courses listed in the Service member's education plan will be approved for TA.

(4) Degree requirements in effect at the time of each Service member's enrollment will remain in effect for a period of at least one year beyond the program's standard length, provided the Service member is in good academic standing and has been continuously enrolled or received an approved academic leave of absence. Adjustments to degree requirements may be made as a result of formal changes to academic policy pursuant to institutional or departmental determination, provided that:

(a) They go into effect at least two years after affected students have been notified; or

(b) In instances when courses or programs are no longer available or changes have been mandated by a State or accrediting body, the institution will work with affected Service members to identify substitutions that would not hinder the student from graduating in a timely manner.

(5) Prior to the enrollment of a Service member, the institution must obtain the approval of the institution's accrediting agency for a new course or program offering, provided such approval is appropriate under the substantive change requirements of the accrediting agency.

d. *Approved and TA Eligible Courses.*

(1) *Approved Courses.* If an eligible Service member decides to use TA, educational institutions will enroll him or her only after the TA is approved by the individual's Service. Service members will be solely responsible for all tuition costs without this prior approval. This requirement does not prohibit an educational institution from pre-registering a Service member in a course in order to secure a slot in the course. If a school enrolls the Service member before the appropriate Service approves Military TA, then the Service member could be responsible for the tuition. All Military TA must be requested and approved prior to the start date of the course. The Military TA is approved on a course-by-course basis and only for the specific course(s) and class dates that a Service member requests. If a military student ''self-identifies'' their eligibility and the Service has not approved the funding, then the Service member will be solely responsible for all tuition costs, not the Service.

(2) *TA Eligible Courses.* Courses will be considered eligible for TA if they are:

(a) Part of an individual's evaluated educational plan; or

(b) Prerequisites for courses within the individual's evaluated educational plan; or

(c) Required for acceptance into a higher-level degree program, unless otherwise specified by Service regulations.

e. *Use of Financial Aid with TA.*

(1) ''Top-Up'' eligible active duty DoD personnel may use this Montgomery or Post-9/11 G.I. Bill benefit in conjunction with TA funds from their Service to cover those course costs to the Service member that exceed the amount of TA paid by his or her Service. Reserve Component members who have paid for Chapter 30 G.I. Bill benefits may use those benefits concurrently with TA. Reserve Component members who have earned entitlement for the Post-9/11 G.I., Bill may combine VA benefits and TA as long as the combined benefits do not total more than 100 percent of the actual costs of tuition.

(2) DoD personnel are entitled to consideration for all forms of financial aid that educational institutions make available to students at their home campus. Educational institution financial aid officers will provide information and application processes for Title IV student aid programs, scholarships, fellowships, grants, loans, etc., to DoD TA recipients.

(3) Service members identified as eligible DoD TA recipients, who qualify for Pell Grants through the Department of Education's student aid program, will have their TA benefits applied to their educational institution's account prior to the application of their Pell Grant funds to their account. Unlike TA funds, which are tuition-restricted, Pell Grant funds are not tuition-restricted and may be applied to other allowable charges on the account.

f. *Administration of Tuition.*

(1) The Services will provide TA in accordance with DoD- and Service-appropriate regulations.

(2) TA will be limited to tuition and is refundable in accordance with the institution's tuition refund policy. Additionally, the following refund requirements must be met:

(a) Must be 100 percent refundable up until the start of the course.

(b) The institution's policy for returning unearned TA funds for Service members who stop attending due to Military service obligations must be aligned with provisions in section 484B of Title IV of the Higher Education Act of 1965, and the Department of Education regulations set out at 34 CFR 668.22.

(c) The institution's policy for returning unearned TA funds for Service members who withdraw prior to the course completion must be aligned with provisions in section 484B of Title IV of the Higher Education Act of 1965, and with Department of Education regulations set out at 34 CFR 668.22.

(3) Tuition charged to a Service member will in no case exceed the rate charged to nonmilitary students, unless agreed upon in writing by both the institution and the Service.

(4) Institutions will provide their tuition charges for each degree program to the Services on an annual basis. Any changes in the tuition charges will be provided to and justified to all the Services, as soon as possible, but not fewer than 90 days prior to implementation. If the MOU is with a single educational institution, at a single location, with only one Service, the justification will be provided to that Service, which will then provide that information to the other Services.

(a) Tuition at many public institutions are established by entities over which they have no jurisdiction, such as State legislatures and boards. As such, in some instances tuition decisions will not be made within the 90-day requirement window.

(b) When this happens, the institution should request a waiver (via the DoD MOU Web page) and provide the Services with the new tuition charges. This will ensure the correct rates are applied when a Service member requests tuition to attend the State institution.

(5) Refunds of Government-funded TA will be paid in accordance with the institution's published refund policy and will go to the Service, not to the Service member.

(6) The institution will refund to the Service the total amount of tuition paid for a course that is cancelled by the institution.

(7) TA invoicing information is located in the Service-specific addendums attached to this MOU.

g. *Course Cancellations.* Institutions are responsible for notifying Service members of class cancellations for both classroom and DL courses.

h. *Materials and Electronic Accessibility.*

(1) Institutions will ensure that course materials are readily available, either electronically or in print medium, and provide information about where the student may obtain class materials at the time of enrollment or registration.

(2) Institutional representatives will refrain from encouraging or requiring students to purchase course materials prior to confirmation of sufficient enrollments to conduct the class. Students will be encouraged to verify course acceptance by CCAF (Air Force only) or other program(s), with the installation education advisor before enrolling or requesting TA.

(3) Institutions will provide, where available, electronic access to their main administrative and academic center's library materials, professional services, relevant periodicals, books, and other academic reference and research resources in print or online format that are appropriate or necessary to support the courses offered. Additionally, institutions will ensure adequate print and non-print media resources to support all courses being offered are available at base or installation library facilities, on-site Institution resource areas, or via electronic transmission.

i. *Graduation Achievement Recognition.*

(1) The educational institution will issue, at no cost to the Government, documentation as proof of completion, such as a diploma or certificate, to each student who completes the respective program requirements and meets all financial obligations.

(2) In accordance with Service requirements, the institution will provide the Service concerned with a list of those TA recipients who have completed a certificate, diploma, or degree program. The list will include the degree level, major, and program requirements completion date.

(3) The academic credentials for certificate, diploma, or degree completion should reflect the degree-granting institution and campus authorized to confer the degree.

(a) If the Service member attends a branch of a large, multi-branch university system, the diploma may indicate the credential of the specific campus or branch of the institution from which the student received his or her degree.

(b) Credentials will be awarded to Service members with the same institutional designation as non-Service members who completed the same course work for a degree from the same institution.

(4) The institution will provide students with the opportunity to participate in a graduation ceremony.

j. *Reporting Requirements and Performance Metrics.*

(1) The institution will provide reports via electronic delivery on all DoD TA recipients for programs and courses offered to personnel as required by the cognizant Service. This includes, but is not limited to, TA transactions, final course grades to include incompletes and withdrawals, degrees awarded, certificates earned, evaluated educational plans, courses offered, and military graduation. Institutions providing face-to-face courses on a military installation will provide a class roster to the installation education advisor. The class roster will include information such as the name of the instructor, the first and last name of each student (military and non-military), the course title, the class meeting day(s), the start and ending time of the class, and the class location (e.g., building and room number).

(a) All reporting and transmitting of this information will be done in conformity with all applicable privacy laws, including FERPA.

(b) Institutions will respond to these requests in a timely fashion, which will vary based on the specific nature and scope of the information requested.

(2) The cognizant Service may evaluate the institution's overall effectiveness in administering its academic program, courses, and customer satisfaction to DoD. A written report of the findings will be provided to the institution. The institution will have 90 calendar days to review the report, investigate if required, and provide a written response to the findings.

(3) The Services may request reports from an institution at any time, but not later than 2 years after termination of the MOU with such institution. Responses to all requests for reports will be provided within a reasonable period of time, and generally within 14 calendar days. Institutional response time will depend on the specific information sought by the Services in the report.

5. *Requirements and Responsibilities for the Delivery of On-Installation Voluntary Education Programs and Services*

a. The requirements in this section pertain to institutions operating on a military installation.

An installation MOU:

(1) Is required if an institution is operating on a military installation.

(2) Contains only the installation-unique requirements coordinated by the installation's education advisor, with concurrence from the appropriate Service voluntary education representative, and approved by the installation commander.

(3) Cannot conflict with the DoD Voluntary Education Partnership MOU and governing regulations.

b. Educational institutions will:

(1) Agree to have a separate installation MOU if they have a Service agreement to provide on-installation courses or degree programs.

(2) Comply with the installation-unique requirements in the installation MOU.

(3) Agree to coordinate degree programs offered on the installation with the installation's education advisor, who will receive approval from the installation commander, prior to the opening of classes for registration.

(4) Admit candidates to the institution's on-installation programs at their discretion; however, priority for registration in installation classes will be given in the following order:

(a) Service members.

(b) Federally funded DoD civilian employees.

(c) Eligible adult family members of Service members and DoD civilian employees.

(d) Military retirees.

(e) Non-DoD personnel.

(5) Provide the installation's education advisor, as appropriate, a tentative annual schedule of course offerings to ensure that the educational needs of the military population on the installation are met and to ensure no course or scheduling conflicts with other on-installation programs.

(6) Provide instructors for their installation courses who meet the criteria established by the institution to qualify for employment as a faculty member on the main administrative and academic center.

(7) Inform the installation education advisor about cancellations for classroom-based classes on military installations per the guidelines set forth in the separate installation MOU.

c. The Services' designated installation representative (usually the installation education advisor), will be responsible for determining the local voluntary education program needs for the serviced military population and for selecting the off-duty educational programs to be provided on the installation, in accordance with the Services' policies. The Service, in conjunction with the educational institution, will provide support services essential to operating effective educational programs. All services provided will be commensurate with the availability of resources (personnel, funds, and equipment). This support includes:

(1) Classroom and office space, as available. The Service will determine the adequacy of provided space.

(2) Repairs as required to maintain office and classroom space in ''good condition'' as determined by the Service, and utility services for the offices and classrooms of the institution located on the installation (e.g., electricity, water, and heat).

(3) Standard office and classroom furnishings within available resources. No specialized equipment will be provided.

(4) Janitorial services in accordance with installation facility management policies and contracts.

d. The Service reserves the right to disapprove installation access to any employee of the institution employed to carry out any part of this MOU.

e. Operation of a privately owned vehicle by institution employees on the installation will be governed by the installation's policies.

f. The installation education advisor will check with his or her Service's responsible office for voluntary education prior to allowing an educational institution to enter into an MOU with the installation.

6. *Review, Modifications, Signatures, Effective Date, Expiration Date, and Cancellation Provision.*

a. *Review.* The signatories (or their successors) will review this MOU periodically in coordination with the Services, but no less than every five years to consider items such as current accreditation status, updated program offerings, and program delivery services.

b. *Modifications.* Modifications to this MOU will be in writing and, except for those required due to a change in State or Federal law, will be subject to approval by both of the signatories below, or their successors.

c. *Signatures.* The authorized signatory for DoD shall be designated by the USD(P&R). The authorized signatory for the institution will be determined by the institution.

d. *Effective Date.* This MOU is effective on the date of the later signature.

e. *Expiration Date.* This MOU will expire five years from the effective date, unless terminated or updated prior to that date in writing by DoD or the Institution.

f. *Cancellation Provision.* This MOU may be cancelled by either DoD or the Institution 30 days after receipt of the written notice from the cancelling party. In addition, termination and suspension of an MOU with an institution may be done at any time for failure to follow a term of this MOU or misconduct in accordance paragraphs (a)(18)(i) through (a)(18)(iii) of § 68.6.

For the Department of Defense:

_____

Designated Signatory

_____

Date

For the Institution:

_____

President or Designee

_____

Date

Appendix B to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Air Force (USAF)

1. *Purpose.* This addendum is between (Name of Educational Institution), hereafter referred to as the ''Institution,'' and the United States Air Force (USAF). The purpose of this agreement is to provide guidelines and procedures for the delivery of educational services to Service members, DoD civilian employees, eligible adult family members, military retirees, and non-DoD personnel not covered in the DoD Voluntary Education Partnership Memorandum of Understanding (MOU) between the DoD Office of the Under Secretary of Defense for Personnel and Readiness and the Institution. This addendum is not to be construed in any way as giving rise to a contractual obligation of the USAF to provide funds to the Institution that would be contrary to Federal law.

2. *Responsibilities.*

a. USAF Education and Training Section (ETS) Chief. The USAF ETS Chief will:

(1) Maintain a continuing liaison with the designated Institution representative and be responsible for inspections and the acceptance of the Institution's services. The ETS Chief will assist the Institution representative to provide military and USAF culture orientation to the Institution personnel.

(2) Review requests from Institutions with no on-installation MOU for permission of installation access and space within the ETS to counsel current students, provide information briefings and materials, attend education fairs, and provide other informational services approved by the installation commander. Approval depends on the installation commander. Approval of any school eligible for Military TA will be extended equally to all such schools; same time allotment, space, and frequency.

(3) Assist the Institution or refer them to the information technology contractor for training in the use of the Academic Institution Portal (AI Portal) regarding input of Institution information, degree offerings, tuition rates, grades, invoices, degree completions, and search tools pre-built into the USAF online Voluntary Education System.

b. Institutions will:

(1) Appoint and designate an Institution representative to maintain a continuing liaison with the USAF ETS Chief.

(2) Provide general degree requirements to each airman for his or her education program and the ETS as soon as he or she decides to register with the Institution and while awaiting final evaluation of transfer credits.

(3) Assume responsibility for the administration and proctoring of all course examinations not normally administered and proctored within the traditional, in-the-classroom setting.

(4) Provide to airmen, upon their request, information on Institution policies including, but not limited to, course withdrawal dates and penalties, course cancellation procedures, course grade publication, billing practices, and policy regarding incompletion of a course. Face-to-face counseling is not required.

(5) Register and use the AI Portal to input Institution basic information, degree offerings, tuition rates, invoice submission, course grades submission, degree completions, and to pull pre-established educational institution reports while conducting business with the USAF.

(6) Submit one consolidated invoice per term via the AI Portal for each class in which active duty military airmen are enrolled using Mil TA. Submission will be made during the term, no earlier than after the final add/drop/census date, and no later than 30 calendar days after the end of the term.

(7) Submit course grades via the AI Portal for each class in which active duty military airmen are enrolled using Mil TA. Submission will be made no later than 30 calendar days after the end of the term.

(8) Accept the Government Purchase Card (GPC) for payment of Mil TA.

(9) Provide a list of program graduates via the AI Portal consisting of student name, program title, program type (such as bachelor's degree), and date of graduation no later than 30 calendar days after the end of the term in which graduation requirements are completed. If the AI Portal is not available, provide directly to the base Education and Training Section.

c. Institutions with no on-installation MOU are authorized to request permission for installation access and space within the ETS to counsel current students, provide information briefings and materials, attend education fairs, and other informational services. Approval depends on the installation commander. If approval is granted, then all other permissions will be authorized equally for any school eligible for Military TA; the same time allotment, space, and frequency.

d. All Institutions with an on-installation MOU or invitation for an on-installation activity, such as an educational fair, are authorized to counsel or provide information on any of their programs.

3. *Additional Guidelines*

a. In addition to DoD policy outlined in the DoD MOU, the authorization of Mil TA is further governed by Air Force Instruction (AFI) 36–2306, as well as applicable policy and guidance.

b. Installation access of non-DoD and non-installation personnel is at the discretion of the installation commander. Access once provided can be revoked at any time due to military necessity or due to conduct that violates installation rules or policies.

c. No off-base school will be given permanent space or scheduled for regularly recurring time on-base for student counseling.

Appendix C to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Army

1. *Purpose.* This addendum is between (Name of Educational Institution), hereafter referred to as the ''Institution,'' and the United States Army. The purpose of this agreement is to provide guidelines and procedures for the delivery of educational services to Service members, DoD civilian employees, eligible adult family members, military retirees, and non-DoD personnel not covered in the DoD Voluntary Education Partnership Memorandum of Understanding between the DoD Office of the Under Secretary of Defense for Personnel and Readiness and the Institution. This addendum is not to be construed in any way as giving rise to a contractual obligation of the U.S. Army to provide funds to the Institution that would be contrary to Federal law.

2. *Responsibilities.*

a. *Army Education Services Officer (ESO):* In support of this addendum, the Army ESO will maintain a continuing liaison with a designated Institution representative and be responsible for inspections and the acceptance of the Institution's services. The ESO will provide assistance to the Institution representative to provide military and Army culture orientation to the Institution personnel.

b. *Institutions.* The Institution will:

(1) Appoint and designate an Institution representative to maintain a continuing liaison with the Army ESO.

(2) Adopt the GoArmyEd processes. GoArmyEd is the Army Continuing Education System (ACES) centralized and streamlined management system for the Army's postsecondary voluntary education programs. Existing MOUs or Memorandums of Agreement, Tri-Services contracts, or other contracts that Institutions may have with military installations and ACES remain in place and should be supplemented with DoD Instruction 1322.25.

(3) Agree to all of the terms in the ACES policies and procedures, available at *https://www.hrc.army.mil/site/education/GoArmyEd_School_Instructions.html,* such as: invoicing, grades, reports, library references, etc. For non-Letter of Instruction (LOI) institutions satisfying paragraph 3.f. of this DoD MOU, any requirements in ACES policies and procedures requiring institutions to be a member of SOC are hereby waived.

(4) Institutions currently participating with GoArmyEd as LOI and non-LOI schools, may continue to do so at the discretion of Headquarters, ACES. Non-LOI schools will be subject to the requirements of paragraphs 2.b.(2) and 2.b.(3) of this DoD MOU only to the extent that their existing non-LOI agreement with the U.S. Army provides.

Appendix D to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Marine Corps

1. *Purpose.* This addendum is between (Name of Educational Institution), hereafter referred to as the ''Institution,'' and the U.S. Marine Corps. The purpose of this agreement is to provide guidelines and procedures for the delivery of educational services to Service members, DoD civilian employees, eligible adult family members, military retirees, and non-DoD personnel not covered in the DoD Voluntary Education Partnership Memorandum of Understanding between the DoD Office of the Under Secretary of Defense for Personnel and Readiness and the Institution. This addendum is not to be construed in any way as giving rise to a contractual obligation of the U.S. Marine Corps to provide funds to the Institution that would be contrary to Federal law.

2. *Responsibilities.*

a. *Marine Corps Education Services Officer (ESO):* In support of this addendum, the Marine Corps ESO will maintain a continuing liaison with a designated Institution representative and be responsible for inspections and the acceptance of the Institution's services. The ESO will provide assistance to the Institution representative to provide military and Marine Corps culture orientation to the Institution personnel.

b. *Institution.* The Institution will:

(1) Appoint and designate an Institution representative to maintain a continuing liaison with the Marine Corps ESO.

(2) Provide open enrollment during a designated time periods in courses conducted through media (e.g., portable media devices or computer-aided). Those courses will be on an individual enrollment basis.

(3) When operating on a Marine Corps installation, provide all required equipment when the Institution provides instruction via media.

(4) When operating on a Marine Corps installation, provide library services to the Marine Corps base/installation for students in the form of research and reference materials (e.g., books, pamphlets, magazines) of similar quality to the support provided students on the institution's home campus. Services will also include research and reference material in sufficient quantity to meet curriculum and program demands. Materials will be, at a minimum, the required readings of the instructor(s) for a particular course or program, or the ability for the student to request a copy of such material, from the institution's main library, without any inconvenience or charge to the student (e.g., a library computer terminal that may allow students to order material and have it mailed to their residence).

(5) Route publicity generated for an installation community through the base ESO.

(6) Permit employment of off-duty military personnel or Government civilian employees by the institution, provided such employment does not conflict with the policies set forth in DoD Regulation 5500.7–R. However, Government personnel employed in any way in the administration of this addendum will be excluded from such employment because of conflict of interest.

3. *Billing Procedures, and Formal Grades.*

a. Comply with wide area work flow process for invoicing tuition assistance.

b. Grades will be submitted through the Navy College Management Information System grade entry application.

c. Grade reports will be provided to the Naval Education and Training Professional Development and Technology Center within 30 days of term ending or completion of the course, whichever is earlier.

Appendix E to Part 68—Addendum for Education Services Between [Name of Educational Institution] and the U.S. Navy

1. *Purpose.* This addendum is between (Name of Educational Institution), hereafter referred to as the ''Institution,'' and the U.S. Navy. The purpose of this agreement is to provide guidelines and procedures for the delivery of educational services to Service members, DoD civilian employees, eligible

adult family members, military retirees, and non-DoD personnel not covered in the DoD Voluntary Education Partnership Memorandum of Understanding (MOU) between the DoD Office of the Under Secretary of Defense for Personnel and Readiness and the Institution. This addendum is not to be construed in any way as giving rise to a contractual obligation of the Department of the Navy to provide funds to the academic Institution that would be contrary to Federal law.

2. *Responsibilities.*

a. *Commanding Officer responsible for execution of the Voluntary Education Program.* The commanding officer responsible for execution of the voluntary education program will:

(1) Determine the local voluntary education program needs for the Navy population to be served and recommend to the installation commander the educational programs to be offered on the base;

(2) Administer this agreement and provide program management support;

(3) Manage the Navy College Program Distance Learning Partnership (NCPDLP) agreements.

b. *Navy College Office (NCO):* In support of this addendum, the NCO will maintain a continuing liaison with the designated Institution representative and be responsible for inspections and the acceptance of the Institution's services. The NCO will provide assistance to the Institution representative to provide military and Navy culture orientation to the Institution personnel.

c. *Institution.* The Institution will:

(1) If a distance learning partner institution:

(i) Comply with NCPDLP agreements, if an institution participates in NCPDLP.

(ii) Provide a link to the academic institution through the Navy College Program Web site, only if designated as an NCPDLP school.

(iii) Display the academic Institution's advertising materials (i.e., pamphlets, posters, and brochures) at all NCOs, only if designated as an NCPDLP school.

(2) Appoint and designate an Institution representative to maintain a continuing liaison with the NCO staff.

(3) Comply with wide area work flow processes for invoicing of tuition assistance. Grades will be submitted to the Navy College Management Information System grade entry application.

(4) Ensure library resource arrangements are in accordance with the standards of the Institution's accrediting association and the State regulatory agency having jurisdiction over the academic Institution.

(5) Respond to email messages from students within a reasonable period of time—generally within two workdays, unless extenuating circumstances would justify additional time.

(6) Comply with host command procedures before starting instructor-based courses on any Navy installation. The NCO will negotiate a separate agreement with the academic Institution in concert with the host command procedures.

(7) Mail an official transcript indicating degree completion, at no cost to the sailor or the Government to: Center for Personal and Professional Development, Attn: Virtual Education Center, 1905 Regulus Ave., Suite 234, Virginia Beach, VA 23461–2009.

Dated: August 9, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–19747 Filed 8–13–13; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2013–0474; FRL–9846–9]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to Utah Administrative Code and an Associated Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the State of Utah on September 20, 1999. The September 20, 1999 submittal revised the numbering and format of the Utah Administrative Code (UAC) rules within Utah's SIP. In this action, EPA is acting on those rules from the September 20, 1999 submittal that still require EPA action. Specifically, EPA is proposing to approve R307–110–16, ''Section IX, Control Measures for Area and Point Sources, Part G, Fluoride,'' and to disapprove R307–110–29, ''Section XXI, Diesel Inspection and Maintenance Program.'' In conjunction with our proposed disapproval of R307–110–29, we are also proposing to disapprove the Utah Diesel Inspection and Maintenance Program, which Utah submitted as a revision to the SIP on February 6, 1996, and which was incorporated by reference in R307–110–29 as part of the September 20, 1999 submittal. This action is being taken under section 110 of the CAA.

DATES: Comments must be received on or before September 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2013–0474, by one of the following methods:

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

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2013–0474. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–7814, or *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

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

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

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

(iii) The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).

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

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

(vi) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

(vii) The initials *UAC* mean or refer to the Utah Administrative Code.

I. General Information

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

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

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

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

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

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

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

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

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

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

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

II. Background

Utah's September 20, 1999 submittal revised the numbering and format of the Utah Administrative Code (UAC) rules within Utah's SIP. The purpose was to provide for a more consistent numbering system and a coherent structure allowing provisions to be located more easily within Utah's rules.

On February 14, 2006 (71 FR 7679), we approved many of the re-numbered rules from the September 20, 1999 submittal, but we deferred action on others or explained why no action on the rules was necessary.[1] In subsequent rulemaking actions, we acted on other rules from the September 20, 1999 submittal, or on later versions of the rules that superseded the version submitted on September 20, 1999. In this action, we are acting on those rules from the September 20, 1999 submittal that still require EPA action.[2] Specifically, we are proposing to approve R307–110–16, ''Section IX, Control Measures for Area and Point Sources, Part G, Fluoride,'' and we are proposing to disapprove R307–110–29, ''Section XXI, Diesel Inspection and Maintenance Program.'' In conjunction with our proposed disapproval of R307–110–29, we are also proposing to disapprove the Utah Diesel Inspection and Maintenance Program (Section XXI of the Utah SIP), which Utah submitted to EPA as a SIP revision on February 6, 1996 and which R307–110–29 of the September 20, 1999 submittal incorporated by reference.

In the docket for this proposal, we have included a table that lists the rules from the September 20, 1999 submittal that are not addressed by today's action and that explains why no action on such rules is required.

III. What action is EPA proposing and why?

A. R307–110–16, ''Section IX, Control Measures for Area and Point Sources, Part G, Fluoride''

We are proposing to approve the renumbering of R307–110–16, ''Section IX, Control Measures for Area and Point Sources, Part G, Fluoride.'' This provision incorporates by reference Utah SIP Section IX, Part G, as amended by the Utah Air Quality Board on December 18, 1992, into the UAC.

In our October 13, 2005 proposed rule on Utah's September 20, 1999 submittal (70 FR 59681), we did not propose to act on the renumbering of R307–110–16. As our reason, we stated: ''Utah repealed this rule from the federally approved SIP in their June 17, 1998 SIP submittal that EPA approved on May 20, 2002 (67 FR 35442).'' (70 FR 59687) That statement was incorrect. The May 20, 2002 action did not remove R307–110–16 (under its previous numbering) or associated Utah SIP section IX, Part G from the SIP. Instead, that action removed R307–1–4.11, ''Regulation for the Control of Fluorides from Existing Plants'' from the SIP, in part based on the dismantling of the only facility to

[1] On April 18, 2007 (72 FR 19383), EPA issued a correction notice that corrected certain aspects of the regulatory text in EPA's February 14, 2006 action.

[2] Under a February 2, 2010 settlement agreement with WildEarth Guardians, as amended on June 30, 2011, EPA is required to sign a proposed rulemaking action on the September 20, 1999 submittal by July 31, 2013, and a final rulemaking action by December 20, 2013.

which the provision applied. In fact, on June 25, 2003 (68 FR 37744), we approved the renumbering of Utah SIP Section IX, Part G, and this section remains in the SIP. However, we have not acted on the corresponding renumbering of R307–110–16 in the September 20, 1999 submittal. As R307–110–16 merely incorporates by reference SIP Section IX, Part G, which itself is currently in the SIP, we propose to approve the renumbering of R307–110–16.

B. R307–110–29, ''Section XXI, Diesel Inspection and Maintenance Program''

We are proposing to disapprove R307–110–29, ''Section XXI, Diesel Inspection and Maintenance Program.'' R307–110–29 incorporated by reference the Utah Diesel Inspection and Maintenance Program (Section XXI of the SIP), as adopted by the Utah Air Quality Board on July 12, 1995 (and submitted to EPA on February 6, 1996), which we have not acted on previously. In our October 13, 2005 notice of proposed rulemaking (70 FR 59681), we stated that we would not act to approve R307–110–29 because the rule incorporated by reference Utah's February 6, 1996 SIP submittal. We noted that we would address the February 6, 1996 SIP submittal at a later date (70 FR 59687). We restated our intentions in our final rule of February 14, 2006 (71 FR 7679) in which we noted that we would act on R307–110–29 when we acted on Utah's February 6, 1996 SIP submittal (71 FR 7681). With this proposed rule, we are proposing to disapprove the State's February 6, 1996 submittal of its Diesel Inspection and Maintenance Program (see section III.C. below). Therefore, EPA is also proposing to disapprove R307–110–29 because it incorporates by reference the State's Diesel Inspection and Maintenance Program that we are proposing to disapprove.

C. Utah SIP Revision: Section XXI, ''Diesel Inspection and Maintenance Program''

We are proposing to disapprove Utah's Diesel Inspection and Maintenance Program contained in Section XXI of the Utah SIP, which Utah submitted on February 6, 1996 (hereafter, the ''Program''). The Program requires the inspection of diesel-powered vehicles by means of an emissions opacity test. The opacity of vehicle emissions is measured, using what is known as a snap-idle opacity test, to determine the need for vehicle repair and maintenance. Utah adopted the Program with the goal of reducing particulate emissions from diesel vehicles in the PM_{10}[3] nonattainment areas along the Wasatch Front—namely, Davis, Salt Lake, and Utah Counties.

Our proposed disapproval is based on several issues. First, relevant literature and studies indicate that there is not an accepted correlation between opacity and particulate matter mass emissions in diesel vehicles. Given this lack of correlation between opacity and PM mass emissions, it is unlikely that the snap-opacity test is a good predictor of PM emissions, and the State has not provided data to support a different conclusion. Second, the Governor's February 6, 1996 submittal of the Program did not specify a number of critical parameters, such as the relevant opacity limits or specifications for test equipment. While many of the missing parameters were included in revisions to Davis, Salt Lake, and Utah Counties' inspection and maintenance ordinances that the Utah Division of Air Quality forwarded to us on April 12, 2006, the State did not amend Section XXI of the SIP to include the revised ordinances, and the Governor did not submit such an amendment to us to replace the version submitted on February 6, 1996. Therefore, the Program as submitted is not enforceable as a practical matter. Finally, relevant literature and studies suggest that adjusting diesel vehicles to reduce the opacity of emissions may result in an increase in emissions of nitrogen oxides (NO_X), which are precursors to the formation of $PM_{2.5}$,[4] PM_{10}, and ground level ozone. It is possible, therefore, that repairing vehicles to the opacity test could exacerbate the PM challenge in Utah, and the State again has not provided data to contradict this possibility. We note that on November 13, 2009, Davis, Salt Lake, and Utah Counties were designated nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688). Also, both Salt Lake and Utah Counties retain their original legal designation of nonattainment for PM_{10}.

We are unable to conclude that approval of the Program would strengthen the SIP or would be consistent with the requirements of CAA section 110(l). Section 110(1) states that a SIP revision cannot be federally-approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The potential increase in NO_X emissions from the Program could interfere with attainment or reasonable further progress towards attainment of the $PM_{2.5}$ NAAQS in the relevant counties. We have no conclusive data to show that the potential benefits of the Program outweigh the potential emission increases with respect to pollutants of concern. Furthermore, the State has not provided data that would support the benefits it ascribes to the Program. Instead, it references a 1988 study that attempts to indirectly infer a level of emission reductions resulting from fixing a statistically insignificant number of old-technology diesel vehicles to reduce exhaust opacity, but without conducting the type of before-and-after-repair mass-emission transient testing on the contemporary fleet of diesel vehicles needed to actually quantify any potential impacts on emissions.

For the foregoing reasons, we are proposing to disapprove Section XXI of the SIP, ''Diesel Inspection and Maintenance Program,'' as submitted by the State on February 6, 1996.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 Clean Air Act. Accordingly, this proposed action merely proposes to approve state law that meets federal requirements and proposes to disapprove state law that does not meet federal requirements; if finalized as proposed, this action would 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);

[3] Particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM_{10}).

[4] Particulate matter with an aerodynamic diameter less than or equal to 2.5 microns ($PM_{2.5}$).

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

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

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

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

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 30, 2013.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2013–19597 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0753; FRL–9900–07–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment of the 2006 24-Hour Fine Particulate Matter Standard for the Pittsburgh-Beaver Valley Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make a determination of attainment for the Pittsburgh-Beaver Valley, Pennsylvania fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter referred to as ''the Pittsburgh Area'' or ''the Area''). EPA is proposing to determine that the Pittsburgh Area has attained the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS), based upon quality-assured and certified ambient air monitoring data for 2010–2012. If EPA finalizes this proposed determination of attainment, the requirements for the Pittsburgh Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to the attainment of the standard shall be suspended for so long as the Area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve a request submitted by the Pennsylvania Department of Environmental Protection (PADEP) dated January 17, 2013, to establish motor vehicle emission budgets for the Pittsburgh Area to meet transportation conformity requirements. This action is being taken under the Clean Air Act (CAA). This action does not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Pittsburgh Area will remain nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS until such time as EPA determines that the Pittsburgh Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

DATES: Written comments must be received on or before September 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2012–0753 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–2012–0753, 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–2012–0753. 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.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Proposed Actions
II. Background
III. EPA's Analysis of the Relevant Air Quality Data
IV. Effect of Determination of Attainment for 2006 $PM_{2.5}$ Under Subpart 4 of Part D of Title 1 (Subpart 4)

V. Application of the Clean Data Policy to Attainment-Related Provisions of Subpart 4
VI. Description of 2011 Clean Data MVEBs
VII. Proposed Actions
VIII. Statutory and Executive Order Reviews

I. Summary of Proposed Actions

In accordance with section 179(c)(1) of the CAA, 42 U.S.C. 7509(c)(1) and 40 CFR 51.1004(c), EPA is proposing to determine that the Pittsburgh Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS. The proposal is based upon quality-assured and certified ambient air monitoring data for the 2010–2012 monitoring period, which show that the Pittsburgh Area attained the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve the MVEBs identified for direct $PM_{2.5}$ and nitrogen oxides (NO_X) for transportation conformity purposes. Following EPA's public comment period, responses to any comments received will be addressed.

II. Background

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m³) (hereby ''the 2006 annual $PM_{2.5}$ NAAQS'') based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour standard of 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. The revised 2006 24-hour $PM_{2.5}$ standard (hereafter ''the 2006 24-hour $PM_{2.5}$ NAAQS'') became effective on December 18, 2006. *See* 40 CFR 50.13. The more stringent 2006 24-hour $PM_{2.5}$ NAAQS is based on significant evidence and numerous health studies demonstrating that serious health effects are associated with short-term exposures to $PM_{2.5}$ at this level.

Many petitioners challenged aspects of EPA's 2006 revisions to the $PM_{2.5}$ NAAQS. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Cir. 2009). As a result of this challenge, the U.S. Court of Appeals for the District of Columbia Circuit (hereafter ''the Court'' or ''the D.C. Circuit'') remanded the 2006 annual $PM_{2.5}$ NAAQS to EPA for further proceedings. The 2006 24-hour primary and secondary $PM_{2.5}$ NAAQS were not affected by the remand and remain in effect.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. On November 13, 2009 (74 FR 58688), EPA published designations for the 2006 24-hour $PM_{2.5}$ NAAQS, which became effective on December 14, 2009. In that action, EPA designated the Pittsburgh Area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The Pittsburgh Area consists of Allegheny (not including the townships which are part of the Liberty-Clairton nonattainment area), Beaver, Butler, and Westmoreland Counties, and portions of Armstrong, Greene, and Lawrence Counties. This proposed action only addresses the 2006 24-hour $PM_{2.5}$ NAAQS for the Pittsburgh Area.

III. EPA's Analysis of the Relevant Air Quality Data

Today's rulemaking action proposes to determine that the Pittsburgh Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS, based on quality-assured, quality-controlled, and certified data for the 2010–2012 monitoring period. Under EPA regulations at 40 CFR 50.13(c), the 2006 24-hour primary and secondary $PM_{2.5}$ standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 35.0 μg/m³. Data handling conventions and computations necessary for determining whether areas have met the $PM_{2.5}$ NAAQS, including requirements for data completeness, are listed in appendix N of 40 CFR part 50.

For the Pittsburgh Area to be in attainment with respect to the 2006 24-hour $PM_{2.5}$ NAAQS, the 24-hour design value of the Pittsburgh Area must be less than the standard. The 24-hour design value determined for an area is the highest 3-year average of the annual 98th percentile measured at all the monitors. Only valid and complete air quality data can be used for comparison to the 2006 24-hour $PM_{2.5}$ NAAQS. A year meets data completeness requirements when at least 75 percent of the scheduled sampling days for each quarter have valid data. However, years are considered valid, notwithstanding quarters with less than complete data, if the resulting annual 98th percentile value or resulting 24-hour standard design value is greater than the level of the standard.

Several monitors in the Pittsburgh Area were not meeting the completeness requirement for one or more quarters during 2010–2012 monitoring period. EPA has addressed missing data from incomplete monitors by applying either the maximum quarter substitution test (''maximum quarter test'') or EPA's statistical procedure, described in EPA's April 1999 guidance document ''Guideline on Data Handling Conventions for the PM NAAQS,'' which is available online at *http://www.epa.gov/ttn/caaa/t1/memoranda/pmfinal.pdf.*

The maximum quarter data substitution test (maximum quarter test) was applied to four incomplete monitors in the Pittsburgh Area for 2010–2012. In the maximum quarter test, maximum recorded values are substituted for the missing data, and the resulting 24-hour design value is compared to the 2006 24-hour $PM_{2.5}$ NAAQS. A monitor with incomplete data passes the test if the 24-hour design value with maximum values substituted meets the 2006 24-hour $PM_{2.5}$ NAAQS. The ''Complete Data'' column of Table 1 below indicates which incomplete monitors passed the maximum quarter test, and therefore attain the 2006 24-hour $PM_{2.5}$ NAAQS.

One monitor in the Pittsburgh Area, the Greensburg monitor (at site 42–129–0008), did not meet the completeness requirement for one quarter of 2011. EPA has addressed missing data from the Greensburg monitor by performing a statistical analysis of the data, in which a linear regression relationship is established between the site with incomplete data and a nearby site which has more complete data in the period in which the incomplete site is missing data. The linear regression relationship is based on time periods in which both monitors were operating. The linear regression equation developed from the relationship between the monitors is used to fill in missing data for the incomplete monitor, so that the normal data completeness requirement of 75 percent of data in each quarter of the three years is met. After the missing data for the site are filled in, the results are verified through an additional statistical test. The results of EPA's statistical analysis indicated that while the Greensburg monitor had less than complete data, the data are sufficient to demonstrate that the NAAQS has been met. Additional details on data completeness issues for the Pittsburgh Area's monitoring sites can be found in the Technical Support Document (TSD) for this action entitled, ''Technical Support Document for the Pennsylvania Determination of Attainment of the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standard for the Pittsburgh-Beaver Valley Nonattainment Area,'' which is available online at *www.regulations.gov,* Docket ID No. EPA–R03–OAR–2012–0753.

EPA has reviewed the quality-assured, quality-controlled, and certified ambient air monitoring data recorded in EPA's Air Quality System (AQS) database for 24-hour $PM_{2.5}$ for the Pittsburgh Area during the 2010–2012 monitoring

period, consistent with the requirements contained in 40 CFR part 50. Table 1 provides valid 24-hour $PM_{2.5}$ air quality data for the Pittsburgh Area for comparison to the 2006 24-hour $PM_{2.5}$ NAAQS for the 2010–2012 monitoring period.

TABLE 1—PITTSBURGH AREA'S 2010–2012 24-HOUR $PM_{2.5}$ AIR QUALITY DATA

[In μg/m³]

County	AQS site ID	Site name	98th percentile value			2010–2012 24-hour design value	Complete data? [1]
			2010	2011	2012		
Allegheny	42–003–0008	Lawrence	30	27	20	26	Yes.
Allegheny	42–003–0067	S. Fayette	29	31	18	26	Yes.
Allegheny	42–003–0093	North Park	27	26	16	23	Yes (Max Quarter).
Allegheny	42–003–1008	Harrison	34	30	21	28	Yes (Max Quarter).
Allegheny	42–003–1301	N. Braddock	37	34	27	33	Yes (Max Quarter).
Beaver	42–007–0014	Beaver Falls	29	30	27	29	Yes.
Washington	42–125–0005	Charleroi	27	29	26	28	Yes (Max Quarter).
Washington	42–125–0200	Washington	27	27	25	27	Yes.
Washington	42–125–5001	Florence	22	12	17	20	Yes.
Westmoreland	42–129–0008	Greensburg	33	33	29	33	No (Statistical).

EPA's review of quality-assured, quality-controlled, and certified ambient $PM_{2.5}$ air monitoring data of the Pittsburgh Area during 2010–2012 indicates that the Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS. Currently, all monitors are measuring concentrations averaging below the 2006 24-hour $PM_{2.5}$ NAAQS of 35 μg/m³. The 24-hour design value of the Pittsburgh $PM_{2.5}$ Area for 2010–2012 is 33 μg/m³, based on monitoring data collected at the North Braddock site (42–003–1301) and the Greensburg site (42–129–0008). On the basis of this review, EPA proposes to determine that the Pittsburgh Area attains the 2006 24-hour $PM_{2.5}$ based on data for the 2010–2012 monitoring period.

IV. Effect of Determination of Attainment for 2006 $PM_{2.5}$ Under Subpart 4 of Part D of Title I (Subpart 4)

This section of EPA's proposal addresses the effects of a final determination of attainment for the Pittsburgh Area. For the 1997 $PM_{2.5}$ standard, 40 CFR 51.1004 of EPA's Implementation Rule embodies EPA's ''Clean Data Policy'' interpretation under subpart 1. The provisions of section 51.1004 set forth the effects of a determination of attainment for the 1997 $PM_{2.5}$ standard. (72 FR 20585, 20665, April 25, 2007). While the regulatory provisions of 51.1004(c) do not explicitly apply to the 2006 $PM_{2.5}$ standard, the underlying statutory interpretation is the same for both standards. (77 FR 76427, December 28, 2012; proposed determination of attainment for the 2006 $PM_{2.5}$ standard for Milwaukee, WI).

On January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the DC Circuit remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule'' or ''Implementation Rule''). 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant solely to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4. The Court remanded EPA's Implementation Rule for further proceedings consistent with the Court's decision. In light of the Court's decision and its remand of the Implementation Rule, EPA in this proposed rulemaking action addresses the effect of a final determination of attainment for the Pittsburgh Area, if that area were considered a moderate nonattainment area under subpart 4.[2] As set forth in more detail below, under EPA's Clean Data Policy interpretation, a determination that the area has attained the standard suspends the state's obligation to submit attainment-related planning requirements of subpart 4 (and the applicable provisions of subpart 1) for so long as the area continues to attain the standard. These include requirements to submit an attainment demonstration, RFP, RACM, and contingency measures, because the purpose of these provisions is to help reach attainment, a goal which has already been achieved.

A. Background on Clean Data Policy

Over the past two decades, EPA has consistently applied its ''Clean Data Policy'' interpretation to attainment-related provisions of subparts 1, 2 and 4. The Clean Data Policy is the subject of several EPA memoranda and regulations. In addition, numerous individual rulemakings actions published in the **Federal Register** have applied the interpretation to a spectrum of NAAQS, including the 1-hour and 1997 ozone, PM_{10}, $PM_{2.5}$, carbon monoxide (CO), and lead (Pb) standards. The D.C. Circuit has upheld the Clean Data Policy interpretation as embodied in EPA's 8-hour ozone Implementation Rule, 40 CFR 51.918.[3] (*NRDC* v. *EPA,* 571 F. 3d 1245 (D.C. Cir. 2009)). Other U.S. Circuit Courts of Appeals that have considered and reviewed EPA's Clean Data Policy interpretation have upheld it and the rulemakings actions applying EPA's interpretation. *Sierra Club* v.

[1] ''Max Quarter'' denotes the maximum quarter data substitution test, and ''Statistical'' denotes that EPA's statistical procedure has been applied to address the missing data and calculate a ''complete'' design value.

[2] For the purposes of evaluating the effects of this proposed determination of attainment under subpart 4, we are considering the Pittsburgh Area to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas, and would remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Section 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)). In addition, EPA also evaluates the applicable requirements of subpart 1.

[3] ''EPA's Final Rule to implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2 (Phase 2 Final Rule).'' (70 FR 71612, 71645–46) (November 29, 2005).

EPA, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club v. EPA,* 375 F. 3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* N. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion), *Latino Issues Forum,* v. *EPA,* Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009.

As noted previously in the rulemaking action, EPA incorporated its Clean Data Policy interpretation in both its 1997 8-hour ozone implementation rule and in its $PM_{2.5}$ Implementation Rule in 40 CFR 51.1004(c). (72 FR 20585, 20665, April 25, 2007). While the D.C. Circuit, in its January 4, 2013 decision, remanded the 1997 $PM_{2.5}$ Implementation Rule, the Court did not address the merits of that regulation, nor cast doubt on EPA's existing interpretation of the statutory provisions.

However, in light of the Court's decision, EPA sets forth here the Clean Data Policy interpretation under subpart 4, for the purpose of identifying the effects of a determination of attainment for the 2006 $PM_{2.5}$ standard for the Pittsburgh Area. EPA has previously articulated its Clean Data interpretation under subpart 4 in implementing the PM_{10} standard. *See e.g.,* (75 FR 27944, May 19, 2010) (determination of attainment of the PM–10 standard in Coso Junction, California); (75 FR 6571, February 10, 2010), (71 FR 6352, February 8, 2006) (Ajo, Arizona area); (71 FR 13021, March 14, 2006) (Yuma, Arizona area); (71 FR 40023, July 14, 2006) (Weirton, West Virginia area); (71 FR 44920, August 8, 2006) (Rillito, Arizona area); (71 FR 63642, October 30, 2006) (San Joaquin Valley, California area); (72 FR 14422, March 28, 2007) (Miami, Arizona area); (75 FR 27944, May 19, 2010) (Coso Junction, California area). Thus EPA has established that, under subpart 4, an attainment determination suspends the obligations to submit an attainment demonstration, RACM, RFP, contingency measures, and other measures related to attainment.

V. Application of the Clean Data Policy to Attainment-Related Provisions of Subpart 4

In EPA's proposed and final rulemaking actions determining that the San Joaquin Valley nonattainment area attained the PM_{10} standard, EPA set forth at length its rationale for applying the Clean Data Policy to PM_{10} under subpart 4. The Ninth Circuit upheld EPA's final rulemaking, and specifically EPA's Clean Data Policy, in the context of subpart 4. *Latino Issues Forum* v. *EPA, supra.* Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009. In rejecting petitioner's challenge to the Clean Data Policy under subpart 4 for PM_{10}, the Ninth Circuit stated, ''As EPA explained, if an area is in compliance with PM_{10} standards, then further progress for the purpose of ensuring attainment is not necessary.''

The general requirements of subpart 1 apply in conjunction with the more specific requirements of subpart 4, to the extent they are not superseded or subsumed by the subpart 4 requirements. Subpart 1 contains general air quality planning requirements for areas designated as nonattainment. *See* Section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10} nonattainment areas, and under the Court's January 4, 2013 decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992) (the ''General Preamble''). In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM_{10} requirements.'' (57 FR 13538, April 16, 1992). These subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

EPA has long interpreted the provisions of subpart 1 (sections 171 and 172) as not requiring the submission of RFP for an area already attaining the ozone NAAQS. For an area that is attaining, showing that the state will make RFP towards attainment ''will, therefore, have no meaning at that point.'' 57 FR 13564. *See* 71 FR 40952 and 71 FR 63642 (proposed and final determination of attainment for San Joaquin Valley); 75 FR 13710 and 75 FR 27944 (proposed and final determination of attainment for Coso Junction).

Section 189(c)(1) of subpart 4 states that:

> Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section [171(1)] of this title, toward attainment by the applicable date.

With respect to RFP, section 171(1) states that, for purposes of part D, RFP ''means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.'' Thus, whether dealing with the general RFP requirement of section 172(c)(2), the ozone-specific RFP requirements of sections 182(b) and (c), or the specific RFP requirements for PM_{10} areas of subpart 4, section 189(c)(1), the stated purpose of RFP is to ensure attainment by the applicable attainment date.

Although section 189(c) states that revisions shall contain milestones which are to be achieved until the area is redesignated to attainment, such milestones are designed to show reasonable further progress ''toward attainment by the applicable attainment date,'' as defined by section 171. Thus, it is clear that once the area has attained the standard, no further milestones are necessary or meaningful. This interpretation is supported by language in section 189(c)(3), which mandates that a state that fails to achieve a milestone must submit a plan that assures that the state will achieve the next milestone or attain the NAAQS if there is no next milestone.

Section 189(c)(3) assumes that the requirement to submit and achieve milestones does not continue after attainment of the NAAQS.

In the General Preamble, EPA noted with respect to section 189(c) that the purpose of the milestone requirement ''is to provide for emission reductions adequate to achieve the standards by the applicable attainment date (H.R. Rep. No. 490 101st Cong., 2d Sess. 267 (1990)).'' (57 FR 13539, April 16, 1992). If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled.[4] Similarly, the requirements of

[4] Thus, EPA believes that it is a distinction without a difference that section 189(c)(1) speaks of the RFP requirement as one to be achieved until an area is ''redesignated attainment,'' as opposed to section 172(c)(2), which is silent on the period to which the requirement pertains, or the ozone nonattainment area RFP requirements in sections 182(b)(1) or 182(c)(2), which refer to the RFP requirements as applying until the ''attainment date,'' since section 189(c)(1) defines RFP by reference to section 171(1) of the Act. Reference to section 171(1) clarifies that, as with the general RFP requirements in section 172(c)(2) and the ozone-specific requirements of section 182(b)(1) and 182(c)(2), the PM-specific requirements may only be required ''for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' 42 U.S.C. 7501(1). As

section 189(c)(2) with respect to milestones no longer apply so long as an area has attained the standard. Section 189(c)(2) provides in relevant part that:

> Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration . . . that the milestone has been met.

Where the area has attained the standard and there are no further milestones, there is no further requirement to make a submission showing that such milestones have been met. This is consistent with the position that EPA took with respect to the general RFP requirement of section 172(c)(2) in the April 16, 1992 General Preamble and also in the May 10, 1995 Seitz memorandum with respect to the requirements of section 182(b) and (c). In the May 10, 1995 Seitz memorandum, EPA also noted that section 182(g), the milestone requirement of subpart 2, which is analogous to provisions in section 189(c), is suspended upon a determination that an area has attained. The memorandum, also citing additional provisions related to attainment demonstration and RFP requirements, stated:

> ''Inasmuch as each of these requirements is linked with the attainment demonstration or RFP requirements of section 182(b)(1) or 182(c)(2), if an area is not subject to the requirement to submit the underlying attainment demonstration or RFP plan, it need not submit the related SIP submission either.'' *See* 1995 Seitz memorandum at 5.

With respect to the attainment demonstration requirements of section 172(c) and section 189(a)(1)(B), an analogous rationale leads to the same result. Section 189(a)(1)(B) requires that the plan provide for ''a demonstration (including air quality modeling) that the [SIP] will provide for attainment by the applicable attainment date . . .'' As with the RFP requirements, if an area is already monitoring attainment of the standard, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of the section 172(c) requirements provided by EPA in the General Preamble, and the section 182(b) and (c) requirements set forth in the Seitz memo. As EPA stated in the General Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' 57 FR 13564.

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of section 172(c)(9). EPA has interpreted the contingency measure requirements of section 172(c)(9)[5] as no longer applying when an area has attained the standard because those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' 57 FR 13564; Seitz memo, pp. 5–6. Section 172(c)(9) provides that SIPs in nonattainment areas:

> ''shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or [EPA].''

The contingency measure requirement is inextricably tied to the reasonable further progress and attainment demonstration requirements. Contingency measures are implemented if reasonable further progress targets are not achieved, or if attainment is not realized by the attainment date. Where an area has already achieved attainment by the attainment date, it has no need to rely on contingency measures to come into attainment or to make further progress to attainment. As EPA stated in the General Preamble: ''The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date.'' *See* 57 FR 13564. Thus, these requirements no longer apply when an area has attained the standard.

Both sections 172(c)(1) and 189(a)(1)(C) require ''provisions to assure that reasonably available control measures'' (i.e., RACM) are implemented in a nonattainment area. The General Preamble, (57 FR 13560, April 16, 1992), states that EPA interprets section 172(c)(1) so that RACM requirements are a ''component'' of an area's attainment demonstration. Thus, for the same reason the attainment demonstration no longer applies by its own terms, the requirement for RACM no longer applies. EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable further progress or to attainment. General Preamble, 57 FR 13498. Thus, where an area is already attaining the standard, no additional RACM measures are required.[6] EPA is interpreting section 189(a)(1)(C) consistent with its interpretation of section 172(c)(1).

The suspension of the obligations to submit SIP revisions concerning these RFP, attainment demonstration, RACM, contingency measures and other related requirements exists only for as long as the area continues to monitor attainment of the standard. If EPA determines, after notice-and-comment rulemaking, that the area has monitored a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. In that case, the area would again be subject to a requirement to submit the pertinent SIP revision or revisions and would need to address those requirements. Thus, a final determination that the area need not submit one of the pertinent SIP submittals amounts to no more than a suspension of the requirements for so long as the area continues to attain the standard. Only if and when EPA redesignates the area to attainment would the area be relieved of these submission obligations. Attainment determinations under the Clean Data Policy do not shield an area from obligations unrelated to attainment in the area, such as provisions to address pollution transport.

As set forth previously, based on our proposed determination that the Pittsburgh Area is currently attaining the 2006 24-hour $PM_{2.5}$ NAAQS, EPA proposes to find that the obligations to submit planning provisions to meet the requirements for an attainment demonstration, RFP, RACM, and contingency measures are suspended for so long as the area continues to monitor attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. If in the future, EPA determines after notice-and-comment rulemaking that the area again violates the 2006 24-hour $PM_{2.5}$ NAAQS, the basis for suspending the attainment demonstration, RFP, RACM, and contingency measure obligations would no longer exist. *See* 40 CFR 51.1004(c).

VI. Description of 2011 Clean Data MVEBs

Under section 176(c) of the CAA, new transportation plans, programs, and

discussed in the text of this rulemaking, EPA interprets the RFP requirements, in light of the definition of RFP in section 171(1), and incorporated in section 189(c)(1), to be a requirement that no longer applies once the standard has been attained.

[5] *See* section 182(c)(9) for ozone.

[6] EPA's interpretation that the statute requires implementation only of RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit (*Sierra Club* v. *EPA,* 314 F.3d 735, 743–745 (5th Cir. 2002), and by the United States Court of Appeals for the D.C. Circuit (*Sierra Club* v. *EPA,* 294 F.3d 155, 162–163 (D.C. Cir. 2002)).

projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. The CAA requires Federal actions in nonattainment and maintenance areas to ''conform to'' the goals of the SIP. This means that such actions will not cause or contribute to violations of NAAQS; worsen the severity of an existing violation; or delay timely attainment of any NAAQS or any interim milestone.

As described in 40 CFR 93.109(c)(5) of the transportation conformity rule and the preamble of the Transportation Conformity Restructuring Amendments (77 FR 14982, March 14, 2012), any nonattainment area that EPA determines has air quality monitoring data that meet the requirements of 40 CFR parts 50 and 58 and that show attainment of a NAAQS (clean data) must satisfy one of the following requirements: (1) The budget test and/or interim emissions tests as required by section 93.118 and 93.119; (2) the budget test as required by section 93.118, using the adequate or approved MVEBs in the submitted or applicable control strategy implementation plan for the NAAQS for which the area is designated nonattainment; or (3) the budget test as required by section 93.118, using the motor vehicle emissions in the most recent year of attainment as MVEBs, if the state or local air quality agency requests that the motor vehicle emissions in the most recent year of attainment be used as budgets, and EPA approves the request in the rulemaking that determines that the area has attained the NAAQS for which the area is designated nonattainment.

On January 17, 2013, EPA received a request for the approval and establishment of MVEBs for $PM_{2.5}$ and NO_X for the Pittsburgh Area from PADEP for the year 2011. The transportation conformity rule allows the state air quality agency to request that motor vehicle emissions in the most recent year of clean data be used as budgets. EPA must approve that request in the rulemaking that determines that the area has attained the relevant NAAQS (40 CFR 93.109(c)(5)(iii)). These budgets were calculated using the Motor Vehicle Emissions Simulator emissions model (MOVES). The MOVES model is EPA's state-of-the-art tool for estimating highway emissions that incorporates the latest emissions data. For more information, see EPA's ''Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (April 2012).

The Pittsburgh Area may establish clean data MVEBs under 40 CFR 93.109(c)(5)(iii) because the following criteria were met: (1) The state requested that budgets be established in conjunction with EPA's determination of attainment (Clean Data) rulemaking for the 2006 24-hour $PM_{2.5}$ NAAQS, and EPA approved the request; and (2) the Pittsburgh Area has not submitted a maintenance plan for the 2006 24-hour $PM_{2.5}$ NAAQS and EPA has determined that the Area is not subject to the CAA RFP and attainment demonstration requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.

In accordance with the transportation conformity regulations at 40 CFR 93.102(b)(1) and (2)(iv) and (v), only MVEBs for $PM_{2.5}$ and NO_X for year 2011 are applicable for meeting conformity requirements in the Pittsburgh Area. The transportation conformity rule requires that before a SIP is submitted the area must address direct $PM_{2.5}$ emissions and must also address NO_X emissions unless EPA and the state have made a finding that transportation-related emissions of NO_X are not a significant contributor to the area's $PM_{2.5}$ problem. Therefore, the Commonwealth has requested that MVEBs be established for on-road emissions of direct $PM_{2.5}$ and NO_X. With regard to the remaining $PM_{2.5}$ precursors which are volatile organic compounds (VOCs), sulfur dioxide (SO_2), and ammonia (NH_3), the transportation conformity rule indicates that before a SIP is submitted, these precursors must be addressed only if either EPA or the Commonwealth makes a finding that on-road emissions of any of these precursors is a significant contributor to the area's $PM_{2.5}$ problem. Neither EPA nor the Commonwealth has made such a finding with regard to any of these precursors. Therefore, consistent with the transportation conformity rule, the Commonwealth did not request that MVEBs be established for VOCs, SO_2 or NH_3.

EPA issued conformity regulations to implement the 2006 $PM_{2.5}$ NAAQS in March 2010 (75 FR 14260, March 24, 2010). Those actions were not part of the final rule recently remanded to EPA by the DC Circuit in *NRDC* v. *EPA,* 706 F.3d 428, in which the court remanded to EPA the implementation rule for the $PM_{2.5}$ NAAQS because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4, rather than solely under the general provisions of subpart 1. That decision does not affect EPA's proposed approval of the Pittsburgh Area MVEBs.

First, as noted above, EPA's conformity rules implementing the $PM_{2.5}$ NAAQS were separate actions from the overall $PM_{2.5}$ implementation rule addressed by the Court and were not considered or disturbed by the decision. Therefore, the conformity regulations were not at issue in *NRDC* v. *EPA.*[7] In addition, as discussed elsewhere in today's proposal, the Pittsburgh Area attained the 2006 $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ based on 2010–2012 air quality data.

EPA has reviewed the direct $PM_{2.5}$ and NO_X MVEBs that were submitted by the Commonwealth. EPA reviewed the budgets by applying the general requirements of the transportation conformity rule's adequacy criteria (40 CFR 93.118(e)(4)(i)–(v)). These criteria are not directly applicable because they apply to budgets that are submitted as part of a SIP submittal and the budgets that are under review in this action were submitted under the transportation conformity rule provision that allows a state to request that budgets be established through the EPA's clean data determination process. However, these criteria establish a general framework for the review of any MVEBs before those budgets are made effective for the use in transportation conformity determinations. A more detailed evaluation of how the Pittsburgh Area satisfied the requirements for clean data MVEBs can be found in a separate TSD for this action entitled, ''Technical Support Document for the Review of the Clean Data Motor Vehicle Emissions Budgets (MVEBs) for Fine Particulate Matter ($PM_{2.5}$) and Nitrogen Oxide (NO_X) for the Determination of Attainment of the 2006 24-Hour Fine Particulate Matter Standard for the Pittsburgh-Beaver Valley Nonattainment Area,'' which is available online at *www.regulations.gov,* Docket ID No. EPA–R03–OAR–2012–0753.

EPA is proposing to approve the following MVEBs for the 2006 24-hour $PM_{2.5}$ NAAQS in Table 2:

[7] The 2004 rulemaking action addressed most of the transportation conformity requirements that apply in $PM_{2.5}$ nonattainment and maintenance areas. The 2005 conformity rule included provisions addressing treatment of $PM_{2.5}$ precursors in MVEBs. *See* 40 CFR 93.102(b)(2). The 2010 rulemaking addressed requirements for the 2006 $PM_{2.5}$ NAAQS. While none of these provisions were challenged in the NRDC case, EPA also notes that the court declined to address challenges to EPA's presumptions regarding $PM_{2.5}$ precursors in the $PM_{2.5}$ implementation rule. *NRDC* v. *EPA,* 706 F.3d at 437 n.10.

TABLE 2—MOTOR VEHICLE EMISSIONS BUDGETS

Geographic area	Year	$PM_{2.5}$ (tons/year)	NO_X (tons/year)
Pittsburgh Area	2011	961.71	28,973.05

If EPA approves these MVEBs in the final rulemaking action, the new MVEBs must be used for future transportation conformity determinations. The 2011 MVEBs, if approved in the final rulemaking action, will be effective on the date of publication of EPA's final rulemaking action in the **Federal Register**.

VII. Proposed Actions

EPA proposes to determine, based on the most recent three years of complete, quality-assured and certified data meeting the requirements of 40 CFR part 50, appendix N, that the Pittsburgh Area is currently attaining the 2006 24-hour $PM_{2.5}$ NAAQS. Based upon EPA's proposed determination that Pittsburgh Area is currently attaining the standard, EPA proposes to determine that the obligation to submit the following attainment-related planning requirements are not applicable for so long as the Area continues to attain the $PM_{2.5}$ standard: Subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of section 189(a)(1)(C), the RFP provisions of section 189(c), and related attainment demonstration, RACM, RFP, and contingency measure provisions requirements of subpart 1, section 172. This proposed rulemaking action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3).

In conjunction with this proposed finding of attainment, pursuant to 40 CFR 93.109(c)(5)(iii), as described in the transportation conformity rule and the preamble of the Transportation Conformity Restructuring Amendments (77 FR 14982, March 14, 2012), EPA is also proposing to approve the MVEBs for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VIII. Statutory and Executive Order Reviews

This rulemaking action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain federal requirements. This action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed determination of attainment of the Pittsburgh Area with respect to the 2006 24-hour $PM_{2.5}$ NAAQS and the MVEBs, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the determination 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 31, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–19760 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0392; FRL–9900–06–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) submittal from the State of Delaware pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. Delaware has made a submittal addressing the infrastructure requirements for the 2010 nitrogen dioxide (NO_2) NAAQS.

DATES: Written comments must be received on or before September 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0392 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–2013–0392, 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–2013–0392. 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 Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 9, 2010 (75 FR 6474), EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations.

Section 110(a) of the CAA requires states to submit state implementation plans (SIPs) that provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years following the promulgation of such NAAQS. Section 110(a) of the CAA imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS. For the 2010 NO_2 NAAQS, states have already put in place many of the basic program elements required in section 110(a)(2) of the CAA through prior SIP revisions under previous NO_2 NAAQS. Section 110(a)(2) of the CAA lists specific elements that states must demonstrate have been met in the SIP. The requirements include SIP infrastructure elements such as requirements for modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS.

Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to other provisions of the CAA for submission of SIP revisions specifically applicable for attainment planning purposes. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) that pertain to the nonattainment planning requirements of part D, Title I of the CAA. This proposed rulemaking action does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

II. Summary of State Submittal

On March 27, 2013, Delaware provided a SIP submittal to satisfy CAA section 110(a)(2) requirements, that is the subject of this proposed rulemaking, for the 2010 NO_2 NAAQS. This submittal addressed the following infrastructure elements: Section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).

EPA has analyzed the above identified SIP submission and is proposing to make a determination that this submittal meets the requirements of section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. A detailed summary of EPA's review and rationale for approving Delaware's SIP submittal may be found in the Technical Support Document (TSD) for this action which is available on line at *www.regulations.gov,* Docket number EPA–R03–OAR–2013–0392.

III. Proposed Action

EPA is proposing to approve Delaware's SIP submittal that provides the basic program elements specified in CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M) necessary to implement, maintain, and enforce the 2010 NO_2 NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

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 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).

This proposed rule, pertaining to Delaware's CAA section 110(a)(2) infrastructure requirements for the 2010 NO_2 NAAQS, 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, Nitrogen dioxide, Reporting and recordkeeping requirements.

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

Dated: July 31, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–19751 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2010–0133; FRL–9900–01–OAR]

RIN 2060–AR55

Denial of Petitions for Reconsideration of Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of petitions for reconsideration.

SUMMARY: The Environmental Protection Agency (EPA, or Agency) is denying two petitions for reconsideration of the final rule entitled Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume.

DATES: EPA's denials of the petitions for reconsideration were issued by letters dated August 6, 2013.

FOR FURTHER INFORMATION CONTACT: Paul Argyropoulos; Office of Transportation and Air Quality; Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–1123; email address: *argyropoulos.paul@epa.gov.*

SUPPLEMENTARY INFORMATION:

Description of Action: Section 211(o)(2)(B)(ii) of the Clean Air Act requires that EPA determine the applicable volume of biomass-based diesel to be used in setting annual percentage standards under the renewable fuel standard program for years after 2012. EPA issued a Notice of Proposed Rulemaking (''NPRM'') on July 1, 2011 which proposed a number of actions,[1] including proposing 1.28 billion gallons as the applicable volume of biomass-based diesel for 2013. After considering public comments on its proposal, EPA issued a final rule on September 27, 2012 establishing 1.28 billion gallons as the applicable volume of biomass based diesel for 2013.[2]

Petitioners, the American Fuel & Petrochemical Manufacturers (AFPM) and the American Petroleum Institute (API), submitted comments [3] to EPA during the comment period on the July 1, 2011, proposed rule, and subsequently each individually submitted a petition for reconsideration of the final rule published on September 27, 2012 and which became effective on November 26, 2012.[4] Both petitioners requested that EPA reconsider its final decision to set the applicable volume requirement of biomass-based diesel at 1.28 billion gallons instead of the minimum 1.0 billion gallons specified in the statute. Issues raised by AFPM included the impact of the 2012 drought on feedstock availability and cost, the impact of fraudulent RINs on EPA's assessment of the growth potential of the biodiesel industry in 2013, and the adequacy of EPA's assessment of impacts of the rule related to cost, energy security, job creation, greenhouse case emissions and other matters. API's petition was more limited and focused on the issue of fraudulent RINs.

After carefully considering the petitions and all supporting information, the EPA Administrator denied the petitions for reconsideration on August 6, 2013 in separate letters to the petitioners. EPA denied the petitions because they each failed to meet the criteria for reconsideration in CAA section (307)(d)(7)(B); each of the objections raised in these petitions either were or could have been raised during the comment period on the proposed rule, or are not of central relevance to the outcome of the rule because they do not provide substantial support for the argument that the final rule establishing the applicable volume of biomass-based diesel for 2013 should be revised. The letters and an accompanying memorandum explain in detail the EPA's reasons for the denials.

How can I get copies of these documents and other related information?

This **Federal Register** notice, the petitions for reconsideration, and the letters denying the petitions along with the accompanying memorandum which explains EPA's reasons for denial are available in the docket that EPA

[1] 76 FR 38844.

[2] 77 FR 59458.

[3] Letter dated August 11, 2011 to Administrator Lisa Jackson from Charles T. Drevna, President National Petrochemical & Refiners Association, ''Subject: Docket EPA–HQ–OAR–2010–0133—Comments on EPA's proposal for 2012 RFS RVOs and biomass-based diesel volume for 2013''. Letter dated August 11, 2011 to Air and Radiation Docket from Patrick Kelly, Senior Policy Advisor American Petroleum Institute, ''Re: Docket ID No. EPA–HQ–OAR–2010–0133 The U.S. Environmental Protection Agency's Proposed Rule on Regulation of Fuel and Fuel Additives: 2012 Renewable Fuel Standards''.

[4] Letter dated November 20, 2012 to Honorable Lisa Jackson from Richard Moskowitz, American Fuel & Petrochemical Manufacturers, ''Re: Petition for Reconsideration—Docket No. EPA–HQ–OAR–2010–0133. Letter dated November 26, 2012 to Honorable Lisa Jackson from Robert L. Greco, III, American Petroleum Institute, ''Re: Request for Reconsideration of EPA's Final Rulemaking ''2013 biomass-Based Diesel Renewable Fuel Volume''.

established for the ''Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume'' under Docket ID No. EPA–HQ–OAR–2010–0133. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

The letters denying the petitions for reconsideration and the accompanying memorandum explaining EPA's reasons for denial has been posted on the EPA Web site at: *http://www.epa.gov/otaq/fuels/renewablefuels/notices.htm.*

Dated: August 6, 2013.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

[FR Doc. 2013–19625 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 175

46 CFR Parts 160 and 169

[Docket No. USCG–2013–0263]

RIN 1625–AC02

Personal Flotation Devices Labeling and Standards

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove references to type codes in its regulations on the carriage and labeling of Coast Guard-approved personal flotation devices (PFDs). PFD type codes are unique to Coast Guard approval and are not well understood by the public. Removing these type codes from our regulations would facilitate future incorporation by reference of new industry consensus standards for PFD labeling that will more effectively convey safety information, and is a step toward harmonization of our regulations with PFD requirements in Canada and in other countries.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before October 15, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0263 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Ms. Brandi Baldwin, Coast Guard; telephone 202–372–1394, email *Brandi.A.Baldwin@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0263), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2013–0263'' in the ''Search'' box. Press Enter and then click on the comment box in the row listing the NPRM. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert ''USCG–2013–0263'' in the ''Search'' box. Click ''Search'' and then click the ''Open Docket Folder'' icon. The following link will take you directly to the docket: *http://www.regulations.gov/#!docketDetail;D=USCG-2013-0263.* If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department

of Transportation to use the Docket Management Facility.

C. Privacy Act

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

D. Public Meeting

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

II. Abbreviations

ASE Applied Safety and Ergonomics
DHS Department of Homeland Security
CFR Code of Federal Regulations
FDA Food and Drug Administration
FR Federal Register
NPRM Notice of proposed rulemaking
NBSAC National Boating Safety Advisory Council
NPS National Park Service
OMB Office of Management and Budget
OSHA Occupational Safety and Health Administration
PFD Personal flotation device
Pub. L. Public Law
RA Regulatory Analysis
RCC Regulatory Cooperation Council
§ Section
STP Standards Technical Panel
UL Underwriters Laboratories
U.S.C. United States Code
USFWS United States Fish and Wildlife Service

III. Basis and Purpose

Under 46 U.S.C. 3306, 4102, and 4302, the Secretary of the Department in which the Coast Guard is operating is charged with prescribing safety requirements for lifesaving equipment on inspected vessels, uninspected vessels, and recreational vessels. Type approval and carriage requirements for personal flotation devices (PFDs) fall under this authority. The Secretary has delegated this 46 U.S.C., Subtitle II authority to the Commandant. *See* Department of Homeland Security Delegation No. 0170.1(II)(92)(b). As required under 46 U.S.C. 4302(c)(4), the Coast Guard has consulted with the National Boating Safety Advisory Council (NBSAC) regarding the issue addressed by this notice of proposed rulemaking (NPRM). *See* NBSAC *Resolution 2012–90–05* (available in the docket).

The purpose of this proposed rule, which would remove references to type codes in our regulations on the carriage and labeling of Coast Guard-approved PFDs, is to facilitate future adoption of new industry consensus standards for PFD labeling that will more effectively convey safety information and to help harmonize our regulations with PFD requirements in Canada and in other countries.

IV. Background

Labeling of PFDs is an important safety matter, as it is the primary means by which the manufacturer communicates to the end user how to select the right PFD and use and maintain it properly. Based on the volume of queries to the Coast Guard including questions from NBSAC members in recent years, we believe that the current labels on Coast Guard-approved PFDs are confusing to the boating public and do not effectively communicate important safety and regulatory information to users and law enforcement personnel.

As noted in the previous section, the Coast Guard is charged with establishing minimum safety standards, as well as procedures and tests required to measure compliance with those standards, for commercial and recreational vessels, and associated equipment. *See* 46 U.S.C. 3306, 4302, and Homeland Security Delegation No. 0170.1, section II, paragraph (92)(b). Under this authority, the Coast Guard has established requirements for the carriage of approved PFDs that meet certain minimum safety standards.

The minimum requirements for Coast Guard-approved PFDs are codified in 46 CFR part 160, and include requirements for labeling. Our current regulations require that a type code be marked on each Coast Guard-approved PFD. The Coast Guard historically has used type codes in its regulations to identify the level of performance of an approved PFD. Types I, II, and III refer to wearable PFDs (lifejackets) in decreasing order of performance; Type IV refers to throwable PFDs; and Type V refers to any PFD which is conditionally approved as equivalent in performance to Type I, II, III, or IV.

Coast Guard regulations specify which Coast Guard-approved PFDs are acceptable for particular applications. Although most of the carriage requirements for inspected vessels identify the appropriate PFDs by the applicable approval series (*see, for example,* 46 CFR 199.10 and 199.70(b)), our carriage requirements for recreational boats (33 CFR part 175), uninspected commercial vessels (46 CFR part 25) and sailing school vessels (46 CFR part 169) specify particular type codes. Approval series refers to the first six digits of a number assigned by the Coast Guard to approved equipment.

In 2004, the consultant Applied Safety and Ergonomics (ASE) did a study of the current PFD classification and labeling system through the National Non-Profit Organization Recreational Boating Safety Grant Program. The ASE final report, entitled ''Revision of Labeling and Classification for Personal Flotation Devices (PFDs)'' (available in the docket), suggested that our current labels are inadequate and that users do not adequately understand our PFD type codes.

V. Discussion of Proposed Rule

The Coast Guard proposes to remove references to longstanding PFD type codes from its requirements for the approval and carriage of Coast Guard-approved PFDs. Under these proposed amendments, the number and kind of PFDs required to be carried on a vessel would not change — just the terminology used to refer to approved PFDs. Our current assigning of a type code to the PFD does not affect its suitability for meeting the applicable vessel carriage requirements. This proposed rule would remove regulatory barriers to the development of a new industry consensus standard for PFD labels, which would potentially allow manufacturers to use a more user-friendly label format on Coast Guard-approved PFDs in the future.

Carriage Requirements

The carriage requirements for PFDs vary based on the kind of vessel.

As noted in Section IV, for commercial vessels, many of the carriage requirements in the CFR specify the applicable approval series, as defined in 46 CFR 199.30, rather than the type code. This proposed rule does not affect those regulations because they do not contain a specific reference to PFD type. The only exceptions are 46 CFR 169.539, pertaining to sailing school vessels, and 46 CFR 25.25–5, pertaining to uninspected vessels, which do refer to type codes. In this NPRM, the Coast Guard is proposing to remove references to the type codes in 46 CFR 169.539. References in 46 CFR 25.25–5 to type codes for PFD requirements for uninspected commercial vessels are already being addressed in a separate rulemaking; *see* RIN 1625–AB83, Lifesaving Devices on

Uninspected Vessels, in the 2013 Spring Unified Agenda on *www.reginfo.gov.*

The carriage requirements for recreational vessels do specify type codes. However, PFDs currently labeled Type I, II, or III all meet the same regulatory carriage requirements, so our regulations for recreational vessels need not differentiate PFDs based on type codes. The Coast Guard proposes to revise 33 CFR part 175 subpart B—Personal Flotation Devices to remove the references to type codes in the carriage requirements. In § 175.15, the terms ''Type I PFD,'' ''Type II PFD,'' and ''Type III PFD'' would be replaced with the term ''wearable PFD'' and the term ''Type IV PFD'' would be replaced by the term ''throwable PFD.'' In proposed § 175.13, we define the terms ''wearable PFD'' and ''throwable PFD.''

These changes would impose no burdens on users. Coast Guard-approved PFDs which are marked as ''Type I,'' ''Type II,'' ''Type III,'' or ''Type V with Type [I, II, or III] performance'' would be considered wearable PFDs and would meet the same carriage requirements as Coast Guard-approved wearable PFDs without a type code marking. Likewise, PFDs marked as ''Type IV'' would be considered throwable PFDs and would meet the same carriage requirements as throwable PFDs without a type code marking.

Additionally, the Coast Guard proposes to amend § 175.15 so that it would require that PFDs be used in accordance with any limitations specified on the approval label, and with the manufacturer's instructions. This language is taken from the existing text of § 175.17(a), which permits the carriage of conditionally approved (Type V) PFDs in lieu of Type I, II, III, or IV PFDs.

The Coast Guard proposes conforming changes to 33 CFR 175.19 and 175.21 to replace language referring to PFD type codes I–IV and conditionally approved (Type V) PFDs.

Marking Requirements

The Coast Guard also proposes to revise the PFD marking requirements contained in 46 CFR part 160, Lifesaving Equipment, to remove the requirement that Coast Guard-approved PFDs be marked as Type I, II, III, IV, or V. As discussed, the marking of a type code on a PFD has no practical effect on its compliance with the carriage requirements applicable to a given vessel.

For many of the affected subparts (*see* for example proposed edits to 46 CFR 160.002–6, 160.005–6, and 160.047–6), we accomplish this by deleting the line in the marking requirements which refers to the PFD approval type. However, the regulations pertaining to marine buoyant devices and inflatable recreational PFDs, 46 CFR subparts 160.064 and 160.076 respectively, rely on industry consensus standards in addition to the regulatory text. In these two subparts, the Coast Guard proposes to remove references to PFD approval type and refer to the relevant industry standard for the marking requirements, with the provision that all labels contain the following information:

- Size information, as appropriate;
- The Coast Guard approval number;
- Manufacturer's contact information;
- Model name/number;
- Lot number, manufacturer date; and
- Any limitations or restrictions on approval or special instructions for use.

The Coast Guard is aware that the Underwriters Laboratories (UL) Standards Technical Panel (STP), the consensus body responsible for maintaining the industry consensus standards for PFDs, is considering a proposal to revise the industry standards for labeling PFDs which would remove reference to type codes. Once the revised standard is available, the Coast Guard will consider incorporating it by reference into its regulations.

This rulemaking supports the efforts of the U.S.-Canada Regulatory Cooperation Council (RCC), a high-level bilateral effort coordinated by the Office of Management and Budget (OMB). The current RCC workplan calls for the development of a ''North American Standard for lifejackets.'' This NPRM will enable the STP to complete development of the North American standard for wearable PFDs without including unnecessary references to type codes. Thus, this rulemaking to adopt the revised labeling standard would allow for the future harmonization of U.S. and Canadian PFD approvals, which supports one of the initiatives of the RCC's Joint Action Plan of December 2011 (available in the docket).

While we cannot anticipate the timing for the adoption and accreditation of the revised labeling standard, we recognize the benefits of harmonizing Coast Guard approval standards with the relevant industry consensus standards, and minimizing confusion and burden on the industry. Our proposed rule would not prohibit the use of the type code in the marking, so currently approved markings would be able to remain in use while the manufacturers design new labels conforming to the new standard under development by the UL STP.

VI. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

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

This NPRM has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by OMB. A combined preliminary Regulatory Analysis (RA) and Threshold Regulatory Flexibility Analysis follows:

The RA provides an evaluation of the economic impacts associated with this proposed rule. The table which follows provides a summary of the proposed rule costs and benefits.

TABLE 1—SUMMARY OF THE PROPOSAL'S IMPACTS

Category	Summary
Affected Population	66 PFD manufacturers. 6 Federal agencies. Up to 56 State/territorial jurisdictions.
Costs ($, 7% discount rate)	$14,992 (annualized: $710 private sector, $14,283 government). $105,301 (10-year: $4,985 private sector, $100,316 government).
Unquantified Benefits	* Improve effectiveness of PFD marking/labels without compromising safety.

TABLE 1—SUMMARY OF THE PROPOSAL'S IMPACTS—Continued

Category	Summary
	* Prevent misuse and misunderstandings of PFDs. * Remove impediment to future harmonization with international standards.

The proposed rule would revise the existing regulations regarding labeling of PFDs, by removing requirements for type codes to be included on PFD labels.

Affected Population

Based on the Coast Guard Guard's Marine Information for Safety and Law Enforcement database, we estimate that this proposed rule would affect approximately 66 PFD manufacturers. There are six Federal governmental agencies—the Department of Labor's Occupational Safety and Health Administration (OSHA); the Department of the Interior's Bureau of Reclamation, National Park Service (NPS), and United States Fish and Wildlife Service (USFWS); the Department of Agriculture's Forest Service; and the Department of Defense—which may have to adjust their regulations or policy documents because they incorporate Coast Guard standards which mention PFD type codes. Of these six, the only agency we have identified that specifically references Coast Guard type codes in their regulations is OSHA. We are coordinating with the OSHA Directorate of Standards and Guidance to ensure that the relevant regulations align with the revisions to the Coast Guard regulations. We have also reached out to NPS, Bureau of Reclamation, Forest Service, U.S. Army Corps of Engineers, and USFWS, via the Interagency Working Group for Visitor Safety, and they have not expressed any objections to our proposed action.

Costs

The Coast Guard expects that this rule, if promulgated, will result in one-time costs of approximately $105,301 (7% discount).[1] The Coast Guard estimates that $4,085 (7% discount) is attributable to the private sector. We estimate that this proposed rule would affect 66 manufacturers of PFDs. No additional equipment would be required by the rule. PFD manufacturers would need to reprogram stitching machines or silk screen machines to conform with the new label requirements. This rule only would affect labeling on PFDs manufactured after the effective date of this rule. The Coast Guard seeks comment from PFD manufacturers regarding the costs associated with changing PFD labels in response to the proposed rule.

Federal agencies which incorporate these Coast Guard regulations by reference would need to review their regulations to assure consistency with the proposed change. Some States and Federal agencies may need to initiate rulemakings to update their regulations or statutes to remove unnecessary references to type codes.

Recreational boaters would experience no cost increase because of the rulemaking. Existing PFDs may continue to be used. No action would be required by recreational boaters.

The table which follows presents the estimated cost of compliance with the rulemaking.

TABLE 2—TOTAL ESTIMATED COST OF COMPLIANCE

	Discounted 7%	Discounted 3%	Undiscounted
Year 1	$105,301	$109,390	$112,672
Year 2	0	0	0
Year 3	0	0	0
Year 4	0	0	0
Year 5	0	0	0
Year 6	0	0	0
Year 7	0	0	0
Year 8	0	0	0
Year 9	0	0	0
Year 10	0	0	0
Total	105,301	109,390	112,672
Annualized	14,992	12,824	11,267

The Coast Guard estimates that reprogramming stitching machines or silk screen machines would take approximately 1 hour per manufacturer. This estimate comports with the Food and Drug Administration's (FDA's) estimated cost of compliance for relabeling of sunscreens to comply with new labeling requirements.[2] This is the most similar Federal rulemaking we found in our research that involves a regulatory requirement on labels. Both the FDA's and this rulemaking involve changes to labeling. The FDA estimated that it would take 0.5 hours to prepare, complete, and review the labeling for each product. The Coast Guard used a higher value than FDA: 1 hour per product to prepare, complete and review the new labeling. The higher value accounts for possible involvement of more than one type of machine (i.e., stiching or silk screen), more complex machiney for PFD labels and the need for management communication to multiple factories or stitching machine designers.

Labor costs are estimated at $78.74 per hour (fully loaded) for a manager based on a mean wage rate of $46.87;

[1] As derived by the equation: [(1 hour * $78.74/hour * 66 PFD manufacturer managers + 0.5 hour * $73.76/hour * 56 State managers + 0.5 hour * $78.82/hour * 6 Federal managers) + 10 hours * $73.76/hour State managers * 36 States + 100 hours * $73.76/hour State managers * 5 States + 10 hours * $78.82/hour * 6 Federal managers]* 7% discount rate.

[2] *See* SPF Labeling and Testing Requirements and Drug Facts Labeling for Over-the-Counter Sunscreen Drug Products; Agency Information Collection Activities; Proposed Collection (76 FR 35678, June 17, 2011); and Labeling and Effectiveness Testing; Sunscreen Drug Products for Over-the-Counter Human Use Final rule (76 FR 35620, June 17, 2011).

this estimate is based on Bureau of Labor Statistics data Occupational Employment Statistics, Occupational Employment and Wages, for Industrial Production Managers (11–3051, May 2012).[3] From there, we applied a load factor (or benefits multiplier) of 1.68, to determine the actual cost of employment to employers and industry.[4]

For other costs, States would need to review their laws and regulations to assure comportment with the proposed change. In turn, some States may need to initiate rulemakings or make statutory changes to remove references to type codes; we discuss this further in this section. The Coast Guard estimates that these agencies would take approximately 0.5 hour to review their laws and regulations. Their review task is estimated by the loaded wage rate of $73.76 (Occupational Employment and Wages, May 2012 11–1021 General and Operations Managers *Local Government*). The average cost for a State to perform this task would be approximately $37.

In addition, the proposal would impact some Federal agencies and they would need to review their regulations or policy documents to determine if any change were needed. The Coast Guard estimates that it would take 0.5 hour to do this task. The Coast Guard estimates the labor cost to be $78.82 per hour for a Federal manager (Bureau of Labor Statistics, ''Occupational Employment and Wages, First-Line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators, Federal Executive Branch and a load factor of 1.65)[5] and there are an estimated six Federal agencies potentially impacted. Based on these data, this task would cost Federal agencies less than $50 to review regulations or policy documents. To update a policy document, we estimate that 10 hours would be expended by a Federal agency to do so.

Additional costs may occur as a result of this proposed rule; these costs would arise from labor expended for rulemaking. More specifically, some State and Federal agencies may require a rulemaking to update their regulations to incorporate this proposed change into their regulations, policy documents or statutes.

To assess these costs, we first note the rulemaking process varies greatly across State and territorial governmental units. The reader should note that not all impacted governmental units are expected to incur a cost associated with this task because some States incorporate by reference Coast Guard standards and would not need to take action. Some agencies may be able to update their regulations for this proposed change by incorporating this change into an existing or planned rulemaking. As well, some also may choose not to pursue a rulemaking immediately.

To estimate a cost for this step, we reviewed publicly available data on the Internet for States and territories. Based on that review, we estimated the number of States and territories which would fall into the various categories of rulemaking. In the first category, we estimate that there would be six States and territories which incorporate by reference Coast Guard regulations and, therefore, would incur no costs. Next, another 36 States and territories are estimated to engage in rulemaking activities by State commissions. In the next category, an estimated 10 States and territories update their regulations by more lengthy processes either by statute change, by a legislative vote, or by a rulemaking process involving the legislative branch of government or the State-level executive branch of government. The change may be a stand-alone proposed rule or legislation, or the change may be part of an omnibus set of changes. In the last category, we estimate that four States and territories would take no rulemaking action; for these, their regulations or statutes may not need revision because of how they are written. The table which follows presents a summary of this data.

TABLE 3—ESTIMATED RULEMAKING ACTIVITIES FOR STATES AND TERRITORIES

Level of activity	Number of states or territories	Level of effort required (hours)	Total cost
Incorporate by Reference	6	0	$0
Rulemaking by State Commission	36	10	26,552
Rulemaking by Statute or Legislative Process	10	100	73,755
No change necessary	4	0	0
Total			100,307

We estimate that costs to a given State or territory for this step would range from no cost to $7,412. Some costs may be offset because some States may have already started this process in anticipation of the new industry standard for PFD labeling. The Coast Guard seeks comment from States and Federal agencies regarding the costs associated with making the requisite changes to their laws or regulations.

In addition to the costs noted in the previous paragraphs, the Coast Guard may experience some costs in subsequent years to augment existing boater education efforts to include information associated with this proposed rule. However, the Coast Guard may be able to use existing partnerships, Internet resources, and other technologies which offer more cost effective solutions.

Benefits

The proposed rule would amend existing regulations regarding labeling of PFDs. The Coast Guard is pursuing this amendment to existing standards to prevent misuse, misunderstandings, and

[3] The reader may review the source data at *http://www.bls.gov/oes/current/oes_nat.htm#11-0000.*

[4] This was calculated using data found on the Bureau of Labor Statistics' Web site. The load factor is calculated specifically for Production, transportation and material moving occupations, Full-time, Private Industry (Series ID: CMU2010000520610D, 2012, 2nd Quarter). This category was used as it was the closest available corresponding to the industry being analyzed in this regulatory analysis. Total cost of compensation per hour worked: $26.61, of which $15.84 is wages, resulting in a load factor of 1.6799 ($26.61/$15.84). We rounded this factor to 1.68. (Source: *http://data.bls.gov/cgi-bin/dsrv*) Using similar applicable industry groups and time periods results in the same estimate of load factor.

[5] This load factor is calculated specifically for Public Administration, State and Local Government occupations, Full-time, Private Industry (Series ID: CMU3019200000000D,CMU3019200000000P, 2012, 2nd Quarter. Total cost of compensation per hour worked: $39.642, of which $23.97 is wages, resulting in a load factor of 1.653734 ($39.64/$23.97). We rounded this factor to 1.65 (rounded to the nearest hundredth). (Source: *http://www.bls.gov/ncs/ect/data.htm*)

inappropriate selection of PFDs without compromising the existing level of safety. The proposed rule would promote maritime safety by eliminating confusion associated with type codes, and by improving understanding of PFD performance and use.

The rulemaking would improve the relevance of markings on PFDs. The Coast Guard believes that removing irrelevant information would increase the likelihood that the user will read and understand the label, and thus select the proper PFD and be able to use it correctly. This would also provide benefits by reducing confusion among enforcement officers and the boating public over whether a particular PFD is approved and meets the relevant carriage requirements.

The rulemaking also would harmonize our regulations with industry standards for label requirements. For recreational PFDs, which comprise about 97 percent of the U.S. PFD market, the approvals are based on industry consensus standards that contain marking requirements. By referring to those standards directly, the Coast Guard reduces regulatory redundancy and minimizes the risk of conflict between regulatory requirements and industry standards.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

The Coast Guard expects that this rule will not have a significant economic impact on small entities. As described in the ''Regulatory Planning and Review'' section, the Coast Guard expects this rule to result in low costs to industry (approximately $78 per PFD manufacturer). An estimated 92.4 percent of all PFD manufacturers are considered small by the Small Business Administration size standards. The compliance costs for this rulemaking amount to less than 1 percent of revenue for all small entities. Costs would be incurred in the first year of the final rule's enactment for PFD manufacturers. No additional costs for labor or equipment would be incurred in future years. No small governmental jurisidctions are impacted by the rulemaking.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Ms. Brandi Baldwin at the address listed at the beginning of this preamble. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The proposal would not require a change to existing OMB-approved collection of information (1625–0035 Title 46 CFR Subchapter Q: Lifesaving, Electrical, Engineering and Navigation Equipment, Construction and Materials & Marine Sanitation Devices (33 CFR 159)). The proposed rule would not require relabeling of PFDs, but instead would remove minor data elements from existing labeling requirements. Labeling of PFDs is an automated process, and the change in content would not result in any appreciable change in burden hours.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (''Federalism'') if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in the Executive Order. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered for inspected vessels in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Lock*e and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) In this rule, the Coast Guard proposes to replace unnecessary references to type codes in labeling and carriage requirements for Coast Guard-approved PFDs on inspected vessels and recreational vessels. With regard to these regulations promulgated under the authority of 46 U.S.C. 3306 concerning inspected vessels, they fall within fields foreclosed from regulation by State or local governments. Therefore, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

With regard to regulations promulgated under 46 U.S.C. 4302 concerning recreational vessels, under 46 U.S.C. 4306, those Federal regulations that establish minimum safety standards for recreational vessels and their associated equipment, as well as regulations that establish procedures and tests required to measure conformance with those standards, preempt State law, unless the State law is identical to a Federal regulation or a State is specifically provided an

exemption to those regulations, or permitted to regulate marine safety articles carried or used to address a hazardous condition or circumstance unique to that State. As an exemption has not been granted, and because the States may not issue regulations that differ from Coast Guard regulations within these categories for recreational vessels, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Nevertheless, the Coast Guard recognizes the key role State and local governments may have in making regulatory or statutory determinations. Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard shall provide elected officials of affected State and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process.

Therefore, we invite affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments on this NPRM. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document (1) The extent of the Coast Guard's consultation with State and local officials that submit comments to this notice of proposed rulemaking, (2) a summary of the nature of any concerns raised by state or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met. We will also report to OMB any written communications with the states.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. Tribal Governments

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

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule is likely to be categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a) and (e) of the Instruction and 6(a) of Coast Guard Procedures for Categorical Exclusions published July 23, 2002 (67 FR 48243). This rule involves regulations which are editorial and concern carriage requirements and vessel operation safety standards. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 175

Marine safety.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 175 and 46 CFR parts 160 and 169 as follows:

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

PART 175—EQUIPMENT REQUIREMENTS

■ 1. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 175.13 to read as follows:

§ 175.13 Definitions.

As used in this subpart:

Personal flotation device or *PFD* means a device that is approved by the Commandant under 46 CFR part 160.

Throwable PFD means a PFD that is intended to be thrown to a person in the water. A PFD marked as ''Type IV'' or ''Type V with Type IV performance'' is considered a throwable PFD. Unless specifically marked otherwise, a wearable PFD is not a throwable PFD.

Wearable PFD means a PFD that is intended to be worn or otherwise attached to the body. A PFD marked as ''Type I'', ''Type II'', ''Type III'', ''Type V with Type I performance'', ''Type V with Type II performance'', or ''Type V with Type III performance'', is considered a wearable PFD.

■ 3. Amend § 175.15 by revising the introductory text and paragraphs (a) and (b) to read as follows:

§ 175.15 Personal flotation devices required.

Except as provided in §§ 175.17 and 175.25 of this subpart:

(a) No person may use a recreational vessel unless–

(1) At least one wearable PFD is on board for each person;

(2) Each PFD is used in accordance with any requirements on the approval label; and

(3) Each PFD is used in accordance with any requirements in its owner's manual, if the approval label makes reference to such a manual.

(b) No person may use a recreational vessel 16 feet or more in length unless one throwable PFD is on board in addition to the total number of wearable PFDs required in paragraph (a) of this section.

* * * * *

■ 4. Revise § 175.17 to read as follows:

§ 175.17 Exemptions.

(a) Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional throwable PFD required under § 175.15(b) of this subpart.

(b) Racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any PFD required under § 175.15 of this subpart.

(c) Sailboards are exempted from the requirements for carriage of any PFD required under § 175.15 of this subpart.

(d) Vessels of the United States used by foreign competitors while practicing for or racing in competition are exempted from the carriage of any PFD required under § 175.15 of this subpart, provided the vessel carries one of the sponsoring foreign country's acceptable flotation devices for each foreign competitor on board.

■ 5. Revise § 175.19 to read as follows:

§ 175.19 Stowage.

(a) No person may use a recreational boat unless each wearable PFD required by § 175.15 of this subpart is readily accessible.

(b) No person may use a recreational boat unless each throwable PFD required by § 175.15 of this subpart is immediately available.

■ 6. Amend § 175.21 by revising the introductory text and paragraph (a) to read as follows:

§ 175.21 Condition; size and fit; approval marking.

No person may use a recreational boat unless each PFD required by § 175.15 of this subpart is—

(a) In serviceable condition as provided in § 175.23 of this subpart;

* * * * *

TITLE 46—SHIPPING

PART 160—LIFESAVING EQUIPMENT

■ 7. The authority citation for part 160 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; and Department of Homeland Security Delegation No. 0170.1.

§ 160.001–1 [Amended]

■ 8. Amend § 160.001–1(a)(1) by removing the words ''(Type I personal flotation devices (PFDs))''.

§ 160.001–3 [Amended]

■ 9. Amend § 160.001–3(d) as follows:

■ a. Remove paragraph(d)(4); and

■ b. Redesignate paragraphs (d)(5), (d)(6), (d)(7), and (d)(8) as (d)(4), (d)(5), (d)(6), and (d)(7), respectively.

§ 160.002–6 [Amended]

■ 10. Amend § 160.002–6(b) by removing the words ''Type I Personal Flotation Device.''.

§ 160.005–6 [Amended]

■ 11. Amend § 160.005–6(b) by removing the words ''Type I Personal Flotation Device.''.

§ 160.047–6 [Amended]

■ 12. Amend § 160.047–6(a) by removing the words ''Type II Personal Flotation Device.''.

§ 160.052–8 [Amended]

■ 13. Amend § 160.052–8(a) by removing the words ''Type II-Personal flotation device.''.

§ 160.055–8 [Amended]

■ 14. Amend § 160.055–8(b) by removing the words ''Type I or Type V Personal Flotation Device.''.

§ 160.060–8 [Amended]

■ 15. Amend § 160.060–8(a) by removing the words ''Type II Personal Flotation Device.''.

■ 16. Revise § 160.064–4 to read as follows:

§ 160.064–4 Marking.

(a) Each water safety buoyant device must be marked in accordance with the recognized laboratory's listing and labeling requirements in accordance with § 160.064–3(a) of this subpart. At a minimum, all labels must include:

(1) Size information, as appropriate;

(2) The Coast Guard approval number;

(3) Manufacturer's contact info;

(4) Model name/number;

(5) Lot number, manufacturer date; and

(6) Any limitations or restrictions on approval or special instructions for use.

(b) *Durability of marking.* Marking must be of a type which will be durable and legible for the expected life of the device.

■ 17. Amend § 160.076–5 by revising the definitions of ''Conditional approval'' and ''Performance type'' to read as follows, and by removing the definition of ''PFD Approval Type'':

§ 160.076–5 Definitions.

* * * * *

Conditional approval means a PFD approval which has condition(s) with which the user must comply in order for the PFD to be counted toward meeting the carriage requirements for the vessel on which it is being used.

* * * * *

Performance type means the in-water performance classification of the PFD.

* * * * *

§ 160.076–7 [Removed and Reserved]

■ 18. Remove and reserve § 160.076–7.

■ 19. Amend § 160.076–9 as follows:

■ a. In paragraph (a), remove the words ''is categorized as a Type V PFD and''; and

■ b. Revise paragraph (b) to read as follows:

§ 160.076–9 Conditional approval.

* * * * *

(b) PFDs not meeting the performance specifications in UL 1180 (incorporated by reference, *see* § 160.076–11) may be conditionally approved when the Commandant determines that the performance or design characteristics of the PFD make such classification appropriate.

§ 160.076–13 [Amended]

■ 20. Amend § 160.076–13 as follows:
■ a. Remove paragraph (c)(3); and
■ b. Redesignate paragraphs (c)(4), (c)(5), (c)(6), (c)(7), (c)(8), and (c)(9) as paragraphs (c)(3), (c)(4), (c)(5), (c)(6), (c)(7), and (c)(8), respectively.

§ 160.076–23 [Amended]

■ 21. Amend § 160.076–23(a)(1) by removing the words ''applicable to the PFD performance type for which approval is sought''.

§ 160.076–25 [Amended]

■ 22. Amend § 160.076–25(b) by removing the words ''that are applicable to the PFD performance type for which approval is sought''.
■ 23. Revise § 160.076–39 to read as follows:

§ 160.076–39 Marking.

Each inflatable PFD must be marked as specified in UL 1180 (incorporated by reference, *see* § 160.076–11). At a minimum, all labels must include—

(a) Size information, as appropriate;
(b) The Coast Guard approval number;
(c) Manufacturer's contact information;
(d) Model name/number;
(e) Lot number, manufacturer date; and
(f) Any limitations or restrictions on approval or special instructions for use.

§ 160.176–23 [Amended]

■ 24. Amend § 160.176–23 as follows:
■ a. In paragraph (c), remove the words ''Type V PFD-'' and remove the words ''in lieu of (*see paragraph (f) of this section for exact text to be used here*)''; and
■ b. Remove paragraph (f).

PART 169—SAILING SCHOOL VESSELS

■ 25. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1; § 169.117 also issued under the authority of 44 U.S.C. 3507.

■ 26. Amend § 169.539 as follows:
■ a. In the introductory text, remove the word ''either'';
■ b. In paragraph (a), remove the words ''A Type I approved'' and add, in their place, the word ''Approved'', and remove the second use of the word ''or'';
■ c. In paragraph (b), remove the words ''a Type V approved'' and add, in their place, the word ''Approved''; and
■ d. Revise paragraph (c) to read as follows:

§ 169.539 Type required.

* * * * *

(c) Approved under subparts 160.047, 160.052, or 160.060 or approved under subpart 160.064 if the vessel carries exposure suits or exposure PFDs, in accordance with § 169.551 of this subpart.

Dated: August 2, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–19677 Filed 8–13–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

[CC Docket Nos. 00–199 and 99–301; DA 13–1617]

Parties Asked To Refresh the Record Regarding Property Records for Rate-of-Return Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for additional comments.

SUMMARY: In this document, the Commission seeks comment to update the record in a 2001 pending rulemaking to assess whether there are changes the Commission can make to the property record rules that would reduce record-keeping burdens for rate-of-return carriers in light of regulatory and marketplace changes that have occurred since 2001.

DATES: Comments are due on or before September 13, 2013. Reply Comments are due on or before September 30, 2013.

ADDRESSES: You may submit comments identified by CC Docket Nos. 00–199 and 99–301 by any of the following methods:

▪ *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

▪ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marvin F. Sacks, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1520 or (202) 418–0484 (TTY), or via email *Marvin.Sacks@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

▪ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

○ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large

print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. Synopsis of Public Notice Seeking Additional Comment in Further Notice of Proposed Rulemaking

1. On May 10, 2013, the Commission adopted the *USTelecom Forbearance Long Order,* WC Docket No. 12–61 et. al, 28 FCC Rcd 7627, FCC 13–69 (2013). It granted conditional forbearance from section 32.2000(e) and (f) (''property record rules'') to price cap carriers. However, it denied forbearance from those rules to rate-of-return carriers because, among other things, it concluded that property records enable the Commission to verify the accuracy of such carriers' costs, which impacts the reasonableness of their rates. However, in an effort to obtain a record sufficient to assess whether further Commission action on property records was proper, it sought to update the record received on those issues in an earlier, pending rulemaking on accounting and reporting matters. In that rulemaking, *2000 Biennial Regulatory Review, Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Local Competition and Broadband Reporting,* 67 FR 5704, Feb. 6, 2002 (*Property Records FNPRM*), the Commission sought comment on ''alternative approaches to streamline our [property records] rules.''

2. In the *USTelecom Forbearance Long Order,* the Commission decided to refresh the record to assist in determining ''whether there are changes we can make to our property records rules that would reduce record-keeping burdens for rate-of-return carriers by focusing on substantial assets and investments while maintaining sufficiently detailed records for the Commission's needs.'' The Commission noted that there have been ''significant regulatory and marketplace changes [that] have occurred'' since 2001 when the Commission adopted the *Property Records FNPRM.* Therefore, the Commission directed the Wireline Competition Bureau to release a Public Notice, which the Commission did in DA 13–1617, requesting parties to comment on property records issues as they relate to rate-of-return carriers in light of such changes, including the *USTelecom Forbearance Long Order.*

3. Consistent with the objective in the *Property Records FNPRM* noted above and the Commission's stated intent in the *USTelecom Forbearance Long Order* to examine what changes to the property records rules would reduce record-keeping burdens for rate-of-return carriers, we request comment on the feasibility of alternative approaches to property records requirements in rules 32.2000(e) and (f). We ask that parties suggesting alternatives: (1) Identify from which sections and subsections of rules 32.2000(e) and (f) are ''more burdensome than necessary;'' (2) Explain how rate-of-return carriers presently comply with property record requirements, describe the current burdens with specific costs if possible, and provide a cost-benefit analysis of any proposed rule changes; (3) Propose changes to the rules, including clearly stating which subsections should be deleted or modified, and if so, in what manner; (4) Explain how their alternative proposals would achieve the Commission's objectives to ensure just and reasonable rates and compliance with its universal service rules, and would provide adequate property record information in support of any requests for waiver of Commission rules; and (5) Explain how any changes to the rules would continue to allow independent auditors to reconcile property records to the carriers' general ledgers and provide audit assurance that carriers are meeting regulatory accounting requirements.

4. With respect to the third point above, we request specific examples of the level of detail and type of information that should be maintained, and what information is of limited or no value to achieving the Commission's objectives. If there are examples of less burdensome property record rules that are applicable to regulated companies in other industries, we seek more information about these rules and whether they could be applied to rate-of-return carriers in the telecommunications industry. Further, we seek comment on alternative approaches, including whether and how possible changes to retirement units might reduce record-keeping burdens. We note that the current rules allow for some flexibility in the maintenance of property records. For example, section 32.2000(f)(2) states that companies may request a revision to the list of retirement units used in the basic property records, or exemption from the retirement units previously used. Therefore, we seek input on how our rules on retirement units might be changed to ease the record-keeping burden.

5. With regard to the fourth point above, we request that parties suggesting alternatives to our present requirements explain in detail how rate-of-return carriers would maintain property records going forward under any new system in a manner that would enable the Commission to satisfy its statutory responsibility to ensure just and reasonable rates, particularly considering that rate-of-return carriers' rates are directly tied to the cost of their investment. For example, would the conditional forbearance we granted to price cap carriers in the *USTelecom Forbearance Long Order* enable the Commission to satisfy this statutory obligation for rate-of-return carriers? We

also request that commenters address how such alternatives would be sufficient to verify expenditures that are supported under the universal service high-cost program rules. We also generally ask parties to demonstrate how their alternative approach would satisfy basic requirements of property records.

6. The *USTelecom Forbearance Long Order* sought comments and reply comments refreshing the record 30 days and 45 days, respectively, after the accompanying Report and Order eliminating CEI/ONA narrowband reporting requirements was published in the **Federal Register**, 78 FR 39617, July 2, 2013. Thus the comment deadline would have been Aug. 1, 2013 and the reply comment deadline would have been Aug. 16, 2013. To ensure all interested parties have a sufficient opportunity to consider and respond to the issues identified above, comment and reply comments dates were extended in the Public Notice to 30 days and 45 days after this **Federal Register** document is published. The new comment due dates are set forth under the **DATES** section above.

II. Procedural Matters

A. Paperwork Reduction Act Analysis

7. Document DA 13–1617 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed 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). However, the original notice in this proceeding contained information collections subject to the PRA. We invite updated comments on the information collections proposed in this docket.

B. Initial Regulatory Flexibility Analysis

8. As discussed above, this Public Notice asks parties to refresh the record in the *Property Records FNPRM* proceeding with respect to the property records rules for rate-of-return carriers. The Initial Regulatory Flexibility Analysis for that proceeding is found at Appendix H of the *Property Records FNPRM.* We invite comment on the IRFA in light of developments since the issuance of the original IRFA.

9. For further information, please contact Marvin F. Sacks, Wireline Competition Bureau, Pricing Policy Division, at (202) 418–1520 or via email at *Marvin.Sacks@fcc.gov.*

Federal Communications Commission.

Elizabeth McIntyre,

Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau.

[FR Doc. 2013–19762 Filed 8–13–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2013–0089; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List the Rattlesnake-Master Borer Moth (Papaipema eryngii) as an Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the rattlesnake-master borer moth *(Papaipema eryngii)* as an endangered or a threatened species under the Endangered Species Act of 1973, as amended (Act). After review of the best available scientific and commercial information, we find that listing the rattlesnake-master borer moth is warranted. Currently, however, listing the rattlesnake-master borer moth is precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. Upon publication of this 12-month petition finding, we will add the rattlesnake-master borer moth to our candidate species list. We will develop a proposed rule to list the rattlesnake-master borer moth as our priorities allow. In any interim period, we will address the status of the candidate taxon through our annual Candidate Notice of Review (CNOR).

DATES: The finding announced in this document was made on August 14, 2013.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R3–ES–2013–0089. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 1511 47th Ave, Moline, IL 61265. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Richard C. Nelson, Field Supervisor, Rock Island Field Office (see **ADDRESSES**); by telephone at 309–757–5800; or by facsimile at 309–757–5807. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing a species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

On June 25, 2007, we received a formal petition dated June 18, 2007, from Forest Guardians (now WildEarth Guardians), requesting that the rattlesnake-master borer moth be listed as either endangered or threatened under the Act with critical habitat.

The petitioner incorporated into the petition all analyses, references, and documentation provided by NatureServe in its online database at *http://www.natureserve.org/.* The petition clearly identified itself as a petition and included the appropriate identification information, as required in 50 CFR 424.14(a). We sent a letter to the petitioner dated July 11, 2007, acknowledging receipt of the petition and stating that the petition was under review by staff in our Southwest Regional Office. On March 19, 2008, WildEarth Guardians filed a complaint indicating that the Service failed to

comply with its mandatory duty to make a preliminary 90-day finding on the June 18, 2007, petition to list 475 southwest species. We subsequently published an initial 90-day finding for 270 of the 475 petitioned species on January 6, 2009, concluding that the petition did not present substantial information that listing of those species may be warranted (74 FR 419). On March 13, 2009, the Service and WildEarth Guardians filed a stipulated settlement agreement, agreeing that the Service would submit to the **Federal Register** a finding as to whether WildEarth Guardians' petition presents substantial information indicating that the petitioned action may be warranted for the remaining southwestern species by December 9, 2009. On December 16, 2009, we published a 90-day finding that the petition presented substantial scientific or commercial information indicating that listing may be warranted for 67 species, including the rattlesnake-master borer moth (74 FR 66866).

This notice constitutes the 12-month finding on the WildEarth Guardians' petition to list the rattlesnake-master borer moth as an endangered or threatened species.

Species Information

Taxonomy and Species Description

The rattlesnake-master borer moth is a member of the family Noctuidae (owlet moths) and was first described in 1917 from individuals collected near Chicago, Illinois (Bird 1917, pp. 125–128). The genus *Papaipema* contains 53 species, all of which are found in North America and are root or stem boring (Schweitzer *et al.* 2011, p. 349; Panzer 1998, p. 48). Rattlesnake-master borer moth is the accepted common name for *Papaipema eryngii.*

The adult rattlesnake-master borer moth measures 3.5–4.8 centimeters (cm) (1.4–1.9 inches) (Bird 1917, p. 125). It has a smooth head with simple antennae and a tufted body (Forbes 1954, p. 191, Bird 1917, p. 125). The forewing is rich purple brown to red brown becoming lighter and showing yellow powderings near the inner margin, a yellowish white dot at the base, and a powdery yellow patch at the apex (Bird 1917, p. 125). The middle of the forewing contains several distinct white and yellow spots (Bird 1917, p. 125). The hind wing is duller than the forewing and is described by Bird (1917, p. 125) as smoky fawn overlaid with dark purplish powderings becoming darker at the margin. Male rattlesnake-master borer moths have distinctively identifiable genitalia, which allow distinction from other *Papaipema* moths of similar appearance (Forbes 1954, p. 193; Bird 1917, p. 126). Rattlesnake-master borer moth larvae develop in five instars, all of which have a yellowish head and are deep purplish brown with longitudinal white lines that are broken over the first four abdominal segments (Hessel 1954, p. 62; Bird 1917, p. 127).

Life History

Rattlesnake-master borer moths are univoltine (having a single flight per year) with adults emerging from mid-September to mid-October, and flying through mid- to late October or when the weather becomes too cold (Derkovitz 2013, pers. comm.; Hessel 1954, p. 59; Forbes 1954, p. 198; Bird 1917, p. 128). Their nocturnal habits make them hard to observe, thus adults feeding habits are unknown. Based on their short adult flight span, their underdeveloped mouth parts, and the large amount of stored fat, researchers postulate that they likely do not need much for nectar sources and likely use dew or oozing sap for imbibing moisture (Wiker 2013, pers. comm.). Adults will drink from sugar water when held in captivity (LaGesse 2013, pers. comm.). Based on their coloring, researchers believe the moths likely spend their days attached to plants or on the bottom of leaves, where their presence is camouflaged (Wiker 2013, pers. comm.).

In mid-October, females drop their eggs in the vicinity of the food plant, *Eryngium yuccifolium* (rattlesnake-master), where the eggs overwinter in the duff; young larvae emerge between mid-May and early June (Derkovitz 2013, pers. comm.; LaGesse *et al.* 2009, p. 4; Bird 1917, p. 126). Rattlesnake-master borer moths are monophagous (have only one food source), with larvae feeding exclusively on rattlesnake-master (Panzer 2003, p. 18; Hessel 1954, p. 59; Forbes 1954, p. 198; Bird 1917, p. 124). When larvae first emerge, they feed on the leaves of the host plant and the second instars burrow into the stem (or root) and on into the root where they remain until they pupate in mid- to late August (Derkovitz, pers. comm. 2013; LaGesse *et al.* 2009, p. 4; Bird 1917, p. 127). During the time that the larvae are actively boring into the host plant, researchers have detected cannibalistic behavior with some caterpillars moving into already occupied bore holes, killing the occupant and pushing them back out (LaGesse *et al.* 2009, p. 4). Rattlesnake-master borer moths diapause in the chamber they create in the host plant and pupation appears to take place either inside the chamber or in the soil and lasts 2–3 weeks (Derkovitz 2013, pers. comm.; LaGesse *et al.* 2009, p. 4; Bird 1917, p. 127). The boring activities of the rattlesnake-master borer moth generally result in the plant not producing a flower and can be fatal to the host plant (Wiker 2013, pers. comm.; LaGesse *et al.* 2009, p. 4).

Although there are no specific data on their home range, rattlesnake-master borer moths are not thought to disperse widely and have been described as ''relatively sedentary'' (LaGesse *et al.* 2009, p. 4; Panzer 2003, p. 18). Panzer (2003, p. 19) found that female rattlesnake-master borer moths dispersed up to 120 meters (m) (394 feet (ft)) from where they were released and some traversed a 25-m (82-ft) gap that was devoid of host plants. LaGesse *et al.* (2009, p. 4) indicate that rattlesnake-master borer moths will disperse up to 2 miles (3–6 kilometers (km)) if the number of host plants is limiting.

Habitat

Rattlesnake-master borer moths are obligate residents of undisturbed prairie and woodland openings that contain their only food plant, rattlesnake-master (Schweitzer *et al.* 2011, p. 351; LaGesse *et al.* 2009, p. 4; Panzer 2002, p. 1298; Molano-Florez 2001, p. 1; Panzer *et al.* 1995, p. 115; Mohlenbrock 1986, p. 34; Hessel 1954, p. 59; Forbes 1954, p. 198; Bird 1917, p. 124). Although common in remnant prairies, rattlesnake-master occurs in low densities; it is a conservative species and has been found to have relative frequencies in restored and relict prairies of less than 1 percent (Danderson and Molano-Flores 2010, p. 235; Molano-Flores 2001, p. 1). The range of rattlesnake-master covers much of the eastern United States and spans from Minnesota south to Texas, east to Florida and back north to Connecticut (U.S. Department of Agriculture (USDA) Plants Web site 2013, *http://plants.usda.gov/java/*; Danderson and Molano-Flores 2010, p. 235). Although the plant has an expansive range, the loss of its tallgrass prairie habitat within that area is estimated to be between 82–99 percent (Samson and Knopf 1994, p. 418). Most high-quality prairies that remain are small and scattered across the landscape (Robertson *et al.* 1997, p. 63). In 1997, Robertson *et al.* (1997, p. 63) cited the Illinois Natural Areas Inventory, which found that of the 253 grade A and B (high-quality) prairies identified, 83 percent were smaller than 10 acres (4 hectares) and 30 percent were smaller than 1 acre (0.4 hectares). Most prairie destruction occurred between 1840 and 1900 (Robertson *et al.* 1997, p. 63).

Distribution and Status

All but one of the currently known rattlesnake-master borer moth sites have been identified since 1994. Little historical data exists for this species from before 1994. Some, but not all, of the sites have had some subsequent survey work to monitor individual populations.

Surveys for rattlesnake-master borer moths are conducted for both the adult and larval stage. Surveying for adult moths can be limiting, due to their sedentary nature, relatively short flight time, and the potential difficulties of surveying at night when the moths are active (LaGesse 2013, pers. comm.; Schweitzer *et al.* 2011, p. 19; LaGesse *et al.* 2009, p. 7; Metzler *et al.* 2005, p. 59). The usual survey method for *Papaipema* moths is with blacklight traps, although some researchers have found that rattlesnake-master borer moth may not be attracted to blacklights (LaGesse 2013, pers. comm.; LaGesse *et al.* 2009, p. 4). It is difficult to determine population size based on capture of adults, due to their irregular attraction to blacklights and the difficulty of designing a study that would factor in how many adults may be flying at a given time and how far they may range (LaGesse 2013, pers. comm.; Schweitzer *et al.* 2011, p. 19; LaGesse *et al.* 2009, p. 7).

Larval surveys are conducted by searching the host plant for signs of boring (LaGesse *et al.* 2009, p. 7). Rattlesnake-master show signs of stress that indicate the occupancy of the root by rattlesnake-master borer larvae, which usually leave a pile of frass (excrement) below the bore hole (LaGesse 2013, pers. comm.; Hall 2012, pers. comm.). One benefit of larval surveys is that these surveys can be conducted for a longer time because evidence of larval infestation remains even after emergence (Schweitzer *et al.* 2011, p. 13). Researchers will often collect rattlesnake-master borer moth larvae and rear them to adulthood to confirm identification, as other similar species have been found in rattlesnake-master (such as the silphium borer moth (*Papaipema silphii*)) (Wiker 2013, pers. comm.). Much of the available census data for rattlesnake-master borer moths does not indicate the size or stability of the populations, but indicate only the continued presence or absence of the species in a specific area.

The rattlesnake-master borer moth is currently known to occur in five States: Illinois, Arkansas, Kentucky, North Carolina, and Oklahoma. Given that its food plant ranges across 26 States (USDA Plants Web site 2013, *http://plants.usda.gov/java/*), it is likely the rattlesnake-master borer moth's historical range was larger than at present; however, not much data supports its presence in other Midwest States. There are no historical records and no known records of rattlesnake-master borer moth in Indiana, although surveys have been conducted at several sites where the host plant occurs (Okajima 2012, pers. comm.). In Missouri, experts have examined numerous *Papaipema* specimens without finding any collections of rattlesnake-master borer moth (McKenzie 2012, pers. comm.). Experts indicate that, given the abundance of the host plant in Missouri, the species possibly occurs in Missouri and has not been detected (McKenzie 2012, pers. comm.). There are also no historical or known records for Iowa (Howell 2013, pers. comm.). Below we present specific occurrence information across the 5 States where the species is currently known to occur.

Illinois

The State of Illinois has the most rattlesnake-master borer moth sites. At this time, 10 known sites contain rattlesnake-master borer moths in 8 Illinois counties (Will, Cook, Grundy, Livingston, Kankakee, Marion, Effingham, and Fayette). Nine of the known sites are thought to have extant populations and one is unknown. When Bird (1917, p. 124) first described the species, specimens were collected from the Chicago area, and five of the sites with extant populations are still found close to the city of Chicago (Will, Cook, Grundy, Livingston, and Kankakee Counties). There are two known sites in Will County—one of these sites is owned by the Illinois Department of Natural Resources (IDNR) and is extant, and the other is in railroad siding in private and State ownership and its population status is unknown. The population of rattlesnake-master borer moths within the IDNR site is thought to be stable (Derkovitz 2013, pers. comm.). Surveys of both adults and larvae have been conducted on this site, with the most recent larval survey in 2012 (Derkovitz 2013, pers. comm.). This Will County site is protected and managed with prescribed burning to control woody species (Derkovitz 2013, pers. comm.). Although researchers have not found a decline of the moths within this site, poachers have removed individuals in the past and the location of the population is kept undisclosed for this reason (Derkovitz 2013, pers. comm.). Based on this information, we consider the status of the species to be extant on this site.

Larval surveys were conducted at the second Will County site (the railroad siding site), with presence last confirmed in 1997 (Illinois Natural Heritage Database 2012). This site was described by researchers as being very small and with few host plants when it was surveyed in 1997 (Derkovitz 2013, pers. comm.). The population of rattlesnake-master borer moths on this site is under private ownership of the railroad, however, it is contiguous with an Illinois State Nature Preserve (Derkovitz 2013, pers. comm.). During a larval survey in 2008, researchers found no signs of rattlesnake-master borer moths and suggested they may be extirpated from the site (Illinois Natural Heritage Database 2012). Based on this information, we consider the status of the species on this site to be unknown.

The presence of rattlesnake-master borer moths was confirmed on three other railroad siding prairies, one each in Livingston, Kankakee, and Grundy Counties (Illinois Natural Heritage Database 2012). The information on the Kankakee railroad siding is limited, although the species was confirmed on the site in 1997 (Illinois Natural Heritage Database 2012). Not much is known about the Livingston County site since the presence of the moth was detected here in 2001, as there have been no other known surveys of the site (Illinois Natural Heritage Database 2012). Larvae were first detected on the Grundy County railroad siding in 1997, and presence of the species at the site was most recently confirmed in 2012 (Derkovitz 2013, pers. comm.). Like the railroad siding prairie in Will County, these three sites are in private ownership and the unmanaged–populations are considered extant at these sites.

A second site owned by the Illinois DNR is located in Grundy County. The rattlesnake-master borer moth was first found in this site in 1990, with subsequent surveys in 1991, 1993, 1995, 1996, and 2003 (Illinois Natural Heritage Database 2012). Although an extensive survey of the population has not been done on this site, it is protected and managed, with the last prescribed burn occurring in 2011 (Derkovitz 2013, pers. comm.). Poaching of rattlesnake-master borer moths has occurred on this site, and so the location of the population is kept undisclosed (Illinois Natural Heritage Database 2012). The rattlesnake-master borer moth population on this Grundy County site is considered to be extant.

One other known population of rattlesnake-master borer moth close to Chicago occurs in Cook County, with rattlesnake-master borer moths

introduced to the site in 1998 (Derkovitz 2013, pers. comm.; Illinois Natural Heritage Database 2012). This site is owned and managed by Northeastern Illinois University and larval surveys have been conducted each year since it was introduced to the site (Derkovitz 2013, pers. comm.). Area managers have found that the rattlesnake-master borer moths within this area are scattered into several small populations that have stayed approximately the same size since 1998 (Derkovitz 2013, pers. comm.). This site is considered to have an extant population.

In 2008, populations of rattlesnake-master borer moths were found for the first time in Marion and Effingham Counties in southern Illinois (LaGesse and Wiker 2008, pp. 7–8). The presence of the moth was confirmed at three sites through larval surveys; two sites within IDNR prairie areas in Marion County, and one within scenic right-of-way sections of a privately owned railroad siding that spans through Marion and Effingham Counties (LaGesse and Wiker 2008, pp. 7–8). The railroad prairie is a large, linear prairie that covers approximately 64 hectares (158 acres) (Dietrich *et al.* 1996, p. 2). Of the two IDNR owned properties, one is a 65-hectare (160-acre) relict prairie area and the other is a 16 hectare (40-acre) prairie restoration, which contains the only known rattlesnake-master borer moth population that is not in a relict habitat area (LaGesse *et al.* 2009, p. 5). The number of bored rattlesnake-master plants was estimated to be between 200–250 on one IDNR site and the other contained between 250–300 bored plants (LaGesse and Wiker 2008, pp. 7–8). The railroad site contained between 5 and 10 bored plants (containing evidence of larval boring) and 15–20 bored plants (LaGesse and Wiker 2008, pp. 7–8).

In 2009, researchers returned to each of these sites to map and estimate the populations and establish monitoring protocols (LaGesse *et al.* 2009, p. 3). Survey methods included marking and outlining the perimeter of each rattlesnake-master subpopulation, flagging all plants that had signs of being bored by rattlesnake-master borer moths, and mapping the locations (LaGesse *et al.* 2009, p. 5). Individual plants that had evidence of rattlesnake-master borer moth damage were counted within each subpopulation, except for one subpopulation that was too large for such a count (LaGesse *et al.* 2009, p. 5). A sampling method was established to estimate the population within this large population of rattlesnake-master (LaGesse *et al.* 2009, p. 5). Researchers surveyed 67 subpopulations of rattlesnake-master across the 3 sites discovered in 2008 and found that 33 were inhabited by rattlesnake-master borer moths (LaGesse *et al.* 2009, p. 5). Although some populations were probably undetected, they estimated the overall population of rattlesnake-master borer moths to be approximately 4,600 (LaGesse *et al.* 2009, p. 6).

Management is conducted on all three of these sites in order to conserve and sustain the prairie communities. Prescribed fire is used on all of the sites, and the 65-hectare (160-acre) IDNR area also includes grazing to stimulate structural openings for prairie birds (LaGesse *et al.* 2009, p. 5). Researchers found that the grazing practices likely did not impact the rattlesnake-master borer moth population (see Factor A and E discussion in this finding). All three of the sites in southern Illinois are considered to contain extant populations.

In 2009, an application of herbicide affected populations of rattlesnake-master in the railroad siding prairie (LaGesse and Walk 2010, unpaginated). Consequently, in 2010 researchers surveyed the railroad prairie areas using the same techniques from 2009 in order to estimate and map the population of rattlesnake-master and rattlesnake-master borer moths and compare them to the findings from 2009 (LaGesse and Walk 2010, unpaginated). LaGesse and Walk (2010, unpaginated) found that 2 rattlesnake-master populations were completely destroyed and 19 declined between 2009 and 2010. Researchers found that both the overall population of rattlesnake-master and the density of the plants declined (LaGesse and Walk 2010, unpaginated).

Fourteen populations of rattlesnake-master borer moths with a total of 112 caterpillars were detected in 2010 (LaGesse and Walk 2010, unpaginated). One-third of the nine populations of rattlesnake-master borer moths surveyed in 2009 declined; however, nine new populations were identified during the 2010 survey (LaGesse and Walk 2010, unpaginated). Due to an expanded survey area, researchers also identified an additional 24 populations of rattlesnake-master during the 2010 survey in Marion, Fayette, and Effingham Counties (LaGesse and Walk 2010, unpaginated). Within these new stands of rattlesnake-master, they found 7 new populations of rattlesnake-master borer moths with a total of 41 caterpillars. The five populations of rattlesnake-master borer moth identified within Fayette County in 2010 were the first recorded occurrence of the moth for this county (LaGesse and Walk 2010, unpaginated). Although evidence of boring was found in rattlesnake-master in Fayette County in 2009, the areas were subsequently flooded due to heavy rain events (LaGesse and Walk 2010, unpaginated).

Kentucky

The rattlesnake-master borer moth is known from two sites in Kentucky, one each in Christian and Hardin Counties. The Christian County site is known from a single occurrence prior to 1999, but researchers have not found any sign of boring in rattlesnake-master in recent years (Laudermilk 2012, pers. comm.). The succession to woody plants has changed the composition of the plant community on site and experts believe that rattlesnake-master borer moth has been extirpated from the site (Laudermilk 2012, pers. comm.). The Hardin County site is thought to be extant based on larval counts dating back to 2003, with researchers finding between 100 and 500 feeding larvae during each survey year (Laudermilk 2012, pers. comm.). A comprehensive survey in 2008 indicated the largest number of feeding larvae found at that site was approximately 500. The site has a wide distribution of rattlesnake-master, although the moth has shown a clumped distribution (Laudermilk 2012, pers. comm.). This site is secure and its population considered extant, although its location is undisclosed due to concern of collection of the species.

Arkansas

The rattlesnake-master borer moth was first discovered on two sites in Arkansas in 1997, one each in Pulaski and Jefferson Counties (Weaver and Boos 1998, p. 8; Weaver and Boos 1997, p. 8). The Jefferson County site is located on the Pine Bluff Arsenal, where populations of the species were found in dry mesic savanna remnants (Zollner 2013, pers. comm.; Weaver and Boos 1998, p. 8). Researchers found the rattlesnake-master borer moths in small subpopulations of 3–12 individuals scattered throughout the patches of rattlesnake-master within the savanna remnants (Weaver and Boos 1998, p. 9). Surveys were also conducted within a railroad prairie on the Arsenal containing many rattlesnake-master plants, but the moth was not found there; it has not been found since the 1997 survey and researchers suggested that the fire regime in this area may be suppressing the colonization of this area by the moth (Zollner 2013, pers. comm.; Weaver and Boos 1998, pp. 16–17). Since the 1997 survey, one of the areas containing rattlesnake-master borer moths has been developed and an incinerator built on the area (Zollner

2013, pers. comm.). The other savanna remnants remain and have been surveyed for evidence of rattlesnake-master borer moth larva every year since it was discovered (Zollner 2013, pers. comm.). These annual surveys indicate that the population has stayed stable with generally the same number of larvae found, but always fewer than 20 individuals (Zollner 2013, pers. comm.). This area is managed yearly with rotational prescribed burning, usually before April 15 (Zollner 2013, pers. comm.). The Pine Bluff Arsenal site is considered extant.

The Pulaski County site is located within a mesic prairie area on the Little Rock Air Force Base (Weaver and Boos 1997, p. 8). The 1997 survey is the only survey conducted within this site (Popham 2013, pers. comm.; Zollner 2013, pers. comm.). Because of its proximity to the airfield and implementation of Bird Aircraft Strike Hazard rules, the prairie is mowed annually, which is the same management regime conducted onsite when rattlesnake-master was found in 1997 (Popham 2013, pers. comm.). Rattlesnake-master is known to occur in other areas of the Air Force Base; however, this prairie remnant is the only area where the moth has been detected (Popham 2013, pers. comm.) The status of the population and the prairie area on the Air Force Base is unknown.

Oklahoma

One known location of rattlesnake-master borer moth is in Oklahoma, in Osage County (LaGesse 2013, pers. comm.). During surveys conducted between 2000 and 2005, three populations were found within The Nature Conservancy's Tallgrass Nature Preserve, approximately 2–4 miles (3–6 km) apart (LaGesse 2013, pers. comm.). The first population to be studied on the Preserve had approximately 200 individuals. Later, the two other populations were found, both with approximately 50 individuals (LaGesse 2013, pers. comm.). The prairie community on the entire site is managed with grazing bison and a randomized prescribed fire regime designed to mimic the natural forces found on site prior to settlement (Hamilton 2013, pers. comm.). Although no surveys have been conducted on site since 2005, the management of the area is unchanged, so this site is considered extant.

North Carolina

Rattlesnake-master borer moth is known from a pine barrens, which is owned and managed by the State, in Pender County, North Carolina (Hall 2013, pers. comm.; Hall 2012, pers. comm.; Schweitzer *et al.* 2011, p. 351). The moth was first identified from a single adult on this site in 1994 (Hall 2012, pers. comm.; Schweitzer *et al.* 2011, p. 351). A prescribed burn was conducted on the site soon after the 1994 collection, and a subsequent survey resulted in location of one larva during the summer of 1995 (Hall 2012, pers. comm.; Schweitzer *et al.* 2011, p. 351). A 2002 survey of approximately 80–100 rattlesnake-master plants for larval feeding damage resulted in only one hole, indicating possible occupancy, however, no frass was found outside of the hole, which is a more reliable sign of larvae inhabitance (Hall 2012, pers. comm.). No surveys have occurred in the area since 2002 to verify the status of the population, so the status of the population on this site is considered unknown.

In summary, the rattlesnake-master borer moth currently occurs in five States: Illinois, Kentucky, Arkansas, Oklahoma, and North Carolina. Within these states, 16 sites have confirmed populations of the moth since 1993 (Table 1). Of these sites, 12 are considered to be extant, 3 unknown, and 1 is considered to be extirpated. Given the range of the food plant and the relatively recent discovery of all of the known populations, the range of the moth is possibly greater within these five States and within other States where rattlesnake-master is found.

TABLE 1—RATTLESNAKE-MASTER BORER MOTH STATUS AT ALL KNOWN SITES

State	Site description	County	Current status	Date of last observation
Illinois	IDNR Site	Will	Extant	2012
Illinois	railroad siding	Will	Unknown	1997
Illinois	railroad siding	Livingston	Extant	2001
Illinois	railroad siding	Grundy	Extant	2012
Illinois	IDNR	Grundy	Extant	2003
Illinois	railroad siding	Kankakee	Extant	1997
Illinois	Northeastern Illinois University	Cook	Extant	2012
Illinois	IDNR	Marion	Extant	2009
Illinois	IDNR	Marion	Extant	2009
Illinois	railroad siding	Marion, Effingham, Fayette	Extant	2010
Kentucky		Christian	Extirpated	1999
Kentucky		Hardin	Extant	2008
Arkansas	Pine Bluff	Jefferson	Extant	2012
Arkansas	Little Rock Air Force Base	Pulaski	Unknown	1997
Oklahoma	The Nature Conservancy	Osage	Extant	2005
North Carolina	Pine Barrens	Pender	Unknown	2002

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this finding, information pertaining to the rattlesnake-master borer moth in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what

factors might constitute threats to a species, we must look beyond the exposure of the species to a particular factor to evaluate whether the species may respond to that factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the species warrants listing. The information must include evidence sufficient to suggest that these factors are operative threats that act on the species to the point that the species may meet the definition of an endangered or threatened species under the Act.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Rattlesnake-master borer moths are monophagous, feeding exclusively on the prairie plant, rattlesnake-master (Schweitzer *et al.* 2011, p. 351; LaGesse *et al.* 2009, p. 4; Panzer 2002, p. 1298; Molano-Florez 2001, p. 1; Panzer *et al.* 1995, p. 115; Mohlenbrock 1986, p. 34; Hessel 1954, p. 59; Forbes 1954, p. 198; Bird 1917, p. 124). Although the overall range of rattlesnake-master is large (occurring in 26 States), the plant's relative densities in prairie are low, making up 1 percent of the prairie flora (Danderson and Molano-Flores 2010, p. 235; Molano-Flores 2001, p. 1). Rattlesnake-master is not known to occur in disturbed areas, and the extensive loss of undisturbed prairie in the United States has resulted in the remaining remnants that could support rattlesnake-master generally to be small and isolated. The rattlesnake-master borer moth's dependence on rattlesnake-master as its only larval food source makes the moth's potential habitat very narrow, which is likely limiting for this species. In their multiyear study, Panzer *et al.* (1995, p. 102) gauged the levels of remnant dependence (limited to natural area remnants) for 22 families and 6 genera of insects around the Chicago, Illinois, area and provided a list of remnant dependent species. They determined that rattlesnake-master borer moths are highly dependent on remnant patches of native prairie, not finding them in any disturbed areas (Panzer *et al.* 1995, p. 115). The disturbed area between the widely scattered remnant prairie patches that support the remaining rattlesnake-master borer moth populations will not support their food plant, rattlesnake-master, making these expansive areas uninhabitable to the moth.

The conservation of good-quality prairie habitat is important for rattlesnake-master borer moth populations, especially those that are small and isolated, which would not be recolonized if they were extirpated. The loss of prairie habitat and the degradation and destruction of remnant habitat occurs in many ways, including but not limited to development, fire, flooding, invasive species encroachment, and succession, which are discussed in further detail below.

Conversion of Prairie for Agriculture

Since Euro-American settlement, conversion of prairie for agriculture is the most significant factor in the decline of American grasslands, and, thus, that of the rattlesnake-master borer moth. According to Samson and Knoff (1994, p. 419), by 1994, tallgrass prairie had declined 99.9 percent from historical levels in Illinois, Iowa, and Indiana and 99.5 percent in Missouri. Warner (1994) studied the transition of land use in Illinois since 1800. He found that between 1820 and 1920, Illinois went from almost two-thirds of the State covered with prairie to less than 1 percent (Warner 1994, p. 149). With the onset of intensive row-cropping after the 1950s, Illinois saw declines in diversified farming practices that included grazing of livestock on grasslands, leading to even further losses of grasslands (Warner 1994, p. 150). The loss of grasslands has been precipitous and has followed the settlement of the Midwest and the expansion and modernization of farming practices. The current threat of such conversion to extant populations is not well known and may now be secondary to other threats.

Nonagricultural Conversion of Prairie

The conversion of remaining prairie remnants for nonagricultural purposes continues to be a threat for some of the rattlesnake-master borer moth sites. Both Arkansas sites are within military installations and are under pressure of potential changes in land-use based on base priorities. An incinerator was constructed on top of one site containing rattlesnake-master borer moth within the Pine Bluff Arsenal (Zollner 2013, pers. comm.). Air Force officials are considering allowing development in one area of the Little Rock Air Force Base that contains populations of rattlesnake-master (Popham 2013, pers. comm.). Although researchers did not find rattlesnake-master borer moths within this savanna area in 1997, removal of this area would decrease the opportunity of the moth to expand into other habitat.

In Illinois, several of the populations are close to Chicago and are within urban areas; however, all of those that are not railroad sidings are managed to maintain the prairie habitat and are currently protected from development. A high-speed rail project planned from Chicago, Illinois, to St. Louis, Missouri, may impact rattlesnake-master borer populations located within railroad sidings. According to the U.S. Department of Transportation (USDOT) Environmental Impact Statement (EIS) (2012, pp. 5–34), all proposed alternatives would impact approximately 94 hectares (233 acres) of prairie remnants. The populations of rattlesnake-master borer moth occurring within the railroad sidings in Will, Livingston, and Grundy Counties are located along the same Union Pacific railroad track that has been identified in all of the build alternatives in the USDOT EIS (USDOT EIS 2012, Appendix A).

Although not all of the project plans have been finalized, potential construction impacts to the railroad siding prairies included in the EIS include construction of a second rail in order to provide double tracking for the entire alignment and construction of a parallel maintenance road along the alignment, both of which could impact populations of rattlesnake-master borer moth (USDOT EIS 2012, pp. 3–19). Surveys will be conducted in the coming years to identify all rattlesnake-master borer moth populations in these areas and potentially translocate individuals out of the construction zone (LaGesse 2013, pers. comm.). There are some indications that construction of the second track may impact the entire west side of the current alignment, effectively removing half of the prairie habitat in some places (LaGesse 2013, pers. comm.).

Fire

Rattlesnake-master borer moth populations existed historically in a vast ecosystem maintained in part by fire. Although prairie insects are adapted to fire in some ways, experts suggest that prescribed burns that are conducted frequently and cover entire insect populations can be detrimental (Schweitzer *et al.* 2011, p. 42). The rattlesnake-master borer moth is restricted in population size and distribution and thus is sensitive to management activities that are

implemented across an entire site, such as fire (Panzer 2002, p. 1298). In his 2002 study, Panzer (2002, pp. 1296–1306) examined the recovery rate of fire-sensitive insects by assessing their post-fire response. Panzer (2002, p. 1306) identified four life history traits of duff-dwelling insects such as rattlesnake-master borer moth that were good predictors of a negative response to fire: (1) Remnant dependence (occurring as small, isolated populations); (2) upland inhabitance (dry uplands burn more thoroughly than wetter habitats); (3) nonvagility (low recolonization rate); and (4) univoltine (slower recovery rates for species with only one generation per year). He said that species exhibiting one or more traits should be considered fire-sensitive and species with all four traits should be considered ''hypersensitive'' to fire (Panzer 2002, p. 1306). The rattlesnake-master borer moth exhibits all four of these traits and thus, according to Panzer (2002, p. 1306), is hypersensitive to fire.

He indicated that univoltine, duff-inhabiting species like *Papaipema* moths should be considered especially susceptible to extirpation from fire (Panzer 2002, p. 1298). Adult rattlesnake-master borer moths are not known to disperse widely and are thought to be relatively sedentary making adults more vulnerable to fire (Panzer 2003, p. 18; LaGesse et. al 2009, p. 4). They lay their eggs close to the host plant where they overwinter in the duff making the eggs and first instars susceptible to burns conducted from late fall to late spring before larvae have a chance to bore into the root of the plant (Derkovitz 2013, pers. comm.; LaGesse *et al.* 2009, p. 4; Bird 1917, p. 126). They are more resistant to the effect of fire during summer months after they have bored into the root and are below ground.

Rattlesnake-master borer moths were one of the species included in Panzer's (2003, p. 18) study of the importance of in situ survival, recolonization, and habitat gaps in the post-fire recovery of fire-sensitive prairie insects. Panzer studied the in situ survivorship of rattlesnake-master borer moths after burning 100 percent of the available habitat for some small populations that were at least 200 m (656 ft) from potential recolonization sources (2003, p. 18). Larval surveys were conducted to detect the presence of rattlesnake-master borer moths in order to eliminate the potential of detecting adults that may be recolonizing from other areas. Larvae were found in one out of two of the smallest populations burned that were between 4 m^2 and less than 8 m^2 (43 and 86 ft^2) (Panzer 2003, p. 19). Panzer (2003, p. 19) found better survivorship on larger patches burned, with individuals surviving in all of the populations that were between 8 m^2 and less than 16 m^2 (86 and 172 ft^2), and between 16 m^2 and less than 32 m^2 (172 and 344 ft^2) (two out of two for each). A prescribed burn conducted in 1994 affected the entire population of rattlesnake-master borer moth at the North Carolina site (Hall 2012, pers. comm., Schweitzer *et al.* 2011, p. 351). The subsequent 1995 survey resulted in location of one larva, and the only other survey of the site (conducted in 2002) resulted in the detection of one potential bore hole (Hall 2012, pers. comm.). The presence of individual rattlesnake-master borer moths in areas that are completely burned indicates that in situ survival likely does contribute to the recovery of a population after a burn (Panzer 2003, p. 20); however, it is unknown if they can sustain themselves with repeated burns without recolonization.

The effects of fire on individual rattlesnake-master borer moth populations are difficult to ascertain as populations differ in size, density, and type of habitat they occupy. Also, some populations may be under stress from other threats making the effects of fire more detrimental (Panzer 1988, p. 87). The fire sensitivity of rattlesnake-master borer moth indicates that fire is a threat in habitats burned too frequently or too broadly. In order to reap the benefits of fire to habitat quality, rattlesnake-master borer moths must either survive in numbers sufficient to rebuild populations after the fire or recolonize the area from a nearby unburned area (Schweitzer *et al.* 2011, p. 251; Panzer 2003, p. 19; Panzer 1988, p. 88). In addition, the return interval of fires needs to be infrequent enough to allow for recovery of the populations between burns. Panzer indicates that burn programs that do not provide sanctuaries for fire-sensitive species, especially on small sites, will contribute to their loss across the landscape (Panzer 2003, p. 20). Prescribed burns that are designed to leave some patches of unburned habitat (by burning when it is wet or cool) may provide additional in situ survival, which may be important for fire-sensitive species on small sites (Panzer 2003, p. 20).

Complete fire suppression, however, can lead to the decline of prairie habitat, as well as savanna and pine barrens, as woody species become established (Schweitzer *et al.* 2011, p. 40; Panzer and Schwartz 2000, p. 363). The natural fire processes that once maintained prairie habitat have been altered by the modern landscape and without the addition of burning of these small patches of prairie habitat, they are subject to succession and the buildup of plant litter (Swengel 1998, p. 77). Although found commonly in undisturbed remnant prairies, rattlesnake-master is a highly conservative species and has been found to have relative frequencies in restored and relict prairies of less than 1 percent (Danderson and Molano-Flores 2010, p. 235; Molano-Flores 2001, p. 1). Given its dependence on its host plant, proper fire management relative to the needs of its host plant and to retain prairie habitat is very important for rattlesnake-master borer moths.

Of the 16 known rattlesnake-master borer moth sites, 10 are or have been managed with fire. The prairie community on the entire Tallgrass Prairie Preserve in Oklahoma is managed with a randomized prescribed fire regime that includes grazing designed to mimic the natural forces found on site prior to settlement (Hamilton 2013, pers. comm.). In Illinois, six sites are protected (four in State ownership, one owned by Northeastern Illinois University, and one private but managed as a natural area) and managed with prescribed fire, and all have extant populations that are considered stable. These sites are comparatively large and range from 1,700 acres (688 hectares) to the smallest at 40 acres (16 hectares), and all contain scattered populations of rattlesnake-master borer moths within the sites (Derkovitz 2013, pers. comm.; LaGesse 2013, pers. comm.).

The savanna remnants within the Pine Bluff Arsenal in Arkansas where rattlesnake-master borer moth are found are also managed with fire (Zollner 2013, pers. comm.). This area is managed yearly with rotational prescribed burning usually before April 15 (Zollner 2013, pers. comm.). Annual surveys at the Pine Bluff Arsenal indicate that the population has stayed stable, with generally the same number of larvae found, but always fewer than 20 individuals (Zollner 2013, pers. comm.). The use of prescribed fire in the relatively large prairie remnants described above appears to be maintaining the prairie ecosystem at the sites without impacting the overall population of rattlesnake-master borer moths. The pine barrens site in North Carolina is comparably smaller and is all located within one burn unit (Hall 2013, pers. comm.). The entire area was burned in 1994, which may have impacted the rattlesnake-master borer moth population as only one larva was found during the subsequent survey in 1995, and evidence of only one borer

hole was found in 2001 (Hall 2012, pers. comm.; Schweitzer *et al.* 2011, p. 351). Surveys were also conducted within a railroad prairie on the Pine Bluff Arsenal which contains many rattlesnake-master plants, but the moth has never been found there, either during the 1997 survey or subsequent surveys, and researchers suggested that the fire regime in this area may be suppressing the colonization of this area by the moth (Zollner 2013, pers. comm.; Weaver and Boos 1998, pp. 16–17).

At this time, it does not appear that fire prescriptions for any of the rattlesnake-master borer moth sites are designed to avoid burning while any of the life stages (adult, egg, larva) are located within the prairie duff layer or are designed so that only portions of the rattlesnake-master borer moth populations or its host plant are burned at one time. Research has shown that even when entire sites are burned, rattlesnake-master borer moths can survive in situ; however, given their sensitivity to fire it is likely that populations rely on recolonization from unburned sanctuaries. It is possible that not all of the populations on the larger sites are being burned at once, given that populations of rattlesnake-master borer moth are not found in single populations, but are scattered within the sites. Fire is a current and ongoing rangewide threat of high severity. Where burns occur, the moths need a sufficient amount of contiguous or nearby habitat from which immigrants can reinhabit burned areas.

Grazing

The productivity of prairie decreases as excess plant litter accumulates (Robertson *et al.* 1997, p. 57). Grazing and fire were two natural disturbance factors that historically maintained the prairie ecosystem by removing some of this biomass (Robertson *et al.* 1997, p. 56). Approximately 60 million plains bison *(Bison bison)* once grazed throughout the Midwest prairie (Samson and Knopf 1994, p. 419). Wallowing by bison and trampling by bison and cattle creates open areas that can increase species richness and heterogeneity in prairie (Robertson *et al.* 1997, p. 58). Grazing is used as a management tool in two of the rattlesnake-master borer moth sites; the Tallgrass Prairie Preserve in Oklahoma and an IDNR owned property in Illinois.

Both cattle and bison graze within the Tallgrass Prairie preserve, separated into two different units with different management regimes (Hamilton 2007, pp. 163–168). The 2,700 bison graze freely throughout the entire 23,500 acres (9,510 hectares) of the bison tract (Hamilton 2013, pers. comm.). The prescribed fire regime within the bison unit is randomized, and managers of the Preserve have found that bison generally graze in newly burned areas during the growing season in order to take advantage of the increased forage quality of the new regrowth (Hamilton 2007, p. 168). Researchers have found that, before the introduction of the bison, the rattlesnake-master on the Preserve was located in small populations (LaGesse 2013, pers. comm.) The rattlesnake-master has spread since the introduction of the bison, likely because the seeds of the plant have evolved small hooks that stick in the fur of the bison and are distributed as they range through the Preserve (LaGesse 2013, pers. comm.; LaGesse *et al.* 2009, p. 3).

The cattle unit is approximately 526 hectares (13,000 acres) and is managed with experimental treatments including ''patch burn'' treatments initiated under research by Oklahoma State University in 2001 (Hamilton 2007, p. 168). It is not known whether there are populations of rattlesnake-master borer moth or its host plant in the cattle unit of the Preserve. Cattle are used as grazing management on one of the Illinois DNR properties in order to create structure for grassland birds (LaGesse 2013, pers. comm.). Cattle are allowed into the property for approximately 60 days a year to ''flash graze'' the area (LaGesse 2013, pers. comm.). In their 2008 survey of this area, LaGesse and Wiker (2008, p. 8) found that cattle had consumed most of the flowering rattlesnake-master, but found no negative impacts to the rattlesnake-master borer moths. The researchers note that when cattle were introduced on a neighboring tract after the rattlesnake-master flowers had hardened, they were not eaten (LaGesse and Wiker 2008, p. 8). They suggest that introduction of cattle to a population of rattlesnake-master after the flowers have hardened may protect them from being grazed and avoid a decrease in seed production (LaGesse and Wiker 2008, p. 8). In both of these examples, bison and cattle herds are managed so that there is no overgrazing.

Lack of Management, Succession, Invasive Species

While inappropriate or excessive burning are threats to rattlesnake-master borer populations, the species is also under threat where there is no management to maintain prairie habitats. Without periodic disturbance, prairies are subject to expansion of woody plant species (secondary succession), litter accumulation, or invasion by nonnative plant species (*e.g.,* smooth brome) (McCabe 1981, p. 191; Dana 1997, p. 5; Higgins *et al.* 2000, p. 21; Skadsen 2003, p. 52). Panzer and Schwartz (2000, p. 367) found a higher density of rattlesnake-master borer moths within fire-managed populations than fire-excluded populations in Illinois. Several sites with rattlesnake-master borer moths are not managed—invasive species and woody encroachment are threats to populations at those sites (Derkovitz 2013, pers. comm.; Laudermilk 2012, pers. comm.). The railroad siding prairies in Will, Grundy, and Livingston Counties, Illinois, are all unmanaged and are under threat of invasion by woody plant species, like buckthorn (*Rhamnus* spp.) (Derkovitz 2013, pers. comm.). The succession to woody plants changed the composition of the plant community on one Kentucky site, resulting in the likely extirpation of rattlesnake-master borer moths (Laudermilk 2012, pers. comm.). Lack of management is considered to be a threat where the rattlesnake-master borer moth habitat is degraded or likely to become degraded due to secondary succession, invasive species, or both. This is likely the case at all six of the sites where there is not ongoing management of the prairie.

Flooding

Flooding is a threat to at least two rattlesnake-master borer moth populations. Although evidence of boring was found in rattlesnake-master in Fayette County, Illinois in 2009, the areas were subsequently flooded due to heavy rain events (LaGesse and Walk 2010, unpaginated). These populations were reconfirmed in 2010; however, researchers believe this area will likely continue to be affected by flooding in years of heavy rain (LaGesse 2013, pers. comm.; LaGesse and Walk 2010, unpaginated). The two Illinois DNR sites in Will and Grundy Counties have been documented with standing water in wet springs, which may affect the rattlesnake-master borer moth populations, depending on the duration and extent of the flooding (Derkovitz 2013, pers. comm.).

Herbicide Application

In 2009, an application of herbicide affected populations of rattlesnake-master in the railroad siding prairie in Marion, Effingham, and Fayette Counties (LaGesse and Walk 2010, unpaginated). LaGesse and Walk (2010, unpaginated) found that 2 rattlesnake-master populations were completely destroyed and 19 declined between 2009 and 2010. After comparing the data from 2009 and 2010, researchers found that both the overall population

of rattlesnake-master and the density of the plants decline (LaGesse and Walk 2010, unpaginated). The impact to the food plant also affected the rattlesnake-master borer moths. Fourteen populations of rattlesnake-master borer moths with a total of 112 caterpillars were detected in 2010 with one-third of the 9 populations of rattlesnake-master borer moths surveyed declining from 2009 to 2010 (LaGesse and Walk 2010, unpaginated).

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

Seven of the 16 rattlesnake-master borer moth sites are currently owned and managed by State conservation agencies, a university, or management entity that protects them from development. All of these sites have some sort of management regime that is being implemented to maintain the prairie community that allows the subsistence of the species' food plant and protects the site from encroachment of woody habitat. Six of the seven sites are maintained with fire, and the seventh is maintained with fire and grazing. None of the management regimes are specifically designed to avoid direct impacts to the species, although the largest sites (five in Illinois and one in Oklahoma) have extant populations that appear to be stable.

Summary of Factor A

We have identified a number of threats to the habitat of the rattlesnake-master borer moth that operated in the past, are impacting the species now, and will continue to impact the species in the future. The decline of the rattlesnake-master borer moth is the result of the long-lasting effects of habitat loss, fragmentation, degradation, and modification from agriculture, development, flooding, invasive species, and secondary succession. Although efforts have been made to effectively manage habitat in some areas, the long-term effects of large-scale and wide-ranging habitat modification, destruction, and curtailment will last into the future. Development of a high-speed rail project in Illinois will likely impact three known populations of rattlesnake-master in three counties, and development on the two military installations in Arkansas has destroyed one population of the species and may impact the other. Fire and grazing cause direct mortality of the moth or destroy food plants if the intensity, extent, or timing is not conducive to the species' biology. The application of herbicides affected several populations of rattlesnake-master and caused direct mortality to resident rattlesnake-master borer moths, causing a decline in some of the populations the following summer.

Of the 16 sites considered to be occupied by the rattlesnake-master borer, all of the sites have at least one documented threat. Some sites have more than one threat, and concurrently acting threats may have more intense effects than any one threat acting independently. Almost all of the sites with extant populations of rattlesnake-master borer moth are isolated from one another, with populations in Kentucky, North Carolina, and Oklahoma occurring within a single site for each State, preventing recolonization from other populations. Of the sites that are currently protected from development and are under management to maintain the prairie ecosystem, all of them utilize management regimes (either burning or grazing or both) that could potentially impact individual rattlesnake-master borer moths and whole populations depending on the timing, extent, and frequency of the events. Two of these sites are also known to have standing water during large rain events in the spring which may impact rattlesnake-master borer moths.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Illegal collection of rattlesnake-master borer moths has been noted at two IDNR managed sites in Illinois close to Chicago (Derkovitz 2012, pers. comm.; Illinois Natural Heritage Database 2012). The locations of these populations are not publicized. Although there have been no known poaching events within the Kentucky sites, managers are concerned and indicate that this species is sought after by lepidopterists in that State and keep the location of that site undisclosed (Laudermilk 2012, pers. comm.). Adult rattlesnake-master borer moths have been noted as hard to collect (see life history section); however, the host plant is easy to identify, which could make locating the larvae easier and the species more susceptible to collection (Schwietzer 2011, p. 45).

Some extant populations of rattlesnake-master borer moths are known to be very small and made up of very few individuals. Because the host plant is easily identifiable, it is conceivable that an entire population could be impacted by one collector if enough host plants are removed. Collection from the remaining small and isolated populations could have deleterious effects on this species' reproductive and genetic viability. Due to the species' small population size, limited range, and the potential ease of collection of larval individuals, recreational collecting of this species presents a threat now and in the future throughout its range.

Conservation Efforts To Reduce Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

As discussed in *Factor D: The Inadequacy of Existing Regulatory Mechanisms,* the rattlesnake-master borer moths is listed as endangered on Illinois' State threatened and endangered species list, and Scientific Collectors Permits are required in order to collect the species throughout the State, providing protection for the populations within the 10 Illinois sites. However, two of these Illinois sites are known to have had illegal collections. Seven of the rattlesnake-master borer moth populations, in North Carolina, Illinois, and Oklahoma, are within protected areas, and permission is required to collect specimens within all of these sites. The species is not specifically protected through State laws in Kentucky, Arkansas, Oklahoma, or North Carolina, and we know of no proposals to add this requirement in the future, leaving the two sites in Kentucky, and the two sites in Arkansas unprotected.

Factor C. Disease or Predation

There are no known diseases that are specific to rattlesnake-master borer moths, however, there is some evidence of parasitism in the moth, and known parasitism of the host plant, rattlesnake-master. While parasitism has been found by researchers in rattlesnake-master borer moth larvae, the species of parasite is unknown (LaGesse 2013, pers. comm.). Eggs and larvae of parasitic species have been found using rattlesnake-master borer moth caterpillars as hosts, although at this time there is no conclusive evidence of potential effects to the species or populations as a whole.

Second and third instar rattlesnake-master borer moths have also been known to cannibalize each other. During the time that the larvae are actively boring into the host plant, researchers have detected cannibalistic behavior with some caterpillars moving into already occupied bore holes, killing the occupant, and pushing them back out (LaGesse *et al.* 2009, p. 4).

The caterpillars of another species of moth, *Coeotechnites eryngiella,* are known to bore into the seeds of rattlesnake-master, sometimes affecting up to 60–70 percent of rattlesnake-

master seeds (Danderson and Molano-Flores 2010, p. 235; LaGesse *et al.* 2009, p. 3; Molano-Flores 2001, p. 5). Danderson and Molano-Flores (2010, p. 242) found that the herbivory of rattlesnake-master by *C. eryngiella* causes a change in physical appearance of the inflorescence and resulted in a decrease in flower visitation by pollinators.

Summary of Factor C

Available information indicates disease is not a threat to the rattlesnake-master borer moth. There is evidence that parasitism and predation occur; however, the impacts to this species and its host plant rattlesnake-master are unclear. Researchers have found that the parasitism of rattlesnake-master by rattlesnake-master borer moths and *C. eryngiella* can affect individual plants and potentially whole populations. Some extant populations of rattlesnake-master borer moths are known to be very small, made up of very few individuals. It is possible that parasitism of the species by wasps and potentially the cannibalism by individuals competing for host plants may impact small populations of rattlesnake-master borer moths, especially those that are also under stress from other threats. Available information indicates that disease, parasitism, and predation are not threats that have substantial impacts to rattlesnake-master borer moth individuals or populations.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

The rattlesnake-master borer moth is listed as endangered by two States in which it is found, Illinois and Kentucky. In Illinois, the moth is listed as endangered under the Illinois Endangered Species Protection Act, which ''prohibits the possession, taking, transportation, sale, offer for sale, or disposal of any listed animal or products of listed animals without a permit issued by the Department of Conservation'' (Illinois Endangered Species Protection Board 2011, p. 7). The Illinois Endangered Species Protection Board is responsible for determining which species are listed in the State and for advising the Illinois DNR on methods of protection and management of listed species (Illinois DNR Web site 2013, *http://www.dnr.illinois.gov/espb/Pages/default.aspx*). The Illinois DNR office of Realty and Environmental Planning administers the State's threatened and endangered species consultation program and works with agencies, developers, and other project proponents to assess the potential effects of projects and potentially mitigate them (Illinois DNR Web site 2013, *http://www.dnr.illinois.gov/espb/Pages/default.aspx*). For development or agency projects that are determined to affect listed species, an incidental take permit is required (Illinois DNR Web site 2013, *http://www.dnr.illinois.gov/ESPB/Pages/EndangeredSpeciesPermitsandIncidentalTake.aspx*).

Project proponents for the proposed High Speed Rail project from Chicago, Illinois, to St. Louis, Missouri, are currently working through the State's consultation process, including requesting an incidental take permit for potential effects to rattlesnake-master borer moths in the alignment (LaGesse 2013, pers. comm.). For researchers, a collection permit is required for the possession of specimens or products of Illinois that are listed as threatened or endangered, and additional permits are required for collection of any species within the State's parks, forests, and conservation areas, or Illinois Nature Preserves or registered Illinois Land and Water Reserves (IDNR Web site 2013, *http://www.dnr.illinois.gov/ESPB/Pages/EndangeredSpeciesPermitsandIncidentalTake.aspx*).

The rattlesnake-master borer moth is also listed as endangered in Kentucky by the State's Nature Preserves Commission (Kentucky State Nature Preserves Commission 2013, p. 35). At this time Kentucky legislature has not enacted any statute that provides legal protection for species listed as threatened or endangered (Laudermilk 2013, pers. comm.).

The rattlesnake-master borer moth is not protected in Arkansas as it has not been named to the State list of threatened or endangered species and is not named in the State's Wildlife Action Plan as a Species of Greatest Conservation Need (Arkansas Game and Fish Commission Web site 2013, *http://www.agfc.com/species/Pages/SpeciesEndangered.aspx;* Anderson 2006, p. 2028). It is also not protected under State threatened and endangered species statutes in Oklahoma and North Carolina (Oklahoma Department of Wildlife Conservation Web site 2013, *http://wildlifedepartment.com/wildlifemgmt/endangeredspecies.htm;* North Carolina Wildlife Resources Commission 2008, p. 8). However, the sites within these States are owned and managed by the State (in North Carolina) and The Nature Conservancy (in Oklahoma) and require a collection permit within these two sites (Hall 2013, pers. comm.; Hamilton 2013, pers. comm.).

The U.S. Forest Service has designated the rattlesnake-master borer moth as a sensitive species in Region 9, which includes the State of Illinois (U.S. Forest Service 2003, p. 4). At this time there are no known populations of the species within the Forest Service's lands, so the designation of sensitive species status for this species will have no benefit at this time. However, it may be beneficial if populations are identified on Forest Service lands in the future.

To summarize, existing regulatory mechanisms, including State endangered species statutes, provide protection for 12 of the 16 sites containing rattlesnake-master borer moth populations. Illinois provides regulatory mechanisms to protect the species from potential impacts from actions such as development and collecting; however, illegal collections of the species have occurred at two sites. A permit is required for collection by site managers within the sites in North Carolina and Oklahoma, although no statutory mechanisms protect the populations in North Carolina, Kentucky, Arkansas, or Oklahoma, which leaves privately owned sites in Arkansas and Kentucky unprotected from collection.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Habitat Fragmentation and Population Isolation

Rattlesnake-master borer moths are habitat specialists, which has a strong negative effect on their distribution and abundance. The species is completely dependent on prairie habitat and, more specifically, on a single larval food plant species, rattlesnake-master. Habitat fragmentation has reduced the once extensive prairie habitat to a collection of isolated patches of varying quality. Most prairie remnants that remain have been or continue to be subjected to haying, grazing, dumping, fire suppression, or succession, all of which degrade prairie quality (Panzer 1988, p. 83).

Prairie remnant-dependent species, such as rattlesnake-master borer moths, are more susceptible to extinction from stochastic events than other insects, due to their fluctuating population densities, poor dispersal abilities, and patchy distribution (Panzer 1988, p. 83). The potential for extirpation within patches is intensified by the addition of other threats such as development, fire, grazing, and succession. Rattlesnake-master borer moths are not known to disperse widely and have been

described as ''relatively sedentary'' (Panzer 2003, p. 18; LaGesse *et al.* 2009, p. 4). Researchers believe that the species will remain within a habitat patch unless the amount of rattlesnake-master becomes limiting and the moths are forced to seek out additional food plants (LaGesse 2013, pers. comm.). The moths also have relatively short flight times of approximately 2 weeks and may only fly during the pheromone ''calling'' times of the female, which may be only a couple of hours a night (Wiker 2013, pers. comm.). Rattlesnake-master borer moths within the Tallgrass Prairie Preserve in Oklahoma may have recolonized to habitat that was 2 miles (3.2 km) from their original patch of rattlesnake-master when the food plant became scarce (LaGesse 2013, pers. comm.). Recolonization like this is likely not possible for many of the remaining populations of the species as they are isolated from one another, most are surrounded by agricultural fields or urban areas with no connecting habitat, and most are separated by distances greater than 2 miles (3.2 km). Species that are widely distributed in small populations are more susceptible to catastrophic events, and extirpations at individual sites will be permanent if there are no populations close enough that can recolonize the area.

Railroad siding prairies may afford the species the most likely opportunity for migration between populations or into new patches of rattlesnake-master, as they contain the most contiguous habitat, sometimes spanning many miles. The large railroad prairie in Marion, Fayette, and Effingham Counties contains long stretches of connected habitat, with the entire prairie corridor stretching for 22 miles (35 km) (LaGesse *et al.* 2009, p. 6). Although populations of the food plant are described as patchy within the prairie habitat, this linear area affords the species the opportunity to disperse without having to traverse urban or agricultural environments. The railroad siding prairies in Will, Grundy, and Livingston Counties occur along the same corridor, but the remnant prairie here is patchy and populations are described as being very small (Derkovitz 2013, pers. comm.; Illinois Natural Heritage Database, 2012). Although the railroad prairies may afford the species the most likely opportunity for migration between populations, these sites are not protected, are subject to development and other disturbance, and receive minimal or no management to maintain the prairie habitat. Also, small populations of rattlesnake-master borer moths may not be able to maintain large enough population sizes when they are under pressure from other threats to be able to produce enough adults to immigrate to new areas.

Even with proper prairie management, extreme weather patterns or severe weather events have the potential to significantly impact rattlesnake-master borer moth populations, because they can occur across a large geographic area. These events include extremely harsh winters, late hard frosts following a spring thaw, severe storms, flooding, fire, or cool damp conditions. Habitats isolated as a result of fragmentation will not be recolonized naturally after local extirpations, as described above, and extirpation of individual populations from catastrophic events is more likely when they are isolated and widely spread.

Isolated populations like those of the rattlesnake-master borer moth likely do not receive any immigration of individuals from other populations. Without sufficient gene flow, populations in small, fragmented habitats are unlikely to remain viable over the long term (Frankham *et al.* 2009, p. 309). There have been no genetic studies of the rattlesnake-master borer moth to date; however, populations within fragmented habitats, like the rattlesnake-master borer moth, are predicted to have lower genetic diversity than those that occur in contiguous habitat, due to restricted gene flow, genetic drift, and increased inbreeding (Frankham *et al.* 2009, pp. 334–335). Reduced fitness (reduced genetic diversity) results in a reduced ability to adapt to environmental change (Frankham *et al.* 2009, p. 523).

Twelve of the known sites containing rattlesnake-master borer moth are considered isolated, as they are not connected by contiguous habitat to other prairie containing rattlesnake-master and are not likely to be recolonized by the low dispersing adult rattlesnake-master borer moths. The Tallgrass Prairie Preserve in Oklahoma represents the largest area of contiguous prairie habitat in which the rattlesnake-master borer moth exists, but there are no other known populations in Oklahoma. Due to the few numbers and small size of remaining populations, and their degree of isolation, habitat fragmentation and isolation is a threat that has significant impacts to the rattlesnake-master borer moth across its range.

Climate Change

Our analyses under the Endangered Species Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 78). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an ''endangered species'' or a ''threatened species'' under the Act. If a species is listed as endangered or threatened, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Global climate change, with projections of increased variability in weather patterns and greater frequency of severe weather events, as well as warmer average temperatures, would affect remnant prairie habitats and may be a significant threat to prairie species such as the rattlesnake-master borer moth (Royer and Marrone 1992b, p. 12, 1992a, pp. 22–23, Swengel *et al.* 2011, p. 336, Landis *et al.* 2012, p. 140). Rattlesnake-master borer moth habitat may experience the effects of gradual shifts in plant communities and an increase in catastrophic events (such as severe storms, flooding, and fire) due to climate change, which is exacerbated by habitat fragmentation. The isolation of rattlesnake-master borer moth populations makes them unlikely to recover from local catastrophes without artificial reintroduction or propagation,

because they are not close enough to other populations for recolonization to occur.

Documentation of climate-related changes that have already occurred throughout the range of the rattlesnake-master borer moth (*e.g.,* Johnson *et al.* 2005, pp. 863–871) and predictions of changes in annual temperature and precipitation in the Midwest region of the United States (Galatowitsch *et al.* 2009, p. 2017), and throughout North America (IPCC 2007, p. 9) indicate that increased severity and frequency of droughts, floods, fires, and other climate-related changes will continue in the future. Recent studies have linked climate change to observed or predicted changes in distribution or population size of insects, particularly Lepidoptera (Wilson and Maclean 2011, p. 262). Climate change is an emerging threat and has the potential to have severe impacts on the species; however, at this time our knowledge of how these impacts may play out is limited. All of the sites within the range of the species are in an area that could experience the effects of climate change.

Prairie Management Techniques

Native prairie must be managed to prevent the indirect effects of invasive species and succession from affecting rattlesnake-master borer moth populations. If succession has progressed too far, established shrubs or trees must be removed in a way that avoids or minimizes damage to the native prairie. When succession is well advanced, managers must use intensive methods, including intensive fire management, to restore prairie plant communities. If not administered carefully prescriptive methods such as fire and grazing themselves can harm local populations of rattlesnake-master borer moths (for example, see *Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*). Rattlesnake-master borer moths are susceptible to the effects of prairie management techniques much of the year because the eggs overwinter in the prairie duff, and early instars are located on the leaves and stems of the food plant and do not bore beneath the surface of the soil into the root ball until late June (LaGesse *et al.* 2009, p. 4). The above life history traits and the adults' low dispersal ability make them susceptible to mortality from prescribed fires, except when they have bored into the root of the host plant. Eggs and first instar caterpillars are also more susceptible to the effects of grazing cattle and bison before they bore into the root of the rattlesnake-master below the soil surface.

If not appropriately managed with fire, grazing, or haying, rattlesnake-master borer moth habitat is degraded due to reduced diversity of native prairie plants and eventually succeeds to shrubby or forested habitats that are not suitable for rattlesnake-master. Rattlesnake-master borer moth has been extirpated from one site in Kentucky, likely due to the succession to woody plants, which changed the composition of the plant community on site making it no longer suitable for the moth (Laudermilk 2012, pers. comm.).

Indiscriminate use of insecticides and herbicides to control invasive species and agricultural pests is also a threat to the species. In 2009, an application of herbicide affected populations or rattlesnake-master in the railroad siding prairie in Marion, Effingham, and Fayette Counties (LaGesse and Walk 2010, unpaginated). LaGesse and Walk (2010, unpaginated) found that 2 rattlesnake-master populations were completely destroyed and 19 declined between 2009 and 2010. The decline in the food plant impacted the rattlesnake-master borer moths populations, as three declined from 2009 to 2010 (LaGesse and Walk 2010, unpaginated).

In summary, efforts to manage invasive species and woody encroachment, such as fire, grazing, and herbicide use, is a threat to the rattlesnake-master borer moth. These management techniques, if not administered with the species in mind, can cause direct mortality and may impact whole populations. At least one management technique is being used or has been used on 10 of the 16 sites with known populations of rattlesnake-master borer moths, and is occurring in all 5 States.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

The conservation activities discussed under *Factor A Habitat Destruction, Modification, or Curtailment of Its Range* may address some factors discussed under Factor E. Of the sites that are protected and managed (four Illinois DNR sites, one Northeast Illinois University site, the North Carolina site, and the Oklahoma Tallgrass Prairie Preserve site) all have some sort of management that is being implemented in order to maintain the prairie community in which the rattlesnake-master borer moth lives. However, those plans are not specifically designed to avoid direct impacts to the moth. We are unaware of any conservation efforts that would directly address the impacts from climate change to rattlesnake-master borer moths.

Summary of Factor E

Rattlesnake-master borer moths are significantly affected by habitat fragmentation and population isolation. Most of the remaining populations of the species are small and isolated, making them vulnerable to stochastic events and increasing the potential for extirpation from catastrophic events as natural recolonization from other populations is not possible. These small, isolated populations are likely to become unviable over time due to lower genetic diversity reducing their ability to adapt to environmental change (Frankham *et al.* 2009, pp. 309–335). Environmental effects resulting from climatic change, including increased flooding and drought, are expected to become severe in the future and result in additional habitat losses. Although necessary for maintaining diverse prairie habitat and avoiding succession and invasive species, some prairie management techniques, such as fire and grazing, may cause mortality and impact rattlesnake-master borer moth populations if not administered carefully. Collectively, these threats have operated in the past, are impacting the species now, and will continue to impact the species in the future across its range.

Cumulative Effects From Factors A Through E.

Many of the threats described in this finding may cumulatively or synergistically impact rattlesnake-master borer moth beyond the scope of each individual threat. For example, the use of prescribed fire may impact only some individual rattlesnake-master borer moths or small populations. However, populations that are small and potentially unviable, that are already under threat from succession or invasive species, coupled with an extensive drought, may collectively result in the extirpation of individual populations, and potentially the continued loss or fragmentation of habitat across all of the species' range. In turn, climate change may exacerbate those effects, further diminishing habitat and increasing the isolation of already declining and isolated populations, making them more susceptible to genetic drift or catastrophic events such as fire, flooding, and drought. Almost all of the 16 known rattlesnake-master borer moth populations are subject to two or more threats outlined in Factors A through E. One site is isolated and surrounded by urban landscape, has been subjected to illegal collecting, is managed with

prescribed burning, and is known to have standing water during high rain events. Numerous threats are likely acting cumulatively and rangewide on the species.

Finding

As required by the Act, we considered the five factors in assessing whether the rattlesnake-master borer moth is a threatened or endangered species throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the rattlesnake-master borer moth. We reviewed the petition, information available in our files, and other available published and unpublished information, and we consulted with recognized rattlesnake-master borer moth experts and other Federal, State, and tribal agencies.

This status review identified threats to the rattlesnake-master borer moth attributable to Factors A, B, and E. The primary threat to the species is from habitat destruction and modification resulting in small, isolated populations that are subject to a greater risk of extirpation with little chance of recolonization (Factors A and E). The species has been found to be fire-sensitive and potentially affected by grazing activities, if they are conducted when life stages of the species are vulnerable, which is much of the year. Rattlesnake-master borer moths are dependent on one food plant, rattlesnake-master, which is a conservative prairie species and not generally found in disturbed habitats. Rattlesnake-master borer moths are currently not protected from collection or ''take'' in four of the five States in which it is found. Furthermore, poaching has been documented at two sites owned by the Illinois DNR, where it is listed as a State endangered species. Due to the historical habitat loss, current populations are small and isolated and thus are not resilient to ongoing threats.

On the basis of the best scientific and commercial information available, we find that the petitioned action to list the rattlesnake-master borer moth as threatened or endangered is warranted. We will make a determination on the status of the species as an endangered or threatened species when we do a proposed listing determination. However, as explained in more detail below, an immediate proposal of a regulation implementing this action is precluded by higher priority listing actions, and progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants.

We reviewed the available information to determine if the existing and foreseeable threats render the species at risk of extinction now such that issuing an emergency regulation temporarily listing the species under section 4(b)(7) of the Act is warranted. We determined that issuing an emergency regulation temporarily listing the species is not warranted for this species at this time, because 5 of the 16 known populations have some sort of protections or management in place. However, if at any time we determine that issuing an emergency regulation temporarily listing the rattlesnake-master borer moth is warranted, we will initiate this action at that time.

Listing Priority Number

The Service adopted guidelines on September 21, 1983 (48 FR 43098), to establish a rational system for using available resources for the highest priority species when adding species to the Lists of Endangered or Threatened Wildlife and Plants or reclassifying species listed as endangered or threatened species. These guidelines, titled ''Endangered and Threatened Species Listing and Recovery Priority Guidelines'' address the immediacy and magnitude of threats, and the level of taxonomic distinctiveness by assigning priority in descending order to monotypic genera (genus with one species), full species, and subspecies (or equivalently, distinct population segments of vertebrates). We assigned the rattlesnake-master borer moth a Listing Priority Number (LPN) of 8 based on our finding that the species faces threats that are moderate to low in magnitude and are imminent. These threats include the destruction, modification, or curtailment of its habitat and range, overutilization for recreational or scientific purposes, habitat fragmentation and population isolation, and the direct mortality from some prairie management techniques. This is the highest priority that can be provided to a species under our guidance. Our rationale for assigning the rattlesnake-master borer moth an LPN of 8 is outlined below.

Under the Service's LPN Guidance, the magnitude of threat is the first criterion we look at when establishing a listing priority. The guidance indicates that species with the highest magnitude of threat are those species facing the greatest threats to their continued existence. These species receive the highest listing priority.

Some threats that the rattlesnake-master moth faces are high in magnitude, such as habitat conversion and fragmentation, and population isolation. These threats with the highest magnitude occur in many of the populations throughout the species' range, but although they are likely to affect each population at some time, they are not likely to affect all of the populations at any one time. Rattlesnake-master borer moths are habitat specialists, feeding solely on rattlesnake-master. Although rattlesnake-master is found in 26 States, the amount of tallgrass prairie in the United States has declined by approximately 82–99 percent (Samson and Knopf 1994, p. 418), and rattlesnake-master is generally not found in disturbed prairie. Much of the remaining potential habitat that has not been converted for agricultural purposes or developed in other ways is made up of small remnant prairies that are widely scattered. These populations are isolated, making each one individually more likely to be extirpated if subjected to stochastic and catastrophic events. The small, isolated populations are also under threat of becoming unviable, as they receive limited or no immigration of individuals from other populations. Without sufficient gene flow, these populations will lose genetic diversity.

Other threats, such as agricultural and nonagricultural development, mortality from implementation of some prairie management tools, flooding, succession, and climate change are moderate to low threats because they affect only some populations throughout the range. The life history of rattlesnake-master borer moths makes them highly sensitive to fire. Although a useful tool in maintaining prairie habitat and fighting succession, prescribed burning has the potential to cause mortality of individuals through most of the year and can affect entire populations. Ten of the 16 sites with rattlesnake-master borer moths use fire as a management tool. Research has shown that even when entire sites are burned, rattlesnake-master borer moths can survive in situ. However, given their sensitivity to fire, populations likely rely on recolonization from unburned areas. It is possible that not all of the populations on the larger sites are being burned at once, because populations of rattlesnake-master borer moth are scattered within the sites. The population within the North Carolina site may have been impacted by this management tool as surveys conducted after the 1994 fire that affected the entire site showed evidence of only one individual larva (Hall 2012, pers. comm.). Conversely, complete fire

suppression can also be a threat to rattlesnake-master borer moths as prairie habitat declines and woody or invasive species become established (Schweitzer *et al.* 2011, p. 40; Panzer and Schwartz 2000, p. 363). The rattlesnake-master is a conservative plant species and not found in disturbed prairies (Danderson and Molano-Flores 2010, p. 235; Molano-Flores 2001, p. 1). The population of rattlesnake-master borer moth on one Kentucky site is thought to have been extirpated due to succession of the prairie to woody species (Laudermilk 2012, pers. comm.)

Although conversion of prairie to agricultural purposes has been precipitous, we have no indication that it is currently a threat of high magnitude. Flooding and the application of herbicide are additional threats to the species, although their incidence has been localized and so are not considered of high magnitude. Climate change is an emerging threat, although it is not currently known to be affecting any of the populations of rattlesnake-master borer moths.

Regulatory mechanisms provide protection for 12 of the 16 known sites that contain rattlesnake-master borer moths. Seven of these sites are owned and managed by State agencies, nongovernmental organizations, and a university, and all rattlesnake-master borer moths in Illinois are protected from collection through the State's threatened and endangered species statute. Although regulatory mechanisms are in place, several sites are currently under threat by development, and known illegal collections of the moth have occurred within two of the protected sites in Illinois. Although some threats to the rattlesnake master borer moth are high in magnitude, we consider most threats to the species to be of moderate to low magnitude.

Under our LPN Guidance, the second criterion we consider in assigning a listing priority is the immediacy of threats. This criterion is intended to ensure that the species that face actual, identifiable threats are given priority over those for which threats are only possible or species that are intrinsically vulnerable but are not known to be presently facing such threats. Every known population of rattlesnake-master borer moth has at least one imminent threat, and some have several working in tandem. These actual, identifiable threats are covered in detail under the discussion of Factors A, B, and E of this finding and currently include conversion of habitat for nonagricultural use, fire, flooding, succession, overutilization, and habitat fragmentation and population isolation. One Arkansas population of the species was impacted by construction of an incinerator on the Pine Bluff Arsenal, and three known populations in Illinois are under threat from the development of a high-speed rail project. Fire is used as a management tool on 10 of the known populations, is not prescribed in a way to avoid direct mortality to the species, and is thought to have adversely impacted the North Carolina population when it was burned entirely (Hall 2012, pers. comm.).

For those sites with no management, succession is an ongoing threat. For example, experts believe that specific rattlesnake-master borer moths populations have been extirpated due to the change in habitat from the succession to woody species (Laudermilk 2012, pers. comm.). Illegal collection is known from two Illinois DNR sites, and these two populations and one in Kentucky are kept undisclosed for fear of additional collection. Twelve of the known sites containing rattlesnake-master borer moth are considered isolated, as they are not connected by contiguous habitat to other prairie containing rattlesnake-master and are not likely to be recolonized by the poorly dispersing adult rattlesnake-master borer moths. Thus, the continuing effects of habitat fragmentation and isolation are a threat to the rattlesnake-master borer moth across its range. Although not all of the threats are found within each site that contains populations of rattlesnake-master borer moth, the collective threats are impacting all of the known sites, and we believe the impacts will continue to impact the remaining populations.

The third criterion in our LPN guidance is intended to devote resources to those species representing highly distinctive or isolated gene pools as reflected by taxonomy. The rattlesnake-master borer moth is a valid taxon at the species level, and, therefore, receives a higher priority than subspecies or Distinct Population Segments (DPSs), but a lower priority than species in a monotypic genus. The rattlesnake-master borer moth faces high magnitude, imminent threats, and is a valid taxon at the species level. Thus, in accordance with our LPN guidance, we have assigned the rattlesnake-master borer moth an LPN of 8.

We will continue to monitor the threats to the rattlesnake-master borer moth and the species' status on an annual basis and, should the magnitude or the imminence of the threats change, we will revisit our assessment of the LPN.

Work on a proposed listing determination for the rattlesnake-master borer moth is precluded by work on higher priority listing actions with absolute statutory, court-ordered, or court-approved deadlines and final listing determinations for those species that were proposed for listing with funds from Fiscal Year 2013. This work includes all the actions listed in the tables below under expeditious progress.

Preclusion and Expeditious Progress

To make a finding that a particular action is warranted-but-precluded, the Service must make two findings: (1) That the immediate proposal and timely promulgation of a final regulation is precluded by pending listing proposals, and (2) that expeditious progress is being made to add qualified species to either of the lists and to remove species from the lists. 16 U.S.C. 1533(b)(3)(B)(iii).

Preclusion

A listing proposal is precluded if the Service does not have sufficient resources available to complete the proposal, because there are competing demands for those resources, and the relative priority of those competing demands is higher. Thus, in any given fiscal year (FY), multiple factors dictate whether it will be possible to undertake work on a listing proposal regulation or whether promulgation of such a proposal is precluded by higher priority listing actions—(1) The amount of resources available for completing the listing function, (2) the estimated cost of completing the proposed listing, and (3) the Service's workload and prioritization of the proposed listing in relation to other actions.

Available Resources

The resources available for listing actions are determined through the annual Congressional appropriations process. In FY 1998 and for each fiscal year since then, Congress has placed a statutory cap on funds that may be expended for the Listing Program. This spending cap was designed to prevent the listing function from depleting funds needed for other functions under the ESA (for example, recovery functions, such as removing species from the Lists), or for other Service programs(see House Report 105–163, 105th Congress, 1st Session, July 1, 1997). The funds within the spending cap are available to support work involving the following listing actions: Proposed and final listing rules; 90-day and 12-month findings on petitions to add species to the Lists or to change the

status of a species from threatened to endangered; annual ''resubmitted'' petition findings on prior warranted-but-precluded petition findings as required under section 4(b)(3)(C)(i) of the ESA; critical habitat petition findings; proposed and final rules designating critical habitat; and litigation-related, administrative, and program-management functions (including preparing and allocating budgets, responding to Congressional and public inquiries, and conducting public outreach regarding listing and critical habitat).

We cannot spend more for the Listing Program than the amount of funds within the spending cap without violating the Anti-Deficiency Act (see 31 U.S.C. 1341(a)(1)(A)). In addition, since FY 2002, the Service's budget has included a critical habitat subcap to ensure that some funds are available for completing Listing Program actions other than critical habitat designations (''The critical habitat designation subcap will ensure that some funding is available to address other listing activities'' (House Report No. 107–103, 107th Congress, 1st Session. June 19, 2001)). In FY 2002 and each year until FY 2006, the Service had to use virtually the entire critical habitat subcap to address court-mandated designations of critical habitat, and consequently none of the critical habitat subcap funds were available for other listing activities. In some FYs since 2006, we have been able to use some of the critical habitat subcap funds to fund proposed listing determinations for high-priority candidate species. In other FYs, while we were unable to use any of the critical habitat subcap funds to fund proposed listing determinations, we did use some of this money to fund the critical habitat portion of some proposed listing determinations so that the proposed listing determination and proposed critical habitat designation could be combined into one rule, thereby being more efficient in our work. In FY 2013, based on the Service's workload, we were able to use some of the critical habitat subcap funds to fund proposed listing determinations.

For FY 2012 Congress also put in place two additional subcaps within the listing cap: One for listing actions for foreign species and one for petition findings. As with the critical habitat subcap, if the Service does not need to use all of the funds within the subcap, we are able to use the remaining funds for completing proposed or final listing determinations. In FY 2013, based on the Service's workload, we were able to use some of the funds within the foreign species subcap and the petitions subcap to fund proposed listing determinations.

We make our determinations of preclusion on a nationwide basis to ensure that the species most in need of listing will be addressed first and also because we allocate our listing budget on a nationwide basis. Through the listing cap, the three subcaps, and the amount of funds needed to complete court-mandated actions within those subcaps, Congress and the courts have in effect determined the amount of money available for other listing activities nationwide. Therefore, the funds in the listing cap—other than those within the subcaps needed to comply with court orders or court-approved settlement agreements requiring critical habitat actions for already-listed species, listing actions for foreign species, and petition findings—set the framework within which we make our determinations of preclusion and expeditious progress.

For FY 2013, on March 26, 2013, Congress passed a Full Year Continuing Appropriations Act (Pub. L. 113–6) which provides funding through the end of the FY 2013. In particular, it included a spending cap of $20,997,000 for the listing program. In addition, no more than $1,498,000 could be used for listing actions for foreign species and no more than $1,498,000 could be used to make 90-day or 12-month findings on petitions. The Service thus had $13,453,000 available to work on proposed and final listing determinations for domestic species. In addition, if the Service had funding available within the critical habitat, foreign species, or petition subcaps after those workloads had been completed, it could use those funds to work on listing actions other than critical habitat designations or foreign species.

Costs of Listing Actions. The work involved in preparing various listing documents can be extensive, and may include, but is not limited to: Gathering and assessing the best scientific and commercial data available and conducting analyses used as the basis for our decisions; writing and publishing documents; and obtaining, reviewing, and evaluating public comments and peer review comments on proposed rules and incorporating relevant information into final rules. The number of listing actions that we can undertake in a given year also is influenced by the complexity of those listing actions; that is, more complex actions generally are more costly. The median cost for preparing and publishing a 90-day finding is $39,276; for a 12-month finding, $100,690; for a proposed rule with critical habitat, $345,000; and for a final listing rule with critical habitat, $305,000.

Prioritizing Listing Actions. The Service's Listing Program workload is broadly composed of four types of actions, which the Service prioritizes as follows: (1) Compliance with court orders and court-approved settlement agreements requiring that petition findings or listing or critical habitat determinations be completed by a specific date; (2) section 4 (of the Act) listing and critical habitat actions with absolute statutory deadlines; (3) essential litigation-related, administrative, and listing program-management functions; and (4) section 4 listing actions that do not have absolute statutory deadlines. In FY 2010, the Service received many new petitions and a single petition to list 404 species, significantly increasing the number of actions within the second category of our workload—actions that have absolute statutory deadlines. As a result of the petitions to list hundreds of species, we currently have over 460 12-month petition findings yet to be initiated and completed.

To prioritize within each of the four types of actions, we developed guidelines for assigning a listing priority number (LPN) for each candidate species (48 FR 43098, September 21, 1983). Under these guidelines, we assign each candidate an LPN of 1 to 12, depending on the magnitude of threats (high or moderate to low), immediacy of threats (imminent or nonimminent), and taxonomic status of the species (in order of priority: monotypic genus (a species that is the sole member of a genus); species; or part of a species (subspecies or distinct population segment)). The lower the listing priority number, the higher the listing priority (that is, a species with an LPN of 1 would have the highest listing priority). A species with a higher LPN would generally be precluded from listing by species with lower LPNs, unless work on a proposed rule for the species with the higher LPN can be combined with work on a proposed rule for other high-priority species. This is not the case for rattlesnake-master borer moth. Thus, in addition to being precluded by the lack of available resources, the rattlesnake-master borer moth with an LPN of 8 is also precluded by work on proposed listing determinations for those candidate species with a higher listing priority.

Finally, proposed rules for reclassification of threatened species to endangered species are lower priority, because as listed species, they are already afforded the protections of the Act and implementing regulations.

However, for efficiency reasons, we may choose to work on a proposed rule to reclassify a species to endangered if we can combine this with work that is subject to a court-determined deadline.

Since before Congress first established the spending cap for the Listing Program in 1998, the Listing Program workload has required considerably more resources than the amount of funds Congress has allowed for the Listing Program. It is therefore important that we be as efficient as possible in our listing process. Therefore, as we implement our listing work plan and work on proposed rules for the highest priority species in the next several years, we are preparing multi-species proposals when appropriate, and these may include species with lower priority if they overlap geographically or have the same threats as one of the highest-priority species. In addition, we take into consideration the availability of staff resources when we determine which high-priority species will receive funding to minimize the amount of time and resources required to complete each listing action.

Listing Program Workload. Each FY we determine, based on the amount of funding Congress has made available within the Listing Program spending cap, specifically which actions we will have the resources to work on in that FY. We then prepare Allocation Tables that identify the actions that we are funding for that FY, and how much we estimate it will cost to complete each action; these Allocation Tables are part of our record for this notice and the listing program. Our Allocation Table for FY 2012, which incorporated the Service's approach to prioritizing its workload, was adopted as part of a settlement agreement in a case before the U.S. District Court for the District of Columbia (Endangered Species Act Section 4 Deadline Litigation, No.10–377 (EGS), MDL Docket No. 2165 (''MDL Litigation''), Document 31–1 (D. DC May 10, 2011) (''MDL Settlement Agreement'')). The requirements of paragraphs 1 through 7 of that settlement agreement, combined with the work plan attached to the agreement as Exhibit B, reflected the Service's Allocation Tables for FY 2011 and FY 2012. In addition, paragraphs 2 through 7 of the agreement require the Service to take numerous other actions through FY 2017—in particular, complete either a proposed listing rule or a not-warranted finding for all 251 species designated as ''candidates'' in the 2010 candidate notice of review (''CNOR'') before the end of FY 2016, and complete final listing determinations within one year of proposing to list any of those species. Paragraph 10 of that settlement agreement sets forth the Service's conclusion that ''fulfilling the commitments set forth in this Agreement, along with other commitments required by court orders or court-approved settlement agreements already in existence at the signing of this Settlement Agreement (listed in Exhibit A), will require substantially all of the resources in the Listing Program.'' As part of the same lawsuit, the court also approved a separate settlement agreement with the other plaintiff in the case; that settlement agreement requires the Service to complete additional actions in specific fiscal years — including 12-month petition findings for 11 species, 90-day petition findings for 477 species, and proposed listing determinations or not-warranted findings for 39 species.

These settlement agreements have led to a number of results that affect our preclusion analysis. First, the Service has been, and will continue to be, limited in the extent to which it can undertake additional actions within the Listing Program through FY 2017 beyond what is required by the MDL Settlement Agreements. Second, because the settlement is court-approved, two broad categories of actions now fall within the Service's highest priority (compliance with a court order): (1) the Service's entire prioritized workload for FY 2012, as reflected in its Allocation Table, and (2) completion, before the end of FY 2016, of proposed listings or not-warranted findings for most of the candidate species identified in this CNOR (in particular, for those candidate species that were included in the 2010 CNOR). Therefore, each year, one of the Service's highest priorities is to make steady progress towards completing by the end of 2017 proposed and final listing determinations for the 2010 candidate species—based on its LPN prioritization system, preparing multi-species actions when appropriate, and taking into consideration the availability of staff resources.

The MDL settlement agreements required the Service conduct a status review and make a 12-month finding for the rattlesnake-master borer moth. As specified in the Act, the outcome of a 12-month finding could be warranted, not warranted, or warranted but precluded. The MDL settlement agreements did not require a proposed listing rule be issued if listing the rattlesnake-master borer moth was determined to be warranted. As we have determined above the listing of the rattlesnake-master borer moth is warranted but precluded, we have assigned an LPN of 8 to the rattlesnake-master borer moth. Therefore, even if the Service has some additional funding after completing all of the work required by court orders and court-approved settlement agreements, we would first fund actions with absolute statutory deadlines for species that have lower LPNs. In light of all of these factors, funding a proposed listing rule for the rattlesnake-master borer moth is precluded by court-ordered and court-approved settlement agreements, listing actions with absolute statutory deadlines, and work on proposed listing determinations for those candidate species with a lower LPN.

Expeditious Progress

As explained above, a determination that listing is warranted but precluded must also demonstrate that expeditious progress is being made to add and remove qualified species to and from the Lists. As with our ''precluded'' finding, the evaluation of whether progress in adding qualified species to the Lists has been expeditious is a function of the resources available for listing and the competing demands for those funds. (Although we do not discuss it in detail here, we are also making expeditious progress in removing species from the list under the Recovery program in light of the resource available for delisting, which is funded by a separate line item in the budget of the Endangered Species Program. Thus far, during FY 2013, we completed delisting rules for two species.) As discussed below, given the limited resources available for listing, we find that we are making expeditious progress in FY 2013 in the Listing Program.

We provide below tables cataloguing the work of the Service's Listing Program in FY 2013. This work includes all three of the steps necessary for adding species to the Lists: (1) Identifying species that warrant listing, (2) undertaking the evaluation of the best available scientific information about those species and the threats they face, and preparing proposed and final listing rules, and (3) adding species to the Lists by publishing proposed and final listing rules that include a summary of the data on which the rule is based and show the relationship of that data to the rule. After taking into consideration the limited resources available for listing, the competing demands for those funds, and the completed work catalogued in the tables below, we find that we are making expeditious progress to add qualified species to the Lists FY 2013.

In addition to the work the Service has completed towards adding qualified species to the Lists, on May 10, 2011, the Service filed in the MDL Litigation a settlement agreement that incorporated the Service's work plan for FY 2012; the court approved that settlement agreement on September 9, 2011. Paragraph 10 of that settlement agreement provides, ''The Parties agree that the timetables for resolving the status of candidate species outlined in this Agreement constitute expeditious progress in adding qualified species to the lists of threatened and endangered species.'' The Service also filed a second settlement agreement that required even more work in FY 2012. The Service had already begun in FY 2011 to implement that work required by the work plan, and many of these initial actions in our work plan include work on proposed rules for candidate species with an LPN of 2 or 3. Therefore, both by entering into the first settlement agreement and by completing the listing actions required by both settlement agreements, the Service is making expeditious progress to add qualified species to the lists. As provided for in the settlement agreements and the work plan incorporated into the first agreement, the Service's progress in FY 2013 include completing and publishing the following determinations:

FY 2013 COMPLETED LISTING ACTIONS

Publication date	Title	Actions	FR Pages
10/2/2012	Proposed Threatened Status for Coral Pink Sand Dunes Tiger Beetle and Designation of Critical Habitat.	Proposed Listing Threatened	77 FR 60207–60235.
10/2/2012	12-Month Petition Finding, Listing of the Spring Pygmy Sunfish as Threatened, and Designation of Critical Habitat.	Notice of 12-month petition finding, Warranted Proposed Listing Threatened.	77 FR 60179–60206.
10/3/2012	12-month Finding for the Lemmon Fleabane; Endangered Status for the Acuña Cactus and the Fickeisen Plains Cactus and Designation of Critical Habitat.	Notice of 12-month petition finding, Not warranted Proposed Listing Endangered.	77 FR 60509–60579.
10/4/2012	Proposed Endangered Species Status for the Florida Bonneted Bat.	Proposed Listing Endangered	77 FR 60749–60776.
10/4/2012	Determination of Endangered Species Status for Coquí Llanero Throughout Its Range and Designation of Critical Habitat.	Final Listing Endangered	77 FR 60777–60802.
10/4/2012	Endangered Species Status for the Fluted Kidneyshell and Slabside Pearlymussel and Designation of Critical Habitat.	Proposed Listing Endangered	77 FR 60803–60882.
10/9/2012	12-Month Finding on Petitions to List the Mexican Gray Wolf as an Endangered Subspecies or Distinct Population Segment with Critical Habitat.	Notice of 12-month petition finding, Not warranted	77 FR 61375–61377.
10/10/2012	Determination of Endangered Species Status for the Alabama Pearlshell, Round Ebonyshell, Southern Kidneyshell, and Choctaw Bean, and Threatened Species Status for the Tapered Pigtoe, Narrow Pigtoe, Southern Sandshell, and Fuzzy Pigtoe, and Designation of Critical Habitat.	Final Listing Endangered and Threatened	77 FR 61663–61719.
10/11/2012	Endangered Species Status for Cape Sable Thoroughwort, Florida Semaphore Cactus, and Aboriginal Prickly-apple, and Designation of Critical Habitat for Cape Sable Thoroughwort.	Proposed Listing Endangered	77 FR 61835–61894.
10/11/2012	Listing Taylor's Checkerspot Butterfly and Streaked Horned Lark and Designation of Critical Habitat.	Proposed Listing Endangered and Threatened	77 FR 61937–62058.
10/16/2012	Proposed Endangered Status for the Neosho Mucket, Threatened Status for the Rabbitsfoot, and Designation of Critical Habitat for Both Species.	Proposed Listing Endangered and Threatened	77 FR 63439–63536.
10/17/2012	Listing 15 Species on Hawaii Island as Endangered and Designating Critical Habitat for 3 Species.	Proposed Listing Endangered	77 FR 63927–64018.
11/14/2012	90-Day Finding on a Petition to List the Heller Cave Springtail as Endangered or Threatened.	Notice of 90-day Petition Finding, Substantial	77 FR 67784–67789.
11/28/2012	Status Review for a Petition to List the Ashy Storm-petrel as Endangered or Threatened.	Notice Status Review	77 FR 70987–70988.
12/04/2012	90-Day Finding on a Petition To List Phoenix dactylifera 'Sphinx' (Sphinx Date Palm).	Notice of 90-day Petition Finding, Not substantial	77 FR 71757–71758.
12/04/2012	90-Day Finding on a Petition to List the Prairie Gray Fox, the Plains Spotted Skunk, and a Distinct Population Segment of the Mearn's Eastern Cottontail in East-central Illinois and Western Indiana as Endangered or Threatened Species.	Notice of 90-day Petition Finding, Not substantial Substantial.	77 FR 71759–71771.
12/11/2012	Listing the Lesser Prairie-Chicken as a Threatened Species.	Proposed Listing Threatened	77 FR 73827–73888.

FY 2013 COMPLETED LISTING ACTIONS—Continued

Publication date	Title	Actions	FR Pages
12/11/2012	Listing Four Subspecies of Mazama Pocket Gopher and Designation of Critical Habitat.	Proposed Listing Threatened	77 FR 73769–73825.
1/11/2013	Endangered Status for Gunnison Sage-grouse	Proposed Listing Endangered	78 FR 2486–2538.
1/25/2013	Endangered Status for the Zuni Bluehead Sucker	Proposed Listing Endangered	78 FR 5369–5385.
2/4/2013	Threatened Status for the Distinct Population Segment of the North American Wolverine Occurring in the Contiguous United States.	Proposed Listing Threatened	78 FR 7863–7890.
3/19/2013	Status Review of the West Coast Distinct Population Segment of the Fisher as Endangered or Threatened.	Notice of Status Review	78 FR 16828–16829.
3/28/2013	12-Month Finding on a Petition to List the Rosemont Talussnail as Endangered or Threatened.	Notice of 12-month petition finding, Not warranted	78 FR 18936–18938.
4/9/2013	90-Day Finding on a Petition to List Two Populations of Black-Backed Woodpecker as Endangered or Threatened.	Notice of 90-day Petition Finding, Substantial	78 FR 21086–21097.
4/23/2013	Threatened Status for Eriogonum codium (Umtanum Desert Buckwheat) and Physaria douglasii subsp. tuplashensis (White Bluffs Bladderpod).	Final Listing Threatened	78 FR 23983–24005.
4/25/2013	Endangered Status for the Sierra Nevada Yellow-legged Frog and the Northern Distinct Population Segment of the Mountain Yellow-legged Frog, and Threatened Status for the Yosemite Toad.	Proposed Listing Endangered and Threatened	78 FR 24471–24514.
5/24/2013	Proposed Threatened Status for Leavenworthia exigua var. laciniata (Kentucky Glade Cress).	Proposed Listing Threatened	78 FR 31498–31511.
5/28/2013	Determination of Endangered Status for 38 Species on Molokai, Lanai, and Maui.	Final Listing Endangered	78 FR 32013–32065.
6/20/2013	Listing Determination for the New Mexico Meadow Jumping Mouse.	Proposed Listing Endangered	78 FR 37363–37369.
7/9/2013	Determination of Endangered Species Status for Six West Texas Aquatic Invertebrates.	Final Listing Endangered	78 FR 41227–41258.
7/10/2013	Threatened Status for the Northern Mexican Gartersnake and Narrow-headed Gartersnake.	Proposed Listing Threatened	78 FR 41499–41547.

Our expeditious progress also included work on listing actions that we funded in previous fiscal years, and in FY 2013, but have not yet been completed to date. For these species, we have completed the first step, and have been working on the second step, necessary for adding species to the Lists. These actions are listed below. Actions in the top section of the table are being conducted under a deadline set by a court through a court order or settlement agreement. Actions in the lower section of the table are being conducted to meet statutory timelines, that is, timelines required under the Act.

ACTIONS FUNDED IN PREVIOUS FYS AND FY 2013 BUT NOT YET COMPLETED

Species	Action
Actions Subject to Court Order/Settlement Agreement	
Gierisch's mallow (*Sphaeralcea gierischii*)	Final listing.
4 Texas salamanders (salado, Georgetown, Jollyville plateau, and Austin blind)	Final listing.
Jemez Mountains salamander	Final listing.
2 Texas plants (Texas golden gladecress and Neches River rose-mallow)	Final listing.
Grotto sculpin	Final listing.
Mount Charleston blue butterfly	Final listing.
Spring pygmy sunfish	Final listing.
Coral pink sand dunes tiger beetle	Final listing.
3 Arizona plants (*Echinomastus erectocentrus* var. *acunensis, Erigeron lemmonii, Pediocactus peeblesianus fickeiseniae*).	Final listing.
2 Tennessee River mussels (fluted kidneyshell and slabside pearly mussel)	Final listing.
Florida bonneted bat	Final listing.
4 Puget trough species (4 subspecies of pocket gopher (Thomomys mazama ssp.) (LPN =3)	Final listing.
3 Sierra amphibians (Yosemite toad, mountain yellow-legged frog—Sierra Nevada DPSs)	Final listing.
3 southern Florida plants (Florida semaphore cactus, aboriginal prickly-apple, Cape Sable thoroughwort)	Final listing.
2 Puget trough species (Taylor's checkerspot, streaked horned lark)	Final listing.
Lesser prairie chicken	Final listing.
Gunnison sage-grouse	Final listing.
15 Hawaiian big island species	Final listing.
2 Arkansas mussels (neosho mucket and Rabbitsfoot)	Final listing.
Red knot (LPN = 3)	Proposed listing.

ACTIONS FUNDED IN PREVIOUS FYS AND FY 2013 BUT NOT YET COMPLETED—Continued

Species	Action
Dakota skipper (LPN = 8) and Poweshiek skipperling (LPN = 2)	Proposed listing.
Vandenberg monkeyflower	Proposed listing.
Yellow-billed cuckoo (western U.S. DPS)	Proposed listing.
2 Brazos River fish (smalleyed shiner and sharpnose shiner)	Proposed listing.
Georgia rockcress	Proposed listing.
2 Sierra plants (webber ivesia, soldier meadows cinquefoil)	Proposed listing.
Oregon spotted frog	Proposed listing.
2 Florida butterflies (Bartram's hairstreak and Florida leafwing)	Proposed listing.
Greater sage-grouse, bi-State DPS	Proposed listing.
3 species Caribbean plants (*Cordia rupicola, Gonocalyx concolor, Agave eggersiana*)	Proposed listing.
Canada lynx—New Mexico	Proposed listing.
White River beardtongue	Proposed listing.
2 Florida pine rockland plants (Carter's small-flowered flax and Florida brickell-bush)	Proposed listing.
3 Southeast plants (whorled sunflower, gladecress, and Short's bladderpod)	Proposed listing.
Washington ground squirrel	Proposed listing.
2 San Diego plants (Orcutt's hazardia and Brand's Phacelia)	Proposed listing.
Xantus's murrelet	Proposed listing.
Kittlitz's murrelet	Proposed listing.
Yellow-billed loon	Proposed listing.
Florida bristle fern	Proposed listing.
Ashy storm-petrel	12-month petition finding/ proposed listing.
Eastern small-footed bat and northern long-eared bat	12-month petition finding/ proposed listing.
Rattlesnake-master borer moth	12-month petition finding.
Actions with Statutory Deadlines	
Alexander Archipelago wolf	90-day petition finding.

Another way that we have been expeditious in making progress to add qualified species to the Lists is that we have endeavored to make our listing actions as efficient and timely as possible, given the requirements of the relevant law and regulations, and constraints relating to workload and personnel. We are continually considering ways to streamline processes or achieve economies of scale, such as by batching related actions together. Given our limited budget for implementing section 4 of the ESA, these efforts also contribute towards finding that we are making expeditious progress to add qualified species to the Lists.

The rattlesnake-master borer moth will be added to the list of candidate species upon publication of this 12-month finding. We will continue to monitor the status of this species as new information becomes available. This review will determine if a change in status is warranted, including the need to make prompt use of emergency listing procedures.

We intend that any proposed listing action for the rattlesnake-master borer moth will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

The rattlesnake-master borer moth will be added to the list of candidate species upon publication of this 12-month finding. We will continue to evaluate this species as new information becomes available. Continuing review will determine if a change in status is warranted, including the need to make prompt use of emergency listing procedures.

We intend that any proposed listing determination for the rattlesnake-master borer moth will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Rock Island, Illinois Ecological Services Field Office (see **ADDRESSES** section).

Author(s)

The primary author(s) of this notice are the staff members of the Rock Island, Illinois Ecological Services Field Office.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 5, 2013.

Rowan W. Gould,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2013–19632 Filed 8–13–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130627573–3573–01]

RIN 0648–BD39

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a

framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). If implemented, this rule would increase the 2013 commercial and recreational quotas for red snapper in the Gulf of Mexico (Gulf) reef fish fishery and re-open the red snapper recreational season for 2013. This proposed rule is intended to help achieve optimum yield (OY) for the Gulf red snapper resource without increasing the risk of red snapper experiencing overfishing.

DATES: Written comments must be received on or before August 29, 2013.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2013–0115'' 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-2013-0115,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act analysis may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.*

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

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Southeast Data, Assessment, and Review (SEDAR) benchmark assessment for Gulf red snapper (SEDAR 31), conducted in 2013, determined that the acceptable biological catch (ABC) for red snapper could be increased. The stock is no longer undergoing overfishing. However, it remains overfished and is under a rebuilding plan through 2032.

The Council's Scientific and Statistical Committee (SSC) met in May 2013 to review SEDAR 31, and recommended an ABC of 13.5 million lb (6.1 million kg), round weight, for the 2013 fishing year, 11.9 million lb (5.4 million kg), round weight, for the 2014 fishing year, and 10.6 million lb (4.8 million kg), round weight, for the 2015 fishing year. The Council met in July 2013 and voted to implement an allowable catch of 11.0 million lb (5.0 million kg), round weight. This is an increase of 2.54 million lb (1.15 million kg), round weight, from the allowable catch currently in effect. The Council determined that implementing an allowable catch of 11.0 million lb (5.0 million kg), round weight, would allow the quotas in the following years to remain constant or increase. Although the proposed quota would exceed the current ABC in 2015 if continued beyond 2014, the SSC will review the new projections in August 2013 and is expected to provide new ABCs based on a constant catch scenario. Any new ABCs recommended by the SSC would be announced in the final rule for this action. The Council will review the SSC's new ABC recommendations at its August 2013 meeting and determine whether further revision of the allowable catch is necessary. If revisions to the allowable catch are necessary, NMFS would publish subsequent proposed and final rulemaking. An update assessment is scheduled for red snapper in 2015 and could also result in a change in the ABC and allowable catch at that time.

The increase to the current 2013 commercial quota of 1.295 million lb (587,402 kg), round weight, would be distributed to shareholders in the individual fishing quota (IFQ) program for Gulf red snapper on or shortly after the effective date of the final rule. The increase to the current 2013 recreational quota of 1.245 million lb (564,723 kg), round weight, could allow a supplemental red snapper recreational fishing season, if additional quota is available after the June landings are known. The supplemental season would open October 1, 2013; the end date would be published in the final rule. The Council also considered modifying the reopening of the red snapper recreational fishing season to be on weekends only, but the Council preferred to retain a continuous open season.

Management Measures Contained in This Proposed Rule

This rule would set the commercial and recreational quotas for red snapper based on the allowable catch of 11.0 million lb (5.0 million kg), round weight, and the current commercial and recreational allocations (51 percent commercial and 49 percent recreational). Therefore, the commercial quota would be set at 5.610 million lb (2.545 million kg), round weight, and the recreational quota would be set at 5.390 million lb (2.445 million kg), round weight.

Red Snapper Recreational Fishing Season

Under 50 CFR 622.34 (m), the red snapper recreational fishing season opens each year on June 1 and closes when the recreational quota is projected to be reached. Prior to June 1 each year, NMFS projects the closing date based on the previous year's data, and notifies the public of the closing date for the upcoming season. If subsequent data indicate that the quota has not been reached by that closing date, NMFS may reopen the season.

If this rule is implemented and the recreational quota for red snapper were to increase, NMFS may be able to reopen the recreational season for red snapper during 2013, if additional quota is available after the June landings are known. This would allow fishermen the opportunity to harvest the additional quota, without jeopardizing the stock of undergoing overfishing or impeding rebuilding of the stock by 2032. The final rule for this action would contain the recreational fishing season closure date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other

applicable law, subject to further consideration after public comment.

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

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

No duplicative, overlapping, or conflicting Federal rules have been identified. This proposed rule would not introduce any changes to current reporting, recordkeeping, or other compliance requirements.

This rule, if implemented, would be expected to directly affect commercial and for-hire vessels that harvest red snapper. In addition to needing red snapper IFQ allocation, a commercial reef fish permit is required to sell red snapper and to harvest red snapper in excess of the bag limit in the Gulf EEZ. An estimated 888 vessels possess a valid (non-expired) or renewable commercial reef fish permit. A renewable permit is an expired permit that may not be actively fished, but is renewable for up to 1 year after permit expiration. However, over the period 2007–2011, an average of only 333 vessels per year recorded commercial red snapper harvests. As a result, for the purpose of this assessment, the number of potentially affected commercial vessels is estimated to range from 333–888. The average commercial vessel in the Gulf reef fish fishery is estimated to earn approximately $50,000 (2011 dollars) in gross annual revenue, while the average vessel with red snapper landings is estimated to earn approximately $96,000 in gross annual revenue.

A Federal reef fish for-hire vessel permit is required for for-hire vessels to harvest red snapper in the Gulf EEZ. On June 24, 2013, 1,353 vessels had a valid or renewable reef fish for-hire permit. The for-hire fleet is comprised of charterboats, which charge a fee on a per-vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Although the for-hire permit application collects information on the primary method of operation, the resultant permit itself does not identify the permitted vessel as either a headboat or a charter vessel, operation as either a headboat or charter vessel is not restricted by the permitting regulations, and vessels may operate in both capacities. However, only federally permitted headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the Southeast Fisheries Science Center that the vessel primarily operates as a headboat. Seventy vessels were registered in the SHRS as of March 1, 2013. As a result, 1,283 of the vessels with a valid or renewable reef fish for-hire permit are expected to operate as charterboats. The average charterboat is estimated to earn approximately $80,000 (2011 dollars) in gross annual revenue and the average headboat is estimated to earn approximately $242,000 in gross annual revenue.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $19.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. This receipts threshold is the result of a final rule issued by the SBA on June 20, 2013, which that increased the size standard for Finfish Fishing from $4.0 to $19.0 million. The receipts threshold for a business involved in the for-hire fishing industry is $7.0 million (NAICS code 487210, fishing boat charter operation). This receipts threshold has not been changed as a result of recent review by the SBA. All commercial and for-hire vessels expected to be directly affected by this proposed rule are believed to be small business entities.

This rule, if implemented, would increase the red snapper commercial quota by 1.295 million lb (587,402 kg), round weight, and the red snapper recreational quota by 1.245 million lb (564,723 kg), round weight. The proposed increase in the commercial quota would be expected to result in an increase in gross revenue (ex-vessel revenue minus the 3-percent cost recovery fee) for commercial vessels that harvest red snapper of approximately $4.81 million (2011 dollars), or approximately $5,417–$14,444 per vessel ($4.81 million/888 vessels = $5,417 per vessel; $4.81/333 vessels = $14,444 per vessel). The expected range in the increase in gross revenue per vessel would be equal to approximately 10.8 percent ($5,417/$50,000) and 15.1 percent ($14,444/$96,000) increases in the average annual revenue per vessel, respectively.

The proposed increase in the recreational quota would be expected to result in an increase in net operating revenue (gross revenue minus operating costs except for labor) for for-hire businesses of approximately $3.361 million (2011 dollars) for charterboats and approximately $3.765 million for headboats. The projected increase in net operating revenue for charterboats would be equal to approximately $2,600 per vessel ($3.361 million/1,283 vessels), or approximately 3.3 percent ($2,600/$80,000) of average annual revenue per vessel. For headboats, the projected increase in net operating revenue would be equal to approximately $53,800 per vessel ($3.765 million/70 vessels), or approximately 22.2 percent ($53,800/$242,000) of average annual revenue per vessel.

In summary, this rule, if implemented, would be expected to increase the revenue and profit of the average small entity that would be expected to be directly affected. Because the expected economic effect of this proposed rule would be positive and not adverse, the issue of significant alternatives to minimize the adverse effects is not relevant.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf, Quotas, Red snapper.

Dated: August 8, 2013.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.39, paragraphs (a)(1)(i) and (a)(2)(i) are revised to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) *Commercial quota for red snapper*—5.610 million lb (1.957 million kg), round weight.

* * * * *

(2) * * *

(i) *Recreational quota for red snapper*—5.390 million lb (1.880 million kg), round weight.

* * * * *

[FR Doc. 2013–19729 Filed 8–9–13; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 157

Wednesday, August 14, 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

Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR) a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2). This will be the fourth meeting of the CNAFR and will consist of, but not limited to: Hearing public comments; update of USDA programs and activities; and discussion of committee priorities. This meeting will be open to the public.

DATES: The meeting will be held on September 9th, 2013 and September 10th, 2013 from 8 a.m. to 5 p.m. The meeting will be open to the public on both days. Note that a period for public comment will be held on September 9th, from 3:30 p.m. to 4:30 p.m. and September 10th from 10:00 a.m. to 11:00 a.m.

ADDRESSES: The meeting will be held at the L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW., Washington, DC 20024. The public comment period and CNAFR meeting will take place within the L'Enfant Plaza Hotel's Ballroom A.

Written Comments: Written comments may be submitted to: John Lowery, Designated Federal Officer, Tribal Relations Manager, Office of Tribal Relations (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *John.Lowery@osec.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Questions should be directed to John Lowery, Tribal Relations Manager, OTR, 1400 Independence Ave. SW., Whitten Bldg., 500A, Washington, DC 20250; by Fax: (202) 720–1058 or email: *John.Lowery@osec.usda.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the settlement agreement in *Keepseagle* v. *Vilsack* that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in May 2012. Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR.

Written submissions may be submitted to the contact person on or before September 3rd, 2013. Oral presentations from the public will be heard between approximately 3:30 p.m. to 4:30 p.m. on September 9th and from 10:00 a.m. to 11:00 a.m. on September 10th, 2013. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the issue they wish to present and the names and addresses of proposed participants by September 3rd, 2013. All oral presentations will be given three (3) to five (5) minutes depending on the number of participants.

OTR will also make all agenda topics available to the public via the OTR Web site: *http://www.usda.gov/tribalrelations* no later than 10 business days before the meeting and at the meeting. In addition, the minutes from the meeting will be posted on the OTR Web site. OTR welcomes the attendance of the public at the CNAFR meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact John Lowery, at least 10 business days in advance of the meeting.

Dated: August 8, 2013.

Leslie Wheelock,

Director, Office of Tribal Relations.

[FR Doc. 2013–19725 Filed 8–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0046]

Oral Rabies Vaccine Trial; Availability of a Supplement to an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a supplement to an environmental assessment and finding of no significant impact relative to an oral rabies vaccination field trial in New Hampshire, New York, Ohio, Vermont,

and West Virginia. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Chipman, Rabies Program Coordinator, Wildlife Services, APHIS, 59 Chennell Drive, Suite 7, Concord, NH 03301; (603) 223–9623. To obtain copies of the supplement to the environmental assessment or finding of no significant impact, contact Ms. Beth Kabert, Environmental Coordinator, Wildlife Services, 140–C Locust Grove Road, Pittstown, NJ 08867; (908) 735–5654, fax (908) 735–0821, email: *beth.e.kabert@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program of the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

On August 16, 2012, APHIS–WS published in the **Federal Register** (77 FR 49409–49410, Docket No. APHIS–2012–0052) a notice [1] announcing the availability of an environmental assessment (EA) and finding of no significant impact (FONSI) pertaining to the potential environmental impacts associated with the implementation of a field trial to test the safety and efficacy of an experimental oral rabies vaccine for wildlife in New Hampshire, New York, Ohio, Vermont, and West Virginia. Based on the FONSI, we determined that an environmental impact statement need not be prepared.

On June 5, 2013, we published in the **Federal Register** (78 FR 33798–33799, Docket No. APHIS–2013–0046) a notice [2] in which we announced the availability, for public review and comment, of a supplement to the earlier EA. Our objectives in issuing the supplement to the EA were as follows:

- To examine the potential environmental impacts of expanding the geographic range of the field trial zone in New York;
- To examine the potential environmental impacts of the field trial in relation to new information that has become available from public comments, research findings, and data gathering since the issuance of the 2012 FONSI;
- To clearly communicate to the public our analysis of the individual and cumulative impacts of the field trial since 2012; and
- To document our analysis of our field-trial activities in New Hampshire, New York, Ohio, Vermont, and West Virginia since the 2012 FONSI was issued to ensure that program activities remain within the impact parameters analyzed in the original EA.

We solicited comments on the supplement to the EA for 30 days ending July 5, 2013. We received one comment by that date. It was from a private citizen who had already submitted five comments on the original EA. The comment contained no new information.

In this document, we are advising the public of the availability of an updated FONSI regarding the potential environmental impact associated with our oral rabies vaccine field trial. The finding, which is based on the EA and the supplement to the EA, reflects our determination that the distribution of this experimental wildlife rabies vaccine will not have a significant impact on the quality of the human environment.

The supplement to the EA and the updated FONSI may be viewed on the Regulations.gov Web site (see footnote 2) 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.

This notice and the supplemental environmental assessment are also posted on the APHIS Web site at *http://www.aphis.usda.gov/regulations/ws/ws_nepa_environmental_documents.shtml.* In addition, copies may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

The supplement to the EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 12th day of August 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–19835 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, the EA and the comments we received on it, and the FONSI, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0052.* The comments, and APHIS' responses to the comments, are presented in an appendix to the EA.

[2] To view the June 2013 notice, the comment we received on it, and the supplement to the EA, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0046.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0056]

Wildlife Services Policy on Wildlife Damage Management in Urban Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Wildlife Services (APHIS–WS) program is making a policy decision on how to define ''urban rodent control,'' as referred to in the Act of December 22, 1987. This action is necessary to make it clearer when APHIS–WS may or may not conduct activities and enter into agreements in order to control nuisance rodent species or those rodent species that are reservoirs for zoonotic diseases.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Clay, Deputy Administrator, Wildlife Services, APHIS, 1400 Independence Avenue SW., Washington, DC, 20250; 202–799–7095.

SUPPLEMENTARY INFORMATION:

Background

Wildlife is a publicly owned natural resource in the United States, and State and Federal wildlife agencies have an affirmative duty and responsibility to administer, protect, manage and conserve fish and wildlife. The mission of the Animal and Plant Health Inspection Service's Wildlife Services (APHIS–WS) program is to provide Federal leadership in managing problems caused by wildlife. This includes determining and implementing both research of and methods for controlling animal species that are injurious to agriculture, horticulture, forestry, animal husbandry, endangered and threatened species, other natural

resources, property, and that create a risk to human health and safety. To this end, APHIS–WS cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources.

Under the Act of December 22, 1987 (7 U.S.C. 426c), APHIS–WS is authorized, except for urban rodent control, to conduct activities and enter into agreements to control nuisance bird and mammal species or those bird and mammal species that are reservoirs of zoonotic diseases. While the Act makes an exception for urban rodent control, it does not define the term. This has led to confusion about when APHIS–WS may provide wildlife damage control assistance and has created an overlap in services with private sector pest control companies in urban and suburban areas.

The term ''rodent'' refers to the group of mammals that includes rats, mice, chipmunks, squirrels, porcupines, and groundhogs, among other species. Therefore, to maximize Federal resources and reduce duplication of services, we are considering ''urban rodent control,'' for the purposes of activities authorized by the Act of December 22, 1987, to mean actions to directly control mice, rats, voles, squirrels, chipmunks, gophers, and woodchucks/groundhogs in a city or town with a population greater than 50,000 inhabitants, as well as the urbanized area contiguous and adjacent to such a city or town.

There are some categories of actions for which APHIS will continue to consider requests for operational assistance. Specifically, actions involving Federal agencies; government entities engaged in a cooperative service agreement with APHIS to provide direct control of rodents as of October 1, 2013; a State in which direct control of the rodent species has been expressly authorized by State law, rulemaking, or a local jurisdiction's ordinance promulgated by public notice and an opportunity for public comment or as otherwise promulgated as required and authorized by the respective State or local law; and railways and airport air sides areas are excluded from this definition. Otherwise, APHIS will refer all requests for operational assistance with urban rodent control from private entities such as home and business owners and associations to private sector pest control companies.

Done in Washington, DC, this 12th day of 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–19831 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lyon-Mineral County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Lyon-Mineral County Resource Advisory Committee (RAC) will meet in Yerrington, Nevada. The RAC is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The RAC's purpose is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consisent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss the reduced funding and possible distribution for the 5th year Title II projects.

DATES: The meetings will be held at 10:00 a.m. on the following dates:

- September 3rd, 2013
- September 11th, 2013
- September 25th, 2013

ADDRESSES: The meetings will be held at the Commissioners Meeting Room, Lyon County Administration Complex, 27 South Main Street, Yerington, Nevada. 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 *http://fs.usda.gov/goto/htnf/rac.*

FOR FURTHER INFORMATION CONTACT: Mike Crawley, RAC Designated Federal Official, Bridgeport Ranger District, 760–932–7070.

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 CONTACT.**

SUPPLEMENTARY INFORMATION: The following business will be conducted at the meetings: (1) Discussion of reduced 5th year funding and possible distribution for Title II projects; and (2) Public Comments. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 30th to be scheduled on the agenda.

Written comments and requests for time for oral comments must be sent to Mike Crawley, RAC Designated Federal Officer, Bridgeport Ranger District, Humboldt-Toiyabe National Forest, HC 62 Box 1000, Bridgeport, CA 93517, or by email to *mcrawley@fs.fed.us* or via facsimile to 760–932–5899.

Dated: August 5, 2013.

William A. Dunkelberger,

Forest Supervisor, Humboldt-Toiyabe National Forest.

[FR Doc. 2013–19752 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability for the Rural Microentrepreneur Assistance Program for Fiscal Year 2013

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the funds available for loans and grants under the Rural Microentrepreneur Assistance Program (RMAP) pursuant to 7 CFR part 4280, subpart D for fiscal year (FY) 2013.

Total Funding: $12,224,613.35

Technical Assistance (TA) Only Grants: $300,000

Microlender TA Grants: $1,209,696.97

Loans: $10,714,916.38

The minimum loan amount a Microenterprise Development Organization (MDO) may borrow under this program is $50,000. The maximum loan any MDO may borrower in any given year is $500,000. The maximum amount of Technical Assistance (TA)-only grants in FY 2013 is $30,000 per grantee and total TA-only grants funding will not exceed 10 percent of

the amount appropriated to the RMAP program in the fiscal year. The commitment of program dollars will be made to applicants of selected responses that have fulfilled the necessary requirements for obligation.

All applicants are responsible for any expenses incurred in developing their applications.

DATES: Applications will be accepted on a quarterly basis using Federal fiscal quarters; however the June 30, 2013, quarterly deadline is extended to September 13, 2013. Completed applications must be received in the U.S. Department of Agriculture (USDA) Rural Development State Offices no later than the deadline of September 13, 2013, to be considered for funds available in FY 2013. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Completed applications received after September 13, 2013, may be considered for funding in FY 2013 subject to the availability of funds or will be considered for funds available in FY 2014.

ADDRESSES: Applications and forms may be obtained from any Rural Development State Office. Applicants must submit an original complete application to the USDA Rural Development State Office in the State where the applicant's headquarters is located. A list of the USDA Rural Development State Offices addresses and telephone numbers are listed below.

Note: Telephone numbers listed are not toll-free.

Alabama

USDA Rural Development State Office, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400/TDD (334) 279–3495

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7707/TDD (907) 761–7783

Arizona

USDA Rural Development State Office, 230 N. 1st Ave., Suite 206, Phoenix, AZ 85003–1706, (602) 280–8701/TDD (602) 280–8881

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, 7(501) 301–3200/TDD (501) 301–3278

California

USDA Rural Development State Office, 430 G Street, # 4169, Davis, CA 95616–4169, (530) 792–5800/TDD (530) 792–5837

Colorado

USDA Rural Development State Office, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225–0426, (720) 544–2903/TDD (720) 544–2981

Delaware-Maryland

USDA Rural Development State Office, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3580/TDD (302) 857–3640

Florida/Virgin Islands

USDA Rural Development State Office, 4440 NW 25th Place, Gainesville, FL 32614–7010, (352) 338–3400/TDD (352) 338–3405

Georgia

USDA Rural Development State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162/TDD (706) 546–2152

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380/TDD (808) 933–8327

Idaho

USDA Rural Development State Office, 9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5600/TDD (208) 378–5643

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6200/TDD (217) 403–6243

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100 Ext. 4/TDD (317) 290–3127

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663/TDD (515) 284–4858

Kansas

USDA Rural Development State Office, 1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2700/TDD (785) 271–2708

Kentucky

USDA Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300/TDD (859) 224–7340

Louisiana

USDA Rural Development State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7920/TDD (318) 473–7661

Maine

USDA Rural Development State Office, 967 Illinois Avenue, Suite 4, Bangor, ME 04401–2767, (207) 990–9160/TDD (207) 942–7331

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4347

Michigan

USDA Rural Development State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5190/TDD (517) 324–5225

Minnesota

USDA Rural Development State Office, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7800/TDD (651) 602–7824

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269–1608, (601) 965–4316/TDD (601) 965–4088

Missouri

USDA Rural Development State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203–2579, (573) 876–0976/TDD (573) 876–0977

Montana

USDA Rural Development State Office, 2229 Boot Hill Court, Bozeman, MT 59715, (406) 585–2530/TDD (406) 585–2565

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508–3859, (402) 437–5551/TDD (402) 437–5408

Nevada

USDA Rural Development State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222/TDD (775) 885–0841

New Jersey

USDA Rural Development State Office, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054–1522, (856) 787–7700/TDD (856) 787–7783

New Mexico

USDA Rural Development State Office, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109–3434, (505) 761–4950/TDD (505) 761–4976

New York

USDA Rural Development State Office, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400/TDD (315) 477–6438

North Carolina

USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000/TDD (919) 873–2075

North Dakota

USDA Rural Development State Office, Federal Building, Room 208, 220 East Rosser, Bismarck, ND 58502–1737, (701) 530–2037/TDD (701) 530–2111

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2400/TDD (614) 255–2561

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1000/TDD (405) 742–1005

Oregon

USDA Rural Development State Office, 1201 NE Lloyd Blvd., Suite 801, Portland, OR 97232–1274, (503) 414–3300/TDD (503) 414–3387

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299/TDD (717) 237–2191

Puerto Rico

USDA Rural Development State Office, IBM Building, Suite 601, 654 Munos Rivera Avenue, San Juan, PR 00936–6106, (787) 766–5095/TDD (787) 766–5844

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201–2449, (803) 765–5163/TDD (803) 765–5697

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 Fourth Street, SW, Huron, SD 57350–2461, (605) 352–1100/TDD (605) 352–1146

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1071, (615) 783–1300/FAX (615) 783–1301

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501–7651, (254) 742–9700/TDD (254) 742–9709

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138–1106, (801) 524–4320/TDD (801) 524–4406

Vermont/New Hampshire

USDA Rural Development State Office, 87 Main Street, Suite 324, P.O. Box 249, Montpelier, VT 05601, (802) 828–6080/TDD (802) 828–6076

Virginia

USDA Rural Development State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229–5014, (804) 287–1550/TDD (804) 287–1753

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard SW., Suite B, Olympia, WA 98512–5715, (360) 704–7740/TDD (360) 704–7742

West Virginia

USDA Rural Development State Office, 1550 Earl Core Road, Suite 101, Morgantown, WV 26505, (304) 284–4860/TDD (304) 284–4891

Wisconsin

USDA Rural Development State Office, 5417 Clem's Way, Stevens Point, WI 54482, (715) 345–7600/TDD (715) 345–7669

Wyoming

USDA Rural Development State Office, Dick Chaney Federal Building, 100 East B Street, Room 1005, Casper, WY 82602–5006, (307) 233–6700/TDD (307) 233–6727

FOR FURTHER INFORMATION CONTACT: For further information on this Notice, please contact the USDA Rural Development State Office for your respective State, as provided in the **ADDRESSES** section of this Notice.

SUPPLEMENTARY INFORMATION:

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0062.

Overview

Federal Agency Name: Rural Business-Cooperative Service (an agency of the U.S. Department of Agriculture in the Rural Development mission area).

Solicitation Opportunity Title: Rural Microentrepreneur Assistance Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number (CFDA): The CFDA number for this Notice is 10.870.

DATES: Applications will be accepted on a quarterly basis using Federal fiscal quarters; however the June 30, 2013, quarterly deadline is extended to September 13, 2013. Completed applications must be received in the U.S. Department of Agriculture (USDA) Rural Development State Offices no later than the deadline of September 13, 2013, to be considered for funds available in FY 2013. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Completed applications received after September 13, 2013, may be considered for funding in FY 2013 subject to the availability of funds or will be considered for funds available in FY 2014.

Availability of Notice and Rule. This Notice and the interim rule for RMAP are available on the USDA Rural Development Web site at *http://www.rurdev.usda.gov/BCP_RMAP.html.*

I. Funding Opportunity Description

A. *Purpose of the Program.* The purpose of RMAP is to support the development and ongoing success of rural microentrepreneurs and microenterprises (businesses generally

with 10 employees or fewer and in need of financing in the amount of $50,000 or less as defined in 7 CFR 4280.302).

Assistance provided to rural areas under this program may include the provision of loans and grants to rural MDOs for the provision of microloans to rural microenterprises and microentrepreneurs; provision of business-based training and technical assistance to rural microborrowers and potential microborrowers; and other such activities as deemed appropriate by the Secretary to ensure the development and ongoing success of rural microenterprises.

B. *Statutory Authority.* The RMAP is authorized by Section 379E of the Consolidated Farm and Rural Development Act (7 USC 2008s). Regulations are contained in 7 CFR Part 4280, subpart D.

C. *Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4280.302.

II. Award Information

A. *Type of Award:* Loan and/or Grant.

B. *Fiscal Year Funds:* FY 2013.

C. *Total Funding:* $12,224,613.35.

Technical Assistance (TA) Only Grants: $300,000.

Microlender TA Grants; $1,209,696.97.

Loans: $10,714,916.38.

D. *Approximate Number of Awards:* 50.

E. *Anticipated Award Date:*

- Fourth Quarter, August 31, 2013.

In the event some program funds allocated for a particular quarter of FY 2013 are not obligated, the remaining unobligated funds will be carried over to the next Federal fiscal quarter. Any FY 2013 funds not obligated under this Notice will be carried over into FY 2014.

III. Eligibility Information

A. *Eligible applicants.* To be eligible for this program, the applicant must meet the eligibility requirements in 7 CFR 4280.310. As mentioned later in this Notice, regarding corporate Federal tax delinquencies, applicants that are not delinquent on any Federal debt or otherwise disqualified from participation in this program are eligible to apply. All other restrictions in this Notice will apply.

Corporate Felony Convictions and Corporate Felony Tax Delinquencies

Applications from corporate applicants, submitted under this Notice must include Form AD 3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.'' Awards to corporate applicants, under this Notice will be required to sign Form AD 3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''

B. *Cost share requirements.* The Federal share of the eligible project cost of a microborrower's project funded under this Notice shall not exceed 75 percent. The cost share requirement shall be met by the microlender in accordance with the requirements specified in 7 CFR 4280.311(d).

C. *Matching fund requirements.* The MDO is required to provide a match of not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

D. *Other eligibility requirements.* Applications will only be accepted from eligible MDOs. Eligible MDOs must score a minimum of 70 points out of 100 points to be considered to receive an award. Awards each Federal fiscal quarter will be based on ranking with the highest ranking applications being funded first, subject to available funding.

E. *Completeness eligibility.* All applications must be submitted as a complete application, in one package. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are unbound, falling apart, or otherwise not suitable for evaluation. Such applications will be withdrawn.

IV. Fiscal Year 2013 Application and Submission Information

A. *Application submittal.* MDOs may submit an initial application for a loan with a microlender technical assistance grant or an initial or subsequent loan only (without a microlender technical assistance grant.) or a TA-only grant only. A MDO does not need to submit an application for its microlender technical assistance grant. The procedures for annual microlender technical assistance grants are addressed in section VI.

Loan applications must be submitted in paper format. Grant applications may be submitted in either paper or electronic format via Grants.gov. If applications are submitted in paper format, they must be bound in a 3-ring binder and must be organized in the same order set forth in 7 CFR 4280.315. To ensure timely delivery, applicants are strongly encouraged to submit their applications using an overnight, express, or parcel delivery service.

Applicants are encouraged to submit grant only applications through the Grants.gov Web site at: *http://www.grants.gov.* Users of Grants.gov will be able to download a copy of the grant application package, complete it off line, and then upload and submit the application via the Grants.gov Web site. USDA Rural Development strongly encourages applicants not to wait until the application deadline date to begin the application process through Grants.gov.

When applicants enter the Grants.gov Web site, they will find information about submitting a grant application electronically through the site as well as the hours of operation. Applicants may submit all documents electronically through the Web site, including all information required for a complete grant application and all necessary assurances and certifications under 7 CFR 4280.315. After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. USDA Rural Development may request that the applicant provide original signatures on forms at a later date.

Please note that applicants can locate the downloadable application package for this program by the Catalog of Federal Domestic Assistance Number, which is 10.870, or FedGrants Funding Opportunity Number, which can be found at *http://www.Grants.gov.*

Federal Funding Accountability and Transparency Act. All applicants, in accordance with 2 CFR Part 25, must have a Dun and Bradstreet Data Universal Number System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all applicants for grants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR Part 170.

B. *Content and form of submission.* An application must contain all of the required elements outlined in 7 CFR 4280.315. Each application must address the applicable scoring criteria presented in 7 CFR 4280.316 for the type of funding being requested.

C. *Submission dates and times.* The original complete application must be received by the USDA Rural Development State Office no later than 4:30 p.m. local time by the application deadline dates listed above, regardless of the postmark date, in order to be

considered for funds available in that Federal fiscal quarter.

Unless withdrawn by the applicant, completed applications that receive a score of at least 70 (the minimum required to be considered for funding), but have not yet been funded, will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that remain unfunded after four quarterly reviews, including the initial quarter in which the application was competed, will not be considered further for an award.

V. Application Review Information

Awards under this Notice will be made on a competitive basis each Federal fiscal quarter. Each application received in the USDA Rural Development State Office will be reviewed, scored, and ranked to determine if it is consistent with the program requirements. Applications will be scored based on the applicable scoring criteria contained in 7 CFR 4280.316. Failure to address any of the applicable scoring criteria will result in a zero-point score for that section. An application must receive at least 70 points to be considered for funding in the quarter in which it is scored.

VI. Subsequent Annual Microlender Technical Assistance Grants

In accordance with 7 CFR 4280–D, section 4280.313(b)(2), ''Microlender Technical Assistance (TA) grants will be limited to an amount equal to not more than 25 percent of the total outstanding balance of microloans made under this program and active by the microlender as of the date the grant is awarded for the first $400,000 plus an additional 5 percent of the loan amount owed by the microborrowers to the lender under this program over $400,000 up to and including $2.5 million. Funds cannot be used to pay off the loans. Any grant dollars obligated, but not spent, from the initial grant, will be subtracted from the subsequent year grant to ensure that obligations cover only microloans made and active.''

To determine the Microlender TA Grant awards for FY 2013, the Agency will use the Microlender's outstanding balance of microloans as of June 30, 2013, to calculate this amount. MDO's that are eligible for an annual grant may apply.

Awards will be determined non-competitively based on Agency appropriations for the fiscal year. The MDO must submit a prescribed worksheet listing outstanding balance of their microloans and unexpended grant funds as of the date of their request, a signed SF 424 and a letter certifying that their organization still meets all the requirements set forth in 7 CFR 4280 and that no significant changes have occurred within the last year that would affect its ability to carry out their MDO functions. In addition, all MDOs who request Subsequent Annual Microlender Technical Assistance Grants must complete their reporting into the Lenders Interactive Network Connection (LINC) for the Federal fiscal quarter ending June 30, 2013. The application deadline for this assistance is no later than 4:30 p.m. (local time) on July 31, 2013.

VII. Award Administration Information

Successful applicants will receive notification for funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Unsuccessful applications will receive notification by mail.

VIII. Agency Contacts

For general questions about this Notice, please contact your USDA Rural Development State Office as provided in the Addresses section of this Notice.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: July 30, 2013.

Lillian E. Salerno,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2013–19765 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability for the Section 533 Housing Preservation Grants for Fiscal Year 2013

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction

SUMMARY: The Rural Housing Service published a document in the **Federal Register** on June 18, 2013, announcing that it is soliciting competitive applications under its Housing Preservation Grant program. The funding available for the Housing Preservation Grant was incorrectly identified in the notice.

FOR FURTHER INFORMATION CONTACT: Bonnie Edwards-Jackson, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, USDA Rural Development, Stop 0781, 1400 Independence Avenue SW., Washington, DC, 20250–0781, telephone (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service) or via email at, *Bonnie.Edwards@wdc.usda.gov.*

Correction

In the **Federal Register** of June 18, 2013, in FR Doc. 2010–14400, on page, 36510, in the second column, the listing for the award information should read:

For Fiscal Year 2013, $3,803,461.25 is available for the HPG Program. Rural Economic Area Partnership Zones and other funds will be distributed under a formula allocation to states pursuant to

7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on pre-application scores. Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development Web site periodically for updated information regarding the status of funding authorized for this program.

Correction

In the **Federal Register** of June 18, 2013, in FR Doc. 2010–14400, on page, 36514, in the second column, the listing for the Rural Development Vermont State Office, address to contact should read:

Vermont State Office, 87 State Street, Suite 324, P. O. Box 249, Montpelier, VT 05601, (802) 828–6028, TDD (802) 223–6365, Tammy Surprise.

Correction

In the **Federal Register** of June 18, 2013, in FR Doc. 2010–14400, on page, 36514, in the third column, the listing for the Rural Development West Virginia State Office, address to contact should read:

West Virginia State Office, 2118 Ripley Road, Ripley, West Virginia 25271, (304) 372–3441, ext. 105, TDD (304) 284–4836, Penny Thaxton.

Dated: July 30, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–19777 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI) for Fiscal Year 2013

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the availability of $5,676,077 for competitive grant funds for the Rural Community Development Initiative (RCDI) program through the Rural Housing Service (RHS), an agency within the USDA Rural Development mission area herein referred to as the Agency. Applicants must provide matching funds in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development. This Notice lists the information needed to submit an application for these funds.

DATES: The deadline for receipt of an application is 4 p.m. local time, November 12, 2013. The application date and time are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html.* Application information for electronic submissions may be found at *http://www.grants.gov.* Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development offices is included in this Notice under the **FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: The Rural Development office for the state the applicant is located in. Please see the following list of Rural Development State Office contacts.

Rural Development State Office Contacts

Note: Telephone numbers listed are not toll-free.

Alabama State Office, Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400, TDD (334) 279–3495, Allen Bowen

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7778, TDD (907) 761–8905, Merlaine Kruse

Arizona State Office, 230 North 1st Avenue, Suite 206, Phoenix, AZ 85003, (602) 280–8747, TDD (602) 280–8705, Joel Trachtenberg

Arkansas State Office, 700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3265, TDD (501) 301–3200, Stephen Lagasse

California State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5810, TDD (530) 792–5848, Janice Waddell

Colorado State Office, Denver Federal Center, Building 56, Room 2300, PO Box 25426*, Denver, CO 80225–0426, (720) 544–2927, TDD (720)544–2907, Janice B. Pond

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 1221 College Park Dr., Suite 200, Dover, DE 19904–8713, (302) 857–3627, TDD (302) 857–3585, Denise MacLeish

Florida & Virgin Islands State Office, 4440 NW., 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3485, TDD (352) 338–3499, Michael Langston

Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2581, TDD (706) 546–2034, Jack Stanek

Guam

Served by Hawaii State Office

Hawaii, Guam, & Western Pacific Territories State Office, Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8313, TDD (808) 933–8321, Tim O'Connell

Idaho State Office, 9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5617, TDD (208) 378–5600, David A. Flesher

Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6209, TDD (217) 403–6240, Michael Wallace

Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278–1996, (317) 290–3100 (ext. 407), TDD (317) 290–3343, Rochelle Owen

Iowa State Office, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4459, TDD (515) 284–4858, Karla Peiffer

Kansas State Office, 1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2728, TDD (785) 271–2767, Kent Evans

Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7415, TDD (859) 224–7300, Vernon Brown

Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7965, TDD (318) 473–7920, Richard Hoffpauir

Maine State Office, 967 Illinois Ave., Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9124, TDD (207) 942–7331, Ron Lambert

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300, TDD (413) 253–7068, Daniel R. Beaudette

Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5208, TDD (517) 337–6795, Christine M. Maxwell

Minnesota State Office, 410 Farm Credit Service Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7800, TDD (651) 602–3799, Terry Louwagie

Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4326, TDD (601) 965–5850, Darnella Smith-Murray

Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976, TDD (573) 876–9480, Clark Thomas

Montana State Office, 2229 Boot Hill Court, Bozeman, MT 59715, (406) 585–2520, TDD (406) 585–2545, Steve Troendle

Nebraska State Office, Federal Building, Room 152, 100 Centennial Mall N., Lincoln, NE 68508, (402) 437–5559, TDD (402) 437–5551, Denise Brosius-Meeks

Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 110), TDD 7–1–1, Shane Hastings

New Hampshire

Served by Vermont State Office

New Jersey State Office, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7753, Kenneth Drewes

New Mexico State Office, 6200 Jefferson St. NE., Room 255, Albuquerque, NM 87109, (505) 761–4973, TDD (505) 761–4938, Arthur Garcia

New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400, TDD (315) 477–6447, Gail Giannotta

North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2063, TDD (919) 873–2003, Bruce Pleasant

North Dakota State Office, Federal Building, Room 208, 220 East Rosser Ave., P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2029, TDD (701) 530–2113, Mark Wax

Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2391, TDD (614) 255–2554, David M. Douglas

Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 074–2654, (405) 742–1061, TDD (405) 742–1007, Jerry Efurd

Oregon State Office, 1201 NE Lloyd Blvd., Suite 801, Portland, OR 97232, (503) 414–3362, TDD (503) 414–3387, Sam Goldstein

Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2291, TDD (717) 237–2281, Michael Ward

Puerto Rico State Office, 654 Muñoz Rivera Avenue, Suite 601, Hato Rey, PR 00918–6106, (787) 766–5095, TDD (787) 766–5332, Nereida Rodriguez

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 649–4221, TDD (803) 765–5697, Michele Cardwell

South Dakota State Office, Federal Building, Room 210, 200 Fourth Street SW., Huron, SD 57350, (605) 352–1145, TDD (605) 352–1147, Doug Roehl

Tennessee State Office, Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1345, TDD (615) 783–1397, Keith Head

Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9787, TDD (254) 742–9749, Michael B. Canales

Utah State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, P.O. Box 11350, Salt Lake City, UT 84138, (801) 524–4326, TDD (801) 524–3309, Debra Meyer

Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6033, TDD (802) 223–6365, Rhonda Shippee

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1577, TDD (804) 287–1753, Kent Ware

Washington State Office, 1835 Black Lake Boulevard SW., Suite B, Olympia, WA 98501–5715, (360) 704–7737, Peter McMillin

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, 1550 Earl Core Road, Suite 101, Morgantown, WV 26505, (304) 284–4886, TDD (304) 284–4836, Janna Lowery

Wisconsin State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615, TDD (715) 345–7610, Brian Deaner

Wyoming State Office, Federal Building, Room 1005, 100 East B Street, P.O. Box 11005, Casper, WY 82602–5006, (307) 233–6700, TDD (307) 233–6719, Alana Cannon

Washington, DC, Stop 0787, Room 0175, 1400 Independence Avenue SW., Washington, DC 20250–0787, (202) 205–9685, Shirley J. Stevenson

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.446.

DATES: The deadline for receipt of an application is 4 p.m. local time, November 12, 2013. The application date and time are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

Part I—Funding Opportunity Description

Congress initially created the RCDI in Fiscal Year (FY) 2000 to develop the capacity and ability of nonprofit organizations, low-income rural communities, or federally recognized tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas.

Part II—Award Information

Congress appropriated, net rescissions and sequestration, $5,676,077 in FY 2013 for the RCDI program. Qualified private, nonprofit and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant.

The respective minimum and maximum grant amount per intermediary is $50,000 and $300,000.

The intermediary must provide a program of financial and technical assistance to a private, nonprofit community-based housing and development organization, a low-income rural community or a federally recognized tribe.

Part III—Eligibility Information

A. Eligible Applicants

1. Qualified private, nonprofit, including faith-based and community organizations, and philanthropic foundations in accordance with 7 CFR Part 16, and public (including tribal) intermediary organizations. Definitions that describe eligible organizations and other key terms are listed below.

2. RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

B. Program Definitions

Agency—The Rural Housing Service (RHS) or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Federally recognized tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the current notice in the **Federal Register** published by the Bureau of Indian Affairs. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial assistance—Funds, not to exceed $10,000 per award, used by the intermediary to purchase supplies and equipment to build the recipient's capacity.

Funds—The RCDI grant and matching money.

Intermediary—A qualified private, nonprofit (including faith-based and community organizations and philanthropic foundations), or public (including tribal) organization that provides financial and technical assistance to multiple recipients.

Low-income rural community—An authority, district, economic development authority, regional council, or unit of government representing an incorporated city, town, village, county, township, parish, or borough whose income is at or below 80 percent of either the state or national Median Household Income as measured by the 2010 Census.

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount and committed for a period of not less than the grant performance period.

Recipient—The entity that receives the financial and technical assistance from the Intermediary. The recipient must be a nonprofit community-based housing and development organization, a low-income rural community or a federally recognized Tribe.

Regional Collaboration—Multi-jurisdictional areas typically within a State, territory, or Federally-designated Tribal land but which can cross State, territory, or Tribal boundaries.

The Regional Collaboration approach is intended to combine the resources of the Agency with those of State and local governments, educational institutions, and the private and nonprofit sectors to implement regional economic and community development strategies, including the enhancement of community-based philanthropic endowments.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

C. Cost Sharing or Matching

Matching funds are cash or confirmed funding commitments and must be at least equal to the grant amount and committed for a period of not less than the grant performance period. These funds can only be used for eligible RCDI activities. Matching funds must be used to support the overall purpose of the RCDI program.

In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property and goods and services cannot be used as matching funds.

Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item.

The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used.

Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015, 3016, and 3019, as applicable. Verification of matching funds must be submitted with the application.

The intermediary is responsible for demonstrating that matching funds are available, and committed for a period of not less than the grant performance period to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose.

RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement.

No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the intermediary is a non-profit or educational entity and has requested and received written Agency approval of the costs prior to the actual expenditure.

This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement.

The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

D. Other Program Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area.

The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income, whichever is higher.

The applicable Rural Development State Office can assist in determining the eligibility of an area.

A listing of Rural Development State Offices is included in this Notice. A map showing eligible rural areas can be found at the following link: *http://eligibility.test.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=RBSmenu&NavKey=property@13.*

2. The recipient must be a nonprofit, which may include faith-based organization, community-based housing and development organization, low-income rural community, or federally recognized tribe based on the RCDI definitions of these groups.

3. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient. Private nonprofit, faith or community-based organizations must provide a certificate of incorporation and good standing from the Secretary of the State of incorporation, or other similar and valid documentation of nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income, whichever is higher.

For Federally recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of federally recognized tribes in this Notice for details on this list).

4. Individuals cannot be recipients.

5. The intermediary must provide matching funds at least equal to the amount of the grant. Verification of matching funds must be submitted with the application. Matching funds must be committed for a period equal to the grant performance period.

6. The intermediary must provide a program of financial and technical assistance to the recipient.

7. The intermediary organization must have been legally organized for a minimum of 3 years and have at least 3 years prior experience working with private nonprofit community-based housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

8. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

9. Each applicant, whether singularly or jointly, may only submit one application for RCDI funds under this Notice. This restriction does not preclude the applicant from providing matching funds for other applications.

10. Recipients can benefit from more than one RCDI application; however, after grant selections are made, the recipient can only benefit from multiple RCDI grants if the type of financial and technical assistance the recipient will receive is not duplicative. The services must have separate and identifiable accounts for compliance purposes.

11. The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient, provided the relationship does not create a conflict of interest that cannot be resolved to Rural Development's satisfaction.

12. A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant. Organizations with pending requests for nonprofit designations are not eligible.

13. If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided, e.g., town council or village board.

The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

14. If a grantee has an outstanding RCDI grant over 3 years old, as of the application due date in this Notice, it is not eligible to apply for this round of funding.

15. The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application.

16. Grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register in the System for Award Management (SAM) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance to 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

E. Eligible Fund Uses

Fund uses must be consistent with the RCDI purpose. A nonexclusive list of eligible grant uses includes the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, e.g., the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary.

2. Develop the capacity of recipients to conduct community development programs, e.g., homeownership education or training for business entrepreneurs.

3. Develop the capacity of recipients to conduct development initiatives, e.g., programs that support micro-enterprise and sustainable development.

4. Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.

5. Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.

6. Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, e.g., architectural, engineering, or legal.

7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.

8. Purchase of computers, software, and printers, limited to $10,000 per award, at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.

9. Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

F. Ineligible Fund Uses

The following is a list of ineligible grant uses:

1. Pass-through grants, capacity grants, and any funds provided to the recipient in a lump sum that are not reimbursements.

2. Funding a revolving loan fund (RLF).

3. Construction (in any form).

4. Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.

5. Intermediary preparation of strategic plans for recipients.

6. Funding prostitution, gambling, or any illegal activities.

7. Grants to individuals.

8. Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.

9. Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.

10. Purchasing real estate.

11. Improvement or renovation of the grantee's, or recipient's office space or for the repair or maintenance of privately owned vehicles.

12. Any purpose prohibited in 7 CFR parts 3015, 3016, and 3019, as applicable.

13. Using funds for recipient's general operating costs.

14. Using grant or matching funds for Individual Development Accounts.

15. Purchasing vehicles.

G. Program Examples and Restrictions

The purpose of this initiative is to develop or increase the recipient's capacity through a program of financial and technical assistance to perform in the areas of housing, community facilities, or community and economic development. Strengthening the recipient's capacity in these areas will benefit the communities they serve. The RCDI structure requires the intermediary (grantee) to provide a program of financial and technical assistance to recipients.

The recipients will, in turn, provide programs to their communities (beneficiaries). The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objectives of the RCDI program will be considered eligible.)

1. The intermediary must work directly with the recipient, not the ultimate beneficiaries. As an example:

The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will

build the recipient's capacity by enabling them to conduct homeownership education classes for the public.

This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

2. If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council.

If the intermediary provides technical assistance to the Board of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from the community to establish the cooperative, this is not an eligible purpose.

The recipient's capacity is built by learning skills that will enable them to support sustainable economic development in their communities on an ongoing basis.

3. The intermediary may provide technical assistance to the recipient on how to create and operate a revolving loan fund. The intermediary may not monitor or operate the revolving loan fund. RCDI funds, including matching funds, cannot be used to fund revolving loan funds.

4. The intermediary may work with recipients in building their capacity to provide planning and leadership development training. The recipients of this training would be expected to assume leadership roles in the development and execution of regional strategic plans. The intermediary would work with multiple recipients in helping communities recognize their connections to the greater regional and national economies.

5. The intermediary could provide training and technical assistance to the recipients on developing emergency shelter and feeding, short-term housing, search and rescue, and environmental accident, prevention, and cleanup program plans. For longer term disaster and economic crisis responses, the intermediary could work with the recipients to develop job placement and training programs, and develop coordinated transit systems for displaced workers.

Part IV—Application and Submission Information

A. Address To Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html.*

Application information for electronic submissions may be found at *http://www.grants.gov.* Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State offices is included in this Notice.

B. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its appeal rights and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

1. A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person and telephone number,

e. Applicant's fax number,

f. County where applicant is located,

g. Congressional district number where applicant is located,

h. Amount of grant request, and

i. Number of recipients.

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than five pages, including the following items, which will also be addressed separately and in detail under ''Building Capacity'' of the ''Evaluation Criteria.''

a. The type of technical assistance to be provided to the recipients and how it will be implemented.

b. How the capacity and ability of the recipients will be improved.

c. The overall goals to be accomplished.

d. The benchmarks to be used to measure the success of the program. Benchmarks should be specific and quantifiable.

4. Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.

5. Verification of source and amount of matching funds, e.g., a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source.

The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application or the application will be considered incomplete.

The applicant will be contacted by the Agency prior to grant award to verify that the matching funds provided with the application continue to be available. The applicant will have 15 days from the date contacted to submit verification that matching funds continue to be available.

If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved.

6. The following information for each recipient:

a. Recipient's entity name,

b. Complete address (mailing and physical location, if different),

c. County where located,

d. Number of Congressional district where recipient is located,

e. Contact person's name and telephone number, and

f. Form RD 400–4, ''Assurance Agreement.'' If the Form RD 400–4 is not submitted for a recipient, the recipient will be considered ineligible. No information pertaining to that recipient will be included in the income or population scoring criteria and the requested funding may be adjusted due to the deletion of the recipient.

7. Submit evidence that each recipient entity is eligible:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation or the IRS, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of nonprofit status of each recipient.

b. Low-income rural community—provide evidence the entity is a public body, and a copy of the 2010 census data to verify the population, and evidence that the median household

income is at, or below, 80 percent of either the State or national median household income. We will only accept data and printouts from *http://www.census.gov.*

c. Federally recognized tribes—provide the page listing their name from the **Federal Register** list of tribal entities published by the Bureau of Indian Affairs on August 10, 2012 (77 FR 47868)or a subsequent updated list in the **Federal Register**.

8. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Documentation must be limited to three pages per criterion. The ''Population'' and ''Income'' criteria for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

9. A timeline identifying specific activities and proposed dates for completion.

10. A detailed project budget that includes the RCDI grant amount and matching funds. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: Year 1, year 2, year 3, as applicable.

11. Form SF–424, ''Application for Federal Assistance.'' (Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in No. 13 of this section.)

12. Form SF–424B, ''Assurances—Non-Construction Programs.''

13. Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

14. Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''

15. Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

16. Certification of Non-Lobbying Activities.

17. Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

18. Form RD 400–4, ''Assurance Agreement,'' for the applicant.

19. Identify and report any association or relationship with Rural Development employees.

20. For grants, the applicant's Dun and Bradstreet Data Universal Numbering Systems (DUNS) number and registration in the System for Award Management (SAM) in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applications must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via Internet at *http:www.dnb.com/us/.* Additional information concerning this requirement can be obtained on the Grants.gov Web site at *http://www.grants.gov.* Similarly, applicants may register for SAM at *https://www.sam.gov* or by calling 1–866–606–8220.

The DUNS number should be identified in the ''Organizational DUNS'' field on Standard Form (SF) 424, ''Application for Federal Assistance.'' Since there are no specific fields for a Commercial and Government Entity (CAGE) code and expiration date, they may be identified anywhere on the Form SF 424. If the applicant does not provide the CAGE code and expiration date and the DUNS number in the application, it will not be considered for funding.

Applicants must also complete Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants,'' if they are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Paalu, Republic of Marshall Islands, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

The required forms and certifications can be downloaded from the RCDI Web site at: *http://www.rurdev.usda.gov/HAD-RCDI_Grants.html.*

C. Other Submission Information

Survey on Ensuring Equal Opportunity for Applicants, OMB No. 1894–0010 (applies only to nonprofit applicants only—submission is optional).

The original application package must be submitted to the Rural Development State Office where the applicant's headquarters is located. A listing of Rural Development State Offices is included in this Notice. Applications will not be accepted via FAX or electronic mail.

Applicants may file an electronic application at *http://www.grants.gov.* Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application. If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the Grants.gov Web site.

Technical difficulties submitting an application through Grants.gov will not be a reason to extend the application deadline. If an application is unable to be submitted through Grants.gov, a paper application must be received in the appropriate Rural Development State Office by the deadline noted previously.

First time Grants.gov users should carefully read and follow the registration steps listed on the Web site. These steps need to be initiated early in the application process to avoid delays in submitting your application online.

In order to register with System for Award Management (SAM), your organization will need a DUNS number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the SAM registration process.

These are mandatory fields that are required when submitting grant applications through Grants.gov. Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on Grants.gov.

D. Funding Restrictions

Meeting expenses. In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may, however, be used to pay for these expenses.

RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting.

RCDI funds can be used for travel, transportation, or subsistence expenses for program-related training and technical assistance purposes.

Any training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345.

Travel and per diem expenses (including meals and incidental expenses) will be similar to those paid to Agency employees. Rates are based upon location. Rate information can be obtained from the applicable Rural Development State Office.

Grantees and recipients will be restricted to traveling coach class on common carrier airlines.

When lodging is not available at the government rate, grantees and recipients may exceed the Government rate for lodging by a maximum of 20 percent.

Mileage and gas reimbursement will be the same rate used by Agency employees. This rate may be obtained from the applicable Rural Development State Office.

Part V—Application Review Information

A. Evaluation Criteria

Applications will be evaluated using the following criteria and weights:

1. Building Capacity—Maximum 60 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes.

Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. Capacity-building financial and technical assistance may include, but is not limited to: Training to conduct community development programs, e.g., homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, e.g., assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, e.g., hiring a person at intermediary or recipient level to provide technical assistance to recipients.

The program of financial and technical assistance provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application.

All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest.

a. The narrative response must:

i. Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance;

ii. Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively;

iii. Identify which RCDI purpose areas will be addressed with this assistance: Housing, community facilities, or community and economic development; and

iv. Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness? Benchmarks should be specific and quantifiable.

b. The maximum 60 points for this criterion will be broken down as follows:

i. Type of financial and technical assistance and implementation activities. 35 points.

ii. An explanation of how financial and technical assistance will develop capacity. 10 points.

iii. Identification of the RCDI purpose. 5 points.

iv. Measurement of outcomes. 10 points.

2. Expertise—Maximum 30 Points

The applicant must demonstrate that it has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas.

Provide the name, contact information, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years:

a. Nonprofit organizations in rural areas.

b. Low-income communities in rural areas, (also include the type of entity, e.g., city government, town council, or village board).

c. Federally recognized tribes or any other culturally diverse organizations.

3. Population—Maximum 30 Points

Population is based on the average population from the 2010 census data for the communities in which the recipients are located. The physical address, not mailing address, for each recipient must be used for this criterion. Community is defined for scoring purposes as a city, town, village, county, parish, borough, or census-designated place where the recipient's office is physically located.

The applicant must submit the census data from the following Web site in the form of a printout of the applicable ''Fact Sheet'' to verify the population figures used for each recipient. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder,'' fill in field and click ''Go''; the name and population data for each recipient location must be listed in this section.

The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
5,000 or less	30
5,001 to 10,000	20
10,001 to 20,000	10
20,001 to 50,000	5

4. Income—Maximum 30 Points

The average of the median household income for the communities where the recipients are physically located will determine the points awarded. The physical address, not mailing address, for each recipient must be used for this criterion. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $51,914.

The applicant must submit the income data in the form of a printout of the applicable information from the following Web site to verify the income for each recipient. The data being used is from the 2010 census. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder,'' fill in field and click ''Go''; the name and income data for each recipient location must be listed in this section. Points will be awarded as follows:

Average Recipient Median Income	Scoring (points)
Less than 60 percent of state or national median household income	30
From 60 to 70 percent of state or national median household income	20

Average Recipient Median Income	Scoring (points)
Greater than 70 to 80 percent of state or national median household income	10
In excess of 80 percent of state or national median household income	0

5. Soundness of Approach—Maximum 50 Points

The applicant can receive up to 50 points for soundness of approach. The overall proposal will be considered under this criterion. Applicants must list the page numbers in the application that address these factors.

The maximum 50 points for this criterion will be broken down as follows:

a. The ability to provide the proposed financial and technical assistance based on prior accomplishments has been demonstrated. 10 Points.

b. The proposed financial and technical assistance program is clearly stated and the applicant has defined how this proposal will be implemented. The plan for implementation is viable. 10 Points.

c. Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level. 15 points.

d. The proposal fits the objectives for which applications were invited. 15 points.

6. Technical assistance for the development of Renewable Energy Systems and Energy Efficiency Improvements—Maximum 20 Points

The applicant must demonstrate how they will improve the recipients' capacity to carry out activities related to the development of renewable energy systems and energy efficiency improvements for housing, community facilities, or community and economic development.

7. Regional Collaboration Applications—Maximum 20 Points

The Agency encourages applications that promote substantive economic growth, including job creation, as well as specifically addressing the circumstances of those sectors within the region that have fewer prospects and the greatest need for improved economic opportunity.

A Regional Collaboration project should implement goals, objectives or actions identified in a Regional Strategic Plan which addresses priorities specified at a regional scale. Applications should demonstrate:

a. Clear leadership at the Intermediary level in organizing and coordinating a regional initiative;

b. Evidence that the Recipient's region has a common economic basis that supports the likelihood of success in implementing its strategy; and

c. Evidence that technical assistance will be provided that will increase the Recipient's capacity to assess their circumstance, determine a long term sustainable vision for the region, and implement a comprehensive strategic plan, including identifying performance measures and establishing a system to collect the data to allow assessment of those performance measures.

8. Local Investment Points—Maximum 20 Points

Intermediaries must be physically located in an eligible rural community and must include evidence of investment in the community. The intent is to ensure that RCDI funds are expended in the rural community.

9. Investing in Manufacturing Communities—Maximum 25 Points

Grant applicants demonstrating a technical assistance plan to help boost investing in manufacturing communities will be awarded a maximum of 25 additional points.

The applicant must demonstrate how their efforts will attract manufacturers and their supply chain of local innovators, producers, and distributors to create new jobs and strengthen the local economy. Applicant must demonstrate how it will support the redevelopment of manufacturing communities that have had major plant closings, in partnership with local leaders, workers and businesses. The maximum 25 points for this criterion will be awarded as follows:

a. Demonstrates how this project will attract manufacturing to the region. (10 points)

b. The ability to provide technical assistance to develop and implement long term strategies to orient the communities' and regions' economies for innovation, job creation and export promotion. (5 Points)

c. Emphasizes some combination of public-private partnership, including higher education collaboration. (5 Points)

d. Demonstrates how this project will lead to further development of the region's industrial ecosystem. (5 points)

10. State Director's Points Based on Project Merit—Maximum 20 Points

This criterion does not have to be addressed by the applicant. Up to 20 points may be awarded by the Rural Development State Director. Points may be awarded to more than one application per state or jurisdiction. The total points awarded under this criterion, to all applications, will not exceed 20. Assignment of points will include a written justification and be tied to and awarded based on how closely they align with the Rural Development State Office's strategic plan.

11. Proportional Distribution Points—20 Points

This criterion does not have to be addressed by the applicant. After applications have been evaluated and awarded points under the first 9 criteria, the Agency may award 20 points per application to promote an even distribution of grant awards between the ranges of $50,000 to $300,000.

B. Review and Selection Process

1. Rating and Ranking

Applications will be rated and ranked on a national basis by a review panel based on the ''Evaluation Criteria'' contained in this Notice. If there is a tied score after the applications have been rated and ranked, the tie will be resolved by reviewing the scores for ''Building Capacity'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

2. Initial Screening

The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are examples of reasons for rejection from previous funding rounds. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

a. Recipients were not located in eligible rural areas based on the definition in this Notice.

b. Applicants failed to provide evidence of recipient's status, i.e., documentation supporting nonprofit evidence of organization.

c. Applicants failed to provide evidence of committed matching funds or matching funds were not committed for a period at least equal to the grant performance period.

d. Application did not follow the RCDI structure with an intermediary and recipients.

e. Recipients were not identified in the application.

f. Intermediary did not provide evidence it had been incorporated for at least 3 years as the applicant entity.

g. Applicants failed to address the ''Evaluation Criteria.''

h. The purpose of the proposal did not qualify as an eligible RCDI purpose.

i. Inappropriate use of funds (e.g., construction or renovations).

j. The applicant proposed providing financial and technical assistance directly to individuals.

k. The application package not received by closing date and time.

Part VI—Award Administration Information

A. General Information

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice.

B. Award Notice

Applicants will be notified of selection by letter.

Unsuccessful applicants will receive notification including appeal rights by mail. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award obligation date, if requested by the Agency.

The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds.''

C. Administrative and National Policy Requirements

Grantees will be required to do the following:

1. Execute a Rural Community Development Initiative Grant Agreement.

2. Execute Form RD 1940–1.

3. Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.

4. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

5. Maintain a financial management system that is acceptable to the Agency.

6. Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.

7. Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

9. Provide a final project performance report.

10. Identify and report any association or relationship with Rural Development employees.

11. The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Executive Order 12250 and RD Instruction 7 CFR 1901–E.

12. The grantee must comply with policies, guidance, and requirements as described in the following applicable OMB Circulars and Code of Federal Regulations:

a. OMB Circular A–87 (Cost Principles for State, Local, and Indian Tribal Government);

b. OMB Circular A–122 (Cost Principles for Non-profit Organizations);

c. OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);

d. 7 CFR part 3015 (Uniform Federal Assistance Regulations);

e. 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

f. 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement);

g. 7 CFR part 3019 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations); and

h. 7 CFR part 3052 (Audits of States, Local Governments, and Non-Profit Organizations).

D. Reporting

Reporting requirements can be found in the Grant Agreement.

Part VII—Agency Contact

Contact the Rural Development office in the state where the applicant's headquarters is located. A list of Rural Development State Offices is included in this Notice.

Part VIII— Nondiscrimination Statement

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

To File a Program Complaint

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Persons With Disabilities

Individuals who are deaf, hard of hearing or have speech disabilities and

you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Part IX—Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as part of the selection process are appealable pursuant to 7 CFR part 11. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse decision.

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Dated: August 5, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–19773 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability of Applications (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year (FY) 2013

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the timeframe to submit pre-applications for Section 514 Farm Labor Housing (FLH) loans and Section 516 FLH grants for the construction of new off-farm FLH units and related facilities for domestic farm laborers and for the purchase and substantial rehabilitation of an existing non-FLH property. The intended purpose of these loans and grants is to increase the number of available housing units for domestic farm laborers. This notice describes the method used to distribute funds, the application process, and submission requirements.

DATES: The deadline for receipt of all applications in response to this Notice is 5:00 p.m., local time to the appropriate Rural Development State Office on September 13, 2013. The application closing deadline is firm as to date and hour. Rural Development will not consider any application that is received after the closing deadline unless the date and time is extended by another Notice published in the **Federal Register**. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

Applicants wishing to apply for assistance must contact the Rural Development State Office serving the State of the proposed off-farm labor housing project in order to receive further information and copies of the application package. Rural Development will date and time stamp incoming applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt. A listing of Rural Development State Offices, their addresses, telephone numbers, and person to contact is under section VII of this Notice.

FOR FURTHER INFORMATION CONTACT: Mirna Reyes-Bible, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, STOP 0781 (Room 1243–S), USDA Rural Development, 1400 Independence Avenue SW., Washington, DC 20250–0781, *telephone:* (202) 720–1753 (this is not a toll free number.), or via email: *mirna.reyesbible@wdc.usda.gov.* If you have questions regarding Net Zero Energy Consumption and Energy Generation please contact Carlton Jarratt, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division at (804) 287–1524 or via email: *carlton.jarrat@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The reporting requirements contained in this notice have been approved by the Office of Management and Budget under Control Number 0575–0189.

Overview Information

Federal Agency Name: Rural Development.

Funding Opportunity Title: Notice of Funds Availability (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2013.

Announcement Type: Initial Notice inviting applications from qualified applicants for Fiscal Year 2013.

Catalog of Federal Domestic Assistance Numbers (CFDA): 10.405 and 10.427.

DATES: The deadline for receipt of all applications in response to this is 5:00 p.m., local time to the appropriate Rural Development State Office on September 13, 2013. The application closing deadline is firm as to date and hour. Rural Development will not consider any application that is received after the closing deadline unless the date and time is extended by another Notice published in the **Federal Register**. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

I. Funding Opportunities Description

The funds available for FY 2013 for Off-Farm Labor Housing are $29,867,012 for Section 514 loans, $8,515,166 for Section 516 grants and $951,200 for FLH Rental Assistance.

II. Award Information

Applications will only be accepted through the date and time listed in this Notice. All awards are subject to availability of funding. Individual requests may not exceed $2 million (total loan and grant). No State may receive more than 30 percent of available FLH funding distributed in FY 2013. If there are insufficient applications from around the country to exhaust Sections 514 and 516 funds available, the Agency may then exceed the 30 percent cap per State. Section 516 off-farm FLH grants may not exceed 90 percent of the total development cost (TDC) of the housing as defined in 7 CFR 3560.11.

If leveraged funds are going to be used and are in the form of tax credits, the applicant must include in its pre-application written evidence that a tax credit application has been submitted and accepted by the Housing Finance Agency (HFA). All applications that will receive any other sort of leveraged funding must have firm commitments in

place for all of the leveraged funding within 18 months of the issuance of a ''Notice of Preapplication Review Action,'' Handbook Letter 103 (3560). Applicants without written evidence that a tax credit application has been submitted and accepted by the HFA must certify in writing they will apply for tax credits to the HFA within 18 months of the issuance of a ''Notice of Pre-application Review Action.''

Rental assistance (RA) and operating assistance will be available for new construction in FY 2013. Operating assistance is explained at 7 CFR 3560.574 and may be used in lieu of tenant-specific RA in off-farm labor housing projects that serve migrant farm workers as defined in 7 CFR 3560.11 that are financed under Section 514 or section 516(h) of the Housing Act of 1949, as amended (42 U.S.C. 1484 and 1486(h)) respectively, and otherwise meet the requirements of 7 CFR 3560.574. Owners of eligible projects may choose tenant-specific RA or operating assistance, or a combination of both; however, any tenant or unit assisted with operating assistance may not also receive RA.

III. Eligibility Information

A. Housing Eligibility

Housing that is constructed with FLH loans and/or grants must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C. Once constructed, off-farm FLH must be managed in accordance with 7 CFR part 3560. In addition, off-farm FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless at which farm they work. Section 514(f)(3) of the Housing Act of 1949, as amended (42 U.S.C. 1484(f)(3)) defines domestic farm laborers to include any person regardless of the person's source of employment, who receives a substantial portion of his or her income from the primary production of agricultural or aquacultural commodities in the unprocessed or processed stage, and also includes the person's family.

B. Tenant Eligibility

Tenant eligibility is limited to persons who meet the definition of a ''disabled domestic farm laborer,'' or ''a domestic farm laborer,'' or ''retired domestic farm laborer,'' as defined in 7 CFR 3560.11. Farm workers who are admitted to this country on a temporary basis under the Temporary Agricultural Workers (H–2A Visa) program are not eligible to occupy Sections 514/516 off-farm FLH.

C. Applicant Eligibility

1. To be eligible to receive a Section 516 grant for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, or a public agency (such as a housing authority). The applicant must be able to contribute at least one-tenth of the TDC from non-Rural Development resources which can include leveraged funds.

2. To be eligible to receive a Section 514 loan for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, a public agency (such as a housing authority), or a limited partnership which has a non-profit entity as its general partner, and

i. Be unable to provide the necessary housing from its own resources;

ii. Except for State or local public agencies and Indian tribes, be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.

iii. Broad-based non-profit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

IV. Administrative Requirements

A. Cost Sharing or Matching

Section 516 grants for off-farm FLH may not exceed the lesser of 90 percent of the TDC as provided in 7 CFR 3560.562(c)(1).

B. Other Requirements

The following requirements apply to loans and grants made in response to this notice:

1. 7 CFR part 1901, subpart E, regarding equal opportunity requirements;

2. For grants only, 7 CFR part 3015, 3016 or 3019 (as applicable) and 7 CFR 3052, which establishes the uniform administrative and audit requirements for grants and cooperative agreements to State and local governments and to non-profit organizations;

3. 7 CFR part 1901, subpart F, regarding historical and archaeological properties;

4. 7 CFR part 1940, subpart G, regarding environmental assessments;

5. 7 CFR part 3560, subpart L, regarding the loan and grant authorities of the off-farm FLH program;

6. 7 CFR part 1924, subpart A, regarding planning and performing construction and other development;

7. 7 CFR part 1924, subpart C, regarding the planning and performing of site development work;

8. For construction financed with a Section 516 grant, the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)–276(a)–5) and implementing regulations published at 29 CFR parts 1, 3, and 5;

9. All other requirements contained in 7 CFR part 3560, regarding the Sections 514/516 off-farm FLH program; and

10. Please note that grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain registration in the Central Contractor Registration Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

V. Application and Submission Information

A. Pre-Application Submission

The application process will be in two phases: The initial pre-application (or proposal) and the submission of a final application. Only those pre-applications or proposals that are selected for further processing will be invited to submit final applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded pre-application may be selected for further processing. All pre-applications for Sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this Notice. Incomplete pre-applications will not be reviewed and will be returned to the applicant. No pre-application will be accepted after 5 p.m., local time to the appropriate Rural Development State Office on October 15, 2013 unless date and time are extended by another Notice published in the **Federal Register**.

Pre-applications can be submitted either electronically using the FLH Pre-application form found at: [*http://www.rurdev.usda.gov/HAD-Farm_Labor_Grants.html*] or in hard copy obtained from and submitted to the appropriate Rural Development Office where the project will be located. Applicants are strongly encouraged, but not required, to submit the pre-application electronically. The electronic form contains a button labeled ''Send Form.'' By clicking on the button, the applicant will receive an email with an attachment that includes the electronic form the applicant filled out as a data file with a .PDF extension. In addition, an auto-reply acknowledgement will be sent to the applicant when the electronic Loan Proposal form is received by the Agency unless the sender has software that will block the receipt of the auto-reply email. The State Office will record pre-applications received electronically by the actual date and time when all attachments are received at the State Office.

Submission of the electronic Section 514 Loan Proposal form does not constitute submission of the entire proposal package which requires additional forms and supporting documentation as listed within this Notice. You may use one of the following three options for submitting the entire proposal package comprising of all required forms and documents. On the Loan Proposal form you can indicate the option you will be using to submit each required form and document.

1. *Electronic Media Option.* Submit all forms and documents as read-only Adobe Acrobat files on electronic media such as CDs, DVDs or USB drives. For each electronic device submitted, the applicant should include a Table of Contents of all documents and forms on that device. The electronic media should be submitted to the Rural Development State Office listed in this Notice where the property is located. Any forms and documents that are not sent electronically, including the check for credit reports, must be mailed to the Rural Development State Office.

2. *Email Option.* On the Loan Proposal form you will be asked for a Submission Email Address. This email address will be used to establish a folder on the USDA server with your unique email address. Once the Loan Proposal form is processed, you will receive an additional email notifying you of the email address that you can use to email your forms and documents. **Please Note:** All forms and documents must be emailed from the same Submission Email Address. This will ensure that all forms and documents that you send will be stored in the folder assigned to that email address. Any forms and documents that are not sent in via the email option must be submitted on an electronic media or in hard copy form to the Rural Development State Office.

3. *Hard Copy Submission to the Rural Development State Office.* If you are unable to send the proposal package electronically using either of the options listed above, you may send a hard copy of all forms and documents to the USDA Rural Development State Office where the property is located. Hard copy pre-applications received on or before the deadline date will receive the close of business time of the day received as the receipt time. Hard copy pre-applications must be received by the submission deadline and no later than 5:00 p.m., local time, October 15, 2013. Assistance for filing electronic and hard copy pre-applications can be obtained from any Rural Development State Office.

For electronic submissions, there is a time delay between the time it is sent and the time it is received depending on network traffic. As a result, last-minute submissions sent before the deadline date and time could well be received after the deadline date and time because of the increased network traffic. Applicants are reminded that all submissions received after the deadline date and time will be rejected, regardless of when they were sent.

If you receive a loan or grant award under this Notice, USDA reserves the right to post all information not protected under the Privacy Act and submitted as part of the pre-application/application package on a public Web site with free and open access to any member of the public.

If a pre-application is accepted for further processing, the applicant must submit a complete, final application, acceptable to Rural Development prior to the obligation of Rural Development funds. If the pre-application is not accepted for further processing the applicant will be notified of appeal rights under 7 CFR part 11.

B. Pre-Application Requirements

1. The pre-application must contain the following:

i. A summary page listing the following items. This information should be double-spaced between items and not be in narrative form.

(a) Applicant's name.

(b) Applicant's Taxpayer Identification Number.

(c) Applicant's address.

(d) Applicant's telephone number.

(e) Name of applicant's contact person, telephone number, and address.

(f) Amount of loan and grant requested.

(g) For grants of federal financial assistance (including loans and grants, cooperative agreements, etc.), the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number and registration in the CCR database in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at (866) 705–5711 or via Internet at *http://www.dnb.com/.* Additional information concerning this requirement can be obtained on the Grants.gov Web site at *www.grants.gov.* Similarly, applicants may register for the CCR at: *https://www.uscontractorregistration.com/*or by calling (877) 252–2700.

ii. Awards made under this Notice are subject to the provisions contained in the Consolidated and Further Continuing Appropriations Act, 2013, Public Law 113–6, Division A sections 732 and 733 regarding corporate felony convictions and corporate federal tax delinquencies. To comply with these provisions, all applicants must complete and include in the pre-application paragraph (a) of this representation, and all corporate applicants also must complete paragraphs (b) and (c) of this representation:

(a) Applicant _____[insert applicant name] is____ is not____(check one) and entity that has filed articles of incorporation in one of the fifty states, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, and U.S. Virgin Islands.

(b) Applicant_____[insert applicant name] has____has not____(check one) been convicted of a felony criminal violation under Federal or state law in the 24 months preceding the date of application. Applicant has____ has not____(check one) had any officer or agent of the Applicant convicted of a felony criminal violation for actions taken on behalf of the Applicant under Federal or State law in the 24 months preceding the date of the signature on the pre-application.

(c) Applicant_____[insert applicant name] has____does not have ____(check one) any unpaid Federal tax liability that has been assessed, for which all judicial and administrative

remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

iii. A narrative verifying the applicant's ability to meet the eligibility requirements stated earlier in this notice. If an applicant is selected for further processing, Rural Development will require additional documentation as set forth in a Conditional Commitment in order to verify the entity has the legal and financial capability to carry out the obligation of the loan.

iv. Standard Form 424, ''Application for Federal Assistance,'' can be obtained at: *http://www.grants.gov* or from any Rural Development State Office listed in Section VII of this Notice.

v. For loan pre-applications, current (within 6 months of pre-application date) financial statements with the following paragraph certified by the applicant's designated and legally authorized signer:

I/we certify the above is a true and accurate reflection of our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.

vi. For loan pre-applications, a check for $40 from applicants made out to United States Department of Agriculture. This will be used to pay for credit reports obtained by Rural Development.

vii. Evidence that the applicant is unable to obtain credit from other sources. Letters from credit institutions which normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided. (**Note:** Not required from State or local public agencies or Indian tribes.)

viii. If a FLH grant is desired, a statement concerning the need for a FLH grant. The statement should include preliminary estimates of the rents required with and without a grant.

ix. A statement of the applicant's experience in operating labor housing or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience (*i.e.,* obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

x. A brief statement explaining the applicant's proposed method of operation and management (*i.e.,* on-site manager, contract for management services, etc.). As stated earlier in this Notice, the housing must be managed in accordance with the program's management regulation, 7 CFR part 3560 and tenancy is limited to ''disabled domestic farm laborers,'' ''domestic farm laborers,'' and ''retired domestic farm laborers,'' as defined in 7 CFR 3560.11.

xi. Applicants must also provide:

(a) A copy of, or an accurate citation to, the special provisions of State law under which they are organized, a copy of the applicant's charter, Articles of Incorporation, and by-laws;

(b) The names, occupations, and addresses of the applicant's members, directors, and officers; and

(c) If a member or subsidiary of another organization, the organization's name, address, and nature of business.

xii. A preliminary market survey or market study to identify the supply and demand for labor housing in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project. Documentation must be provided to justify a need within the intended market area for the housing of ''domestic farm laborers,'' as defined in 7 CFR 3560.11. The documentation must take into account disabled and retired farm workers. The preliminary survey should address or include the following items:

(a) The annual income level of farmworker families in the area and the probable income of the farm workers who will likely occupy the proposed housing;

(b) A realistic estimate of the number of farm workers who remain in the area where they harvest and the number of farm workers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (*i.e.,* single individuals as opposed to families);

(c) General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers;

(d) The overall occupancy rate for comparable rental units in the area and the rents charged and customary rental practices for these units (*i.e.,* will they rent to large families, do they require annual leases, etc.);

(e) The number, condition, adequacy, rental rates and ownership of units currently used or available to farm workers;

(f) A description of the units proposed, including the number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility, estimated development timeline, estimated total development cost, and applicant contribution; and

(g) The applicant must also identify all other sources of funds, including the dollar amount, source, and commitment status. (**Note:** A Section 516 grant may not exceed 90 percent of the total development cost of the housing.)

xiii. The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs listed in Section IV the applicant intends to participate in.

xiv. The following forms are required:

(a) A completed Form RD 1940–20, ''*Request for Environmental Information,*'' and a description of anticipated environmental issues or concerns. The form can be found at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1940-20.PDF.*

(b) A prepared HUD Form 935.2A, ''Affirmative Fair Housing Marketing Plan (AFHM) Multi-family Housing,'' in accordance with 7 CFR 1901.203(c). The plan will reflect that occupancy is open to all qualified ''domestic farm laborers,'' regardless of which farming operation they work and that they will not discriminate on the basis of race, color, sex, age, disability, marital or familial status or National origin in regard to the occupancy or use of the units. The form can be found at: *http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.PDF.*

(c) A proposed operating budget utilizing Form RD 3560–7, ''*Multiple Family Housing Project Budget/Utility Allowance,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF.*

(d) An estimate of development cost utilizing Form RD 1924–13, ''*Estimate and Certificate of Actual Cost,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/-RD1924-13.PDF.*

(e) Form RD 3560–30, ''*Certification of no Identity of Interest (IOI),*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/*

RD3560-30.PDF and Form RD 3560–31, ''*Identity of Interest Disclosure/ Qualification Certification,*'' can be found at: *http://forms.sc.egov.usda.gov/ efcommon/eFileServices/eForms/ RD3560-31.PDFRD3560-31.PDF.*

(f) Form HUD 2530, ''*Previous Participation Certification,''* can be found at: *http://www.hud.gov/offices/ adm/hudclips/forms/files/2530.pdf.*

(g) If requesting Rental Assistance (RA) or Operating Assistance, Form RD 3560–25, ''*Initial Request for Rental Assistance or Operating Assistance,''* can be found at: *http://forms.sc.egov. usda.gov/efcommon/eFileServices/ eForms/RD3560-25.PDF.*

(h) Form RD 400–4, ''*Assurance Agreement,''* can be found at: *http:// forms.sc.egov.usda.gov/efcommon/ eFileServices/eForms/RD400-4.PDF.* Applicants for revitalization, repair, and rehabilitation funding are to apply through the Multi-Family Housing Revitalization Demonstration Program (MPR).

(i) Evidence of compliance with Executive Order 12372. The applicant must send a copy of Form SF–424, ''Application for Federal Assistance,'' to the applicant's state clearinghouse for intergovernmental review. If the applicant is located in a state that does not have a clearinghouse, the applicant is not required to submit the form. Applications from federally recognized Indian tribes are not subject to this requirement.

xv. Evidence of site control, such as an option contract or sales contract. In addition, a map and description of the proposed site, including the availability of water, sewer, and utilities and the proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

xvi. Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials. The housing must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C and must also meet all applicable Federal, State, and local accessibility standards.

xvii. A supportive services plan, which describes services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farm workers and their families. Letters of intent from service providers are acceptable documentation at the pre-application stage.

xviii. A sources and uses statement which shows all sources of funding included in the proposed project. The terms and schedules of all sources included in the project should be included in the sources and uses statement.

xix. A separate one-page information sheet listing each of the ''Pre-Application Scoring Criteria,'' contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation that is contained in the proposal that supports the criteria.

xx. Applicants are encouraged, but not required, to include a checklist of all of the pre-application requirements and to have their pre-application indexed and tabbed to facilitate the review process;

xxi. Evidence of compliance with the requirements of the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO). A letter from the SHPO and/or THPO where the off-farm labor housing project is located, signed by their designee will serve as evidence of compliance.

VI. Pre-Application Review Information

All applications for Sections 514 and 516 funds must be filed electronically or with the appropriate Rural Development State Office and meet the requirements of this Notice. The Rural Development State Office will base its determination of completeness of the application and the eligibility of each applicant on the information provided in the pre-application.

A. *Selection Criteria.* Section 514 loan funds and Section 516 grant funds will be distributed to States based on a national competition, as follows:

1. Rural Development State Office will accept, review, and score pre-applications in accordance with this Notice. The scoring factors are:

i. The presence of construction cost savings, including donated land and construction leverage assistance, for the units that will serve program-eligible tenants. The savings will be calculated as a percentage of the Rural Development TDC. The percentage calculation excludes any costs prohibited by Rural Development as loan expenses, such as a developer's fee. Construction cost savings includes, but is not limited to, funds for hard construction costs, and State or Federal funds which are applicable to construction costs. A minimum of 10 percent cost savings is required to earn points; however, if the total percentage of cost savings is less than 10 percent and the proposal includes donated land, two points will be awarded for the donated land. To count as cost savings for purposes of the selection criteria, the applicant must submit written evidence from the third-party funder that an application for those funds has been submitted and accepted points will be awarded in accordance with the following table using rounding to the nearest whole number.

Percentage	Points
75 or more	20
60–74	18
50–59	16
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0

ii. The presence of operational cost savings, such as tax abatements, non-Rural Development tenant subsidies or donated services are calculated on a per-unit cost savings for the sum of the savings. Savings must be available for at least 5 years and documentation must be provided with the application demonstrating the availability of savings for 5 years. To calculate the savings, take the total amount of savings and divide it by the number of units in the project that will benefit from the savings to obtain the per unit cost savings. For non-Rural Development tenant subsidy, if the value changes during the 5 year calculation, the applicant must use the lower of the non-rural development tenant subsidy to calculate per unit cost savings. For example, a 10 unit property with 100 percent designated farm labor housing units receiving $20,000 per year non-rural development subsidy yields a cost savings of $100,000 ($20,000 × 5 years); resulting to a $10,000 per-unit cost savings ($100,000/10 units).

To determine cost savings in a mixed income complex that will serve other income levels than farm labor housing income-eligible tenants, use only the number of units that will serve farm labor housing income-eligible tenants. Round percentages to the nearest whole number, rounding up at 0.50 and above and down at 0.49 and below.

Use the following table to apply points:

Per-unit cost savings	Points
Above $15,000	20
$10,001–$15,000	18
$7,501–$10,000	16
$5,001–$7,500	12
$3,501–$5,000	10
$2,001–$3,500	8
$1,000–$2,000	5

iii. Percent of units for seasonal, temporary, migrant housing. (5 points for up to and including 50 percent of the units; 10 points for 51 percent or more units used for seasonal, temporary, or migrant housing.)

iv. Presence of tenant services.

(a) Up to 10 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include, but are not limited to, transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers.

(b) Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant.

v. Energy Initiative Properties.

(a) *Energy Initiatives:* Properties may receive a total maximum of 65 points for energy initiatives. Depending on the scope of work, properties may earn ''energy initiative'' points in one of two categories: (1) New Construction or Purchase and Gut Rehabilitation of an Existing Non-Farm Labor Housing Building, or (2) General Rehabilitation. Projects will be eligible for one category of the two, but not both. The project architect's affidavit should specify which category is applicable.

Properties in any category also may receive points for Energy Generation and Green Property Management.

Energy programs including LEED for Homes, Green Communities, etc., will each have an initial checklist indicating prerequisites for participation in its energy program. The applicable energy program checklist will establish whether prerequisites for the energy program's participation will be met. All checklists must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. The checklist and affidavit must be submitted together with the loan application.

(1) *Energy Conservation for New Construction or Purchase and Gut Rehabilitation of an Existing Non-Farm Labor Housing Building (maximum 55 points).* Projects may be eligible for up to 55 points when the pre-application includes a written certification by the applicant to participate in the following energy efficiency programs.

The points will be allocated as follows:

• Participation in the EPA's Energy Star for Homes V3 program. (20 points) *http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr*

OR

• Participation in the Green Communities program by the Enterprise Community Partners. (30 points) *http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities.*

OR

• Participation in one of the following two programs will be awarded points for certification.

Note: Each program has four levels of certification. State the level of certification that the applicant plans will achieve in their certification:

• LEED for Homes program by the United States Green Building Council (USGBC): *http://www.usgbc.org/homes.*

—Certified Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Platinum Level (45 points),

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its preapplication.

OR

• The National Association of Home Builders (NAHB) ICC 700–2008 National Green Building Standard TM: *www.nahb.org.*

—Bronze Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Emerald Level (45 points).

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its preapplication.

AND

• Participation in the Department of Energy's Builder's Challenge program. (8 points) *http://www1.eere.energy.gov/buildings/challenge/*

AND

• Participation in local green/energy efficient building standards; Applicants who participate in a city, county or municipality program, will receive an additional 2 points.

(2) *Energy Conservation for General Rehabilitation (maximum 32 points).* Pre-applications for the purchase and rehabilitation of non-program Multi-Family Housing (MFH) and related facilities in rural areas may be eligible to receive 32 points when the pre-application includes a written certification by the applicant to participate in one of the following energy efficiency programs. Again, the certification must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. Points will be award as follows:

• Participation in the Green Communities program by the Enterprise Community Partners. (30 points) *http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities.* At least 30 percent of the points needed to qualify for the Green Communities program must be earned under the Energy Efficiency section of Green Communities.

AND

• Participation in local green/energy efficient building standards; Applicants who participate in a city, county or municipality program, will receive an additional 2 points. The applicant should be aware of and look for additional requirements that are sometimes embedded in the third-party program's rating and verification systems. (2 points)

(b) *Energy Generation* (maximum 5 points). Pre-applications for new construction or purchase and rehabilitation of non-program multi-family projects which participate in the Energy Star for Homes V3 Program, Green Communities, LEED for Homes or NAHB's National Green Building Standard (ICC–700) 2008, receive at least 8 points for Energy Conservation measures (if limited rehabilitation only) in the point allocations above are eligible to earn additional points for installation of on-site renewable energy sources. In order to receive more than 1 point for this energy generation section, an accurate energy analysis prepared by an engineer will need to be submitted with the pre-application. Energy analysis of preliminary building plans using industry-recognized simulation software must document the projected total energy consumption of the building, the portion of the building consumption which will be satisfied through on-site generation, and the building's Home Energy Rating System (HERS) score.

Projects with an energy analysis of the preliminary or rehabilitation building plans that propose a 10 percent to 100 percent energy generation commitment (where generation is considered to be the total amount of energy needed to be generated on-site to make the building a net-zero consumer of energy) will be awarded points as follows:

- (a) 0 to 9 percent commitment to energy generation receives 0 points;
- (b) 10 to 29 percent commitment to energy generation receives 1 point;
- (c) 30 to 49 percent commitment to energy generation receives 2 points;
- (d) 50 to 69 percent commitment to energy generation receives 3 points;
- (e) 70 to 89 percent commitment to energy generation receives 4 points;
- (f) 90 percent or more commitment to energy generation receives 5 points.

(c) *Property Management Credentials* (5 points). Projects may be awarded an additional 5 points if the designated property management company or individuals that will assume maintenance and operations responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing can be obtained from the National Apartment Association (NAA), National Affordable Housing Management Association, the Institute for Real Estate Management, U.S. Green Building Council's Leadership in Energy and Environmental Design for Operations and Maintenance (LEED OM), or another source with a certifiable credentialing program. Credentialing must be illustrated in the resume(s) of the property management team and included with the pre-application.

The National Office will rank all pre-applications nationwide and distribute funds to States in rank order, within funding and RA limits. A lottery in accordance with 7 CFR 3560.56(c)(2) will be used for applications with tied point scores when they all cannot be funded. If insufficient funds or RA remain for the next ranked proposal, that applicant will be given a chance to modify their pre-application to bring it within remaining funding levels. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted. Rural Development will notify all applicants whether their applications have been accepted or rejected and provide appeal rights under 7 CFR part 11, as appropriate.

VII. Award Administration Information

A. Award Notices

Loan applicants must submit their initial applications by the due date specified in this Notice. Once the applications have been scored and ranked by the National Office, the National Office will advise States Offices of the proposals selected for further processing, State Offices will respond to applicants by letter.

If the application is not accepted for further processing, the applicant will be notified of appeal rights under 7 CFR part 11.

B. Administrative and National Policy

All Farm Labor Housing loans and grants are subject to the restrictive-use provisions contained in 7 CFR 3560.72(a)(2).

C. Reporting

Borrowers must maintain separate financial records for the operation and maintenance of the project and for tenant services. Tenant services will not be funded by Rural Development. Funds allocated to the operation and maintenance of the project may not be used to supplement the cost of tenant services, nor may tenant service funds be used to supplement the project operation and maintenance. Detailed financial reports regarding tenant services will not be required unless specifically requested by Rural Development, and then only to the extent necessary for Rural Development and the borrower to discuss the affordability (and competitiveness) of the service provided to the tenant. The project audit, or verification of accounts on Form RD 3560–10, ''*Borrower Balance Sheet,*'' together with an accompanying Form RD 3560–7, ''*Multiple Family Housing Project Budget Utility Allowance,*'' [showing actual,] must allocate revenue and expense between project operations and the service component.

VIII. Equal Opportunity and Non-Discrimination Requirements

Borrowers and applicants will comply with the provisions of 7 CFR 3560.2. All housing must meet the accessibility requirements found at 7 CFR 3560.60(d). All applicants must submit or have on file a valid Form RD 400–1, ''*Equal Opportunity Agreement,*'' and Form RD 400–4, ''*Assurance Agreement.*''

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file an employment complaint, you must contact your Agency's EEO Counselor (PDF) within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at: *http://www.ascr.usda.gov/complaint_filing_file.html.*

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at: *http://www.ascr.usda.gov/complaint_filing_cust.html,* or any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 720–7442 or email at: *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

IX. USDA Rural Development MFH State Office Contacts

(**Note:** Telephone numbers listed are not toll-free.)

Alabama State Office, Suite 601, Sterling Centre, 121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3455, Anne Chavers

Alaska State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7723, Cindy Jackson

Arizona State Office, Phoenix Courthouse and Federal Building, 230 North First Avenue, Suite 206, Phoenix, AZ 85003–1706, (602) 280–8764, Ernie Wetherbee

Arkansas State Office, 700 W. Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3254, Jackie Young

California State Office, 430 G Street, #4169, Davis, CA 95616–4169, (530) 792–5821, Debra Moretton

Colorado State Office, USDA Rural Development, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225–0426, (720) 544–291, Jamie Spakow

Connecticut

Served by Massachusetts State Office

Delaware and Maryland State Office, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3615, Debra Eason

Florida & Virgin Islands State Office, 4440 NW. 25th Place, Gainesville, FL 32606–6563, (352) 338–3465, Tresca Clemmons
Georgia State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2164, Jack Stanek
Hawaii State Office, (Services all Hawaii, American Samoa, Guam, and Western Pacific), Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8305, Nate Reidel
Idaho State Office, Suite A1, 9173 West Barnes Drive, Boise, ID 83709, (208) 378–5628, Joyce Weinzetl
Illinois State Office, 2118 West Park Court, Suite A, Champaign, IL 61821–2986, (217) 403–6222, Barry L. Ramsey
Indiana State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100, ext. 425, Douglas Wright
Iowa State Office, 210 Walnut Street, Room 873, Des Moines, IA 50309, (515) 284–4493, Shannon Chase
Kansas State Office, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2721, Mike Resnik
Kentucky State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7325, Paul Higgins
Louisiana State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7962, Yvonne R. Emerson
Maine State Office, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9110, Bob Nadeau

Maryland

Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office, 451 West Street, Amherst, MA 01002, (413) 253–4310, Richard Lavoie
Michigan State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5192, Julie Putnam
Minnesota State Office, 375 Jackson Street Building, Suite 410, St. Paul, MN 55101–1853, (651) 602–7820, Linda Swanson
Mississippi State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4325, Darnella Smith-Murray
Missouri State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0987, Rachelle Long
Montana State Office, 2229 Boot Hill Court, Bozeman, MT 59715, (406) 585–2515, Deborah Chorlton
Nebraska State Office, Federal Building, Room 152, 100 Centennial Mall N, Lincoln, NE 68508, (402) 437–5734, Linda Anders
Nevada State Office, 1390 South Curry Street, Carson City, NV 89703–5146, (775) 887–1222, ext. 105, William Brewer
New Hampshire State Office, Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6050, Heidi Setien
New Jersey State Office, 5th Floor North Suite 500, 8000 Midlantic Drive, Mt. Laurel, NJ 08054, (856) 787–7732, Neil Hayes
New Mexico State Office, 6200 Jefferson Street NE., Room 255, Albuquerque, NM 87109, (505) 761–4945, Yvette Wilson
New York State Office, The Galleries of Syracuse, 441 S. Salina Street, Suite 357 5th Floor, Syracuse, NY 13202, (315) 477–6421, Michael Bosak
North Carolina State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2055, Beverly Casey
North Dakota State Office, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502, (701) 530–2049, Kathy Lake
Ohio State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2477, (614) 255–2409, Cathy Simmons
Oklahoma State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1070, Laurie Ledford
Oregon State Office, 1201 NE Lloyd Boulevard, Suite 801, Portland, OR 97232, (503) 414–3353, Rod Hansen
Pennsylvania State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, Martha Hanson
Puerto Rico State Office, 654 Munoz Rivera Avenue, IBM Plaza, Suite 601, Hato Rey, PR 00918, (787) 766–5095, ext. 249, Lourdes Colon

Rhode Island

Served by Massachusetts State Office

South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5122, Tim Chandler
South Dakota State Office, Federal Building, Room 210, 200 Fourth Street SW., Huron, SD 57350, (605) 352–1136, Linda Weber
Tennessee State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1380, Kathy Connelly
Texas State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9711, John Kirchhoff
Utah State Office, Wallace F. Bennett Federal Building, 125 S. State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4325, Janice Kocher
Vermont State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6015, Robert McDonald

Virgin Islands

Served by Florida State Office

Virginia State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1596, CJ Michels
Washington State Office, 1835 Black Lake Boulevard, Suite B, Olympia, WA 98512, (360) 704–7706, Bill Kirkwood

Western Pacific Territories

Served by Hawaii State Office

West Virginia State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 372–3441, ext. 105, Penny Thaxton
Wisconsin State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7620, ext. 157, Debbie Biga
Wyoming State Office, P.O. Box 11005, Casper, WY 82602, (307) 233–6716, Timothy Brooks

Dated: August 7, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–19774 Filed 8–13–13; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New York Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; correction.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of August 2, 2013, concerning a meeting of the New York Advisory Committee. The notice contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Ivy Davis, (202) 376–7533.

Correction

In the **Federal Register** of August 2, 2013, in FR Doc. 2013–18587, on page 46921, correct the first paragraph to read:

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New York Advisory Committee to the Commission will convene at 12:00 p.m. (ET) on Wednesday, August 14, 2013, at the Law Offices of Sullivan and Cromwell, 535 Madison Avenue, New York, New York. The purpose of the meeting is for orientation and project planning.

Dated: August 9, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–19746 Filed 8–13–13; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance

from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[8/2/2013 through 8/8/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Taylor Industries, Inc	35 Anderson Road, Parker Ford, PA 19457	8/8/2013	Firm manufacturers wash basins and counter tops made of proprietary material called tere-stone.
Audio Resource Group, Inc	405 Main Ave W, Suite 4G, West Fargo, ND 58078.		The firm produces electronics products for the hearing assistance and fitness entertainment markets.
Barnard Manufacturing Co., Inc	205 E. Walker Road, St. Johns, MI 48879	8/6/2013	The firm manufactures castings, pins, connectors, and bushings for construction vehicles.
Multi-Duty Manufacturing, Inc	325 Karen Lane, Colorado Springs, CO 80907.	8/7/2013	Firm manufactures centrifugal pumps for the residential, industrial chemical process, and commercial water and waste water markets.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: August 8, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–19735 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Arturo Guillermo Nino, Inmate Number #04908–379, FCI Beaumont Low, Federal Correctional Institute, P.O. Box 26020, Beaumont, TX 26020; Order Denying Export Privileges

On June 12, 2012, in the U.S. District Court, Western District of Texas, Arturo Guillermo Nino (''Nino''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Nino was convicted of intentionally and knowingly conspiring with persons known and unknown to knowingly and willfully export and attempt to export to Mexico a defense article, that is to wit: several AK–47 type rifles and magazines, without having first obtained from the U.S. Department of State a license for such export or written authorization for such export. Nino was sentenced to 72 months of imprisonment, three years of supervised release, a $1,000 criminal fine and an assessment of $100. Nino is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR § 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Nino's conviction for violating the AECA, and have provided notice and an opportunity for Nino to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Nino. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Nino's export privileges under the Regulations for a period of 10 years from the date of Nino's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Nino had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered:*

I. Until June 12, 2022, Arturo Guillermo Nino, with a last known address at: Inmate Number #04908–379, FCI Beaumont Low, Federal Correctional Institute, P.O. Box 26020, Beaumont, TX 26020, and when acting for or on behalf of Nino, his representatives, assigns, agents or employees (the ''Denied Person''), may

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Nino by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until June 12, 2022.

VI. In accordance with Part 756 of the Regulations, Nino may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Nino. This Order shall be published in the **Federal Register**.

Issued this 8th day of August, 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–19706 Filed 8–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Stephen Glen Guerra, Inmate #98595–279, FCI Yazoo City Medium, Federal Correctional Institution, P.O. Box 5888, Yazoo City, MS 39194; Order Denying Export Privileges

On February 6, 2012, in the U.S. District Court, Western District of Texas, Stephen Glen Guerra (''Guerra''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Guerra was convicted of intentionally and knowingly conspiring with persons known and unknown to knowingly and willfully export and attempt to export to Mexico a defense article, that is to wit: several AK–47 type rifles and magazines, without having first obtained from the U.S. Department of State a license for such export or written authorization for such export. Guerra was sentenced to 60 months of imprisonment, three years of supervised release, a $1,000 criminal fine and an assessment of $100. Guerra is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Guerra's conviction for violating the AECA, and have provided notice and an opportunity for Guerra to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Guerra. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Guerra's export privileges under the Regulations for a period of 10 years from the date of Guerra's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Guerra had an interest at the time of his conviction.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Accordingly, it is hereby *ordered:*

I. Until February 6, 2022, Stephen Glen Guerra, with a last known address at: Inmate Number #98595–279, FCI Yazoo City Medium, Federal Correctional Institution, P.O. Box 5888, Yazoo City, MS 39194, and when acting for or on behalf of Guerra, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Guerra by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until February 6, 2022.

VI. In accordance with Part 756 of the Regulations, Guerra may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Guerra. This Order shall be published in the **Federal Register**.

Issued this 8th day of August, 2013.

Bernard Kritzer,

Director, Office of Exporter Services .

[FR Doc. 2013–19703 Filed 8–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Adrian Jesus Reyna, Inmate Number #80629–280, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On January 27, 2012, in the U.S. District Court, Western District of Texas, Adrian Jesus Reyna (''Reyna'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. § 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Reyna was convicted of intentionally and knowingly conspiring with persons known and unknown to knowingly and willfully export and attempt to export to Mexico a defense article, that is to wit: several AK–47 type rifles and magazines, without having first obtained from the U.S. Department of State a license for such export or written authorization for such export. Reyna was sentenced to 60 months of imprisonment, three years of supervised release, a $1,000 criminal fine and an assessment of $200. Reyna is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. § 1701–1706); 18 U.S.C. §§ 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. § 2778).'' 15 CFR § 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR § 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Reyna's conviction for violating the AECA, and have provided notice and an opportunity for Reyna to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 FR 49699 (August 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

not received a submission from Reyna. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Reyna's export privileges under the Regulations for a period of 10 years from the date of Reyna's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Reyna had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

I. Until January 27, 2022, Adrian Jesus Reyna, with a last known address at: Inmate Number #80629–280, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on behalf of Reyna, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Reyna by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until January 27, 2022.

VI. In accordance with Part 756 of the Regulations, Reyna may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to the Reyna. This Order shall be published in the **Federal Register.**

Issued this 8th day of August, 2013.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2013–19707 Filed 8–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–820, A–307–824]

Ferrosilicon From the Russian Federation and Venezuela: Initiation of Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 14, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand at (202) 482–3207, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Petitions

On July 19, 2013, the Department of Commerce (the ''Department'') received antidumping duty (''AD'') petitions concerning imports of ferrosilicon from the Russian Federation (''Russia'') and Venezuela filed in proper form on behalf of Globe Specialty Metals, Inc.; CC Metals and Alloys, LLC; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (''UAW'') (collectively, ''Petitioners'').[1] On July 22, 2013, Petitioners submitted a foreign research report with respect to the Venezuela petition.[2] On July 24, 2013, the Department issued requests for additional information and clarification of certain aspects of the Petitions. On July 25 and July 26, 2013, Petitioners filed responses with respect to general questions about information in the Petitions (''General Supplement'') as well as company-specific questions (''Supplement to Russia Petition'' and ''Supplement to Venezuela Petition''). On August 2, 2013, the Department spoke with the foreign market researcher who authored the Foreign Research Report.[3] On August 5, 2013, Petitioners submitted revised scope

[1] *See* ''Petitions for the Imposition of Antidumping Duties on Ferrosilicon from Russia and Venezuela,'' filed on July 19, 2013 (''Petitions'').

[2] *See* Petitioners' Venezuelan Foreign Research Report, dated July 22, 2013 (''Foreign Research Report'').

[3] *See* Memorandum to the File; re: Telephone Conversation with Foreign Market Researcher, dated concurrently with this notice.

language, which is reflected in the ''Scope of Investigations'' section below.

Petitioners allege, in accordance with section 732(b) of the Tariff Act of 1930, as amended (the ''Act''), that imports of ferrosilicon from Russia and Venezuela are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry, in accordance with section 732(b)(1) of the Act. The Department also finds that Petitioners are interested parties as defined in sections 771(9)(C) and (D) of the Act and that Petitioners have demonstrated sufficient industry support for the AD investigations that Petitioners are requesting that the Department initiate (*see* ''Determination of Industry Support for the Petitions'' section below).

Period of Investigation

The period of investigation (''POI'') for these investigations is July 1, 2012, through June 30, 2013.[4]

Scope of Investigations

The merchandise covered by these investigations is all forms and sizes of ferrosilicon, regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight 4 percent or more iron, more than 8 percent but not more than 96 percent silicon, 3 percent or less phosphorus, 30 percent or less manganese, less than 3 percent magnesium, and 10 percent or less any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.

Ferrosilicon is currently classified under U.S. Harmonized Tariff Schedule (''HTSUS'') subheadings 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations. The Department encourages all interested parties to submit such comments by close-of-business, August 28, 2013, which is twenty calendar days from the signature date of this notice. All scope comments must be filed on the records of the Russia and Venezuela AD investigations. Comments should be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by the deadline noted above.

Comments on Product Characteristics for AD Questionnaires

We are requesting comments from interested parties regarding the physical characteristics of ferrosilicon that should be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of a list identifying key physical characteristics. Specifically, they may provide comments as to the most relevant characteristics for use as (1) general product characteristics and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe ferrosilicon, it may be that only a select few product characteristics account for commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, we must receive comments on product characteristics by August 29, 2013. Additionally, rebuttal comments must be received by September 9, 2013. All comments must be filed on the records of the Russia and Venezuela AD investigations. All comments and submissions to the Department must be filed electronically using IA ACCESS, as explained above.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for

[4] *See* 19 CFR 351.204(b)(1).

different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[5]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that ferrosilicon constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[6]

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of Investigations'' section above. To establish industry support, Petitioners provided their own production of the domestic like product in 2012.[7] Petitioners state that they are the only producers of ferrosilicon in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.[8]

Our review of the data provided in the Petitions and other information readily available to the Department indicates that Petitioners have established industry support.[9] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[10] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[11] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[12] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department initiate.[13]

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[14]

Petitioners contend that the industry's injured condition is illustrated by reduced market share; increased market penetration; declining production and shipments and reduced capacity utilization; underselling and price depression or suppression; increased inventories; reduced employment, hours worked, and wages paid; lost sales and revenues; and decline in financial performance.[15] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[16]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of ferrosilicon from Russia and Venezuela. The sources of data for the deductions and adjustments relating to the U.S. price and NV are also discussed in the country-specific initiation checklists.[17]

Export Price

Russia

Petitioners calculated export price (''EP'') based on the average unit value (''AUV'') for Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7202.21.5000, described as ''ferrosilicon of iron or steel,'' (and identified as ''75 percent ferrosilicon''),[18] during the POI.[19] Petitioners deducted foreign inland freight from the AUV and converted the unit of measure of the AUV from kilograms of contained silicon to pounds of contained silicon.[20]

Venezuela

Petitioners based U.S. EP on the AUV for HTSUS subheading 7202.21.5000, described as ''ferrosilicon of iron or steel,'' during the POI.[21] Petitioners converted the unit of measure for the AUV from kilograms of contained silicon to pounds of contained silicon.[22]

[5] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[6] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Ferrosilicon from the Russian Federation (''Russia Initiation Checklist'') at Attachment II, and Antidumping Duty Investigation Initiation Checklist: Ferrosilicon from Venezuela (''Venezuela Initiation Checklist'') at Attachment II. These checklists are dated concurrently with, and are hereby adopted by, this notice and are on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

[7] *See* Volume I of Petitions, at 3 and Exhibit I–2.

[8] *See id.,* at 3 and Exhibit I–1.

[9] *See* Russia Initiation Checklist and Venezuela Initiation Checklist, at Attachment II.

[10] *See* section 732(c)(4)(D) of the Act; *see also* Russia Initiation Checklist and Venezuela Initiation Checklist, at Attachment II.

[11] *See* Russia Initiation Checklist and Venezuela Initiation Checklist, at Attachment II.

[12] *See id.*

[13] *See id.*

[14] *See* Volume I of Petitions, at 33 and Exhibit I–23.

[15] *See* Volume I of Petitions, at 20–47 and Exhibits I–5, I–6 and I–13 through I–35.

[16] *See* Russia Initiation Checklist and Venezuela Initiation Checklist, at Attachment III.

[17] *See* Russia Initiation Checklist and Venezuela Initiation Checklist.

[18] *See* Volume I of Petitions, at 5, for a description of HTSUS 7202.21.5000.

[19] *See* Volume II of Petitions, at 2–3 and Exhibit II–2.

[20] *See id.*

[21] *See* Volume III of Petitions, at 1–2 and Exhibit II–4.

[22] *See id,* at 1–2 and Exhibit III–2. As explained by Petitioners, ''Ferrosilicon is available in 'standard' grades and 'specialty' grades. The standard ferrosilicon grades include 'regular,' 'high purity,' 'low aluminum,' and 'foundry grade'

Continued

Normal Value

Russia

Petitioners provided two home market prices for 75 percent ferrosilicon in Russia. The two home market price NVs were based on prices at which dealers offered to sell 75 percent ferrosilicon produced by CHEMK Industrial Group (''CHEMK'') to Russian purchasers in February 2013.[23] Petitioners provided affidavits for the two written offers that specified the gross weight, terms of delivery, and whether the price was inclusive of Russian value-added tax (''VAT''). These prices were adjusted to exclude VAT, freight from the factory to the warehouse, and trading company mark-up, where appropriate.[24] Petitioners converted the adjusted prices to U.S. dollars and the unit of measure from gross metric tons to pounds of contained silicon.[25]

Sales-Below-Cost Allegation

Petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of ferrosilicon in the Russian market were made at prices below the cost of production (''COP'') within the meaning of section 773(b) of the Act and requested that the Department conduct sales-below-cost investigation of CHEMK.[26]

With respect to sales-below-cost allegations in the context of investigations, the Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act states that an allegation of sales below COP need not be specific to individual exporters or producers.[27] The SAA states further that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country . . . on a country-wide basis for purposes of initiating an antidumping investigation.'' [28] Consequently, the Department intends to consider Petitioners' allegation on a country-wide basis for purposes of this initiation.

Finally, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have ''reasonable grounds to believe or suspect that below-cost sales have occurred before initiating such an investigation.'' [29] '''Reasonable grounds' will exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.'' [30] As explained in the ''Constructed Value'' section below, we find reasonable grounds exist that indicate sales in Russia were made at below-cost prices.

Constructed Value

Given the evidence of below-cost sales, Petitioners also relied on constructed value (''CV'') as the basis for NV.[31] Pursuant to section 773(e) of the Act, CV consists of the cost of manufacture (''COM''), selling, general, and administrative (''SG&A'') expenses, financial expenses, packing expenses, and profit. To calculate the COM for 75 percent ferrosilicon, Petitioners multiplied the quantity of each of the inputs used to manufacture the product, based on the production experience of one of the Petitioners, Global Specialty Metals Inc. (''GSM''), and adjusted for known differences between the Russia and U.S. industries, by the value of those inputs obtained from publicly available Russian market data.[32]

Petitioners based manufacturing overhead on GSM's overhead costs to produce 75 percent ferrosilicon.[33] For SG&A, and financial expense rates, Petitioners relied on the financial statements of a Russian producer of identical merchandise.[34] Petitioners relied on the same financial statements used as the basis for SG&A, and financial expense rates to calculate the profit rate.[35] Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, consistent with the SAA, the Department is initiating a country-wide cost investigation.

Venezuela

Petitioners provided home market prices accompanied by a market research report for 75 percent ferrosilicon sales from FerroAtlantica de Venezuela, S.A. to a purchaser in Venezuela. As these prices were offered in Venezuelan bolivars on a gross weight, tax-exclusive, ex-factory basis, Petitioners converted the prices to U.S. dollars and the unit of measure from gross kilograms to pounds of contained silicon so that U.S price and NV were compared on the same basis.[36]

Fair Value Comparisons

Based on the data provided by Petitioners, the Department finds that there is reason to believe that imports of ferrosilicon from Russia and Venezuela are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EP and home market prices, and also EP and CV (in accordance with section 773(a) of the Act), the estimated dumping margins for ferrosilicon from Russia range from 21.85 percent to 60.78 percent.[37] Based on a comparison of EPs and home market prices, in accordance with section 773(a) of the Act, the estimated dumping margins for ferrosilicon from Venezuela range from 20.07 percent to 60.11 percent.[38]

Initiation of Antidumping Investigations

Based upon the examination of the Petitions on ferrosilicon from Russia and Venezuela, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of ferrosilicon from Russia and Venezuela are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

material. References to 'regular grade 75 percent ferrosilicon' or 'regular grade 50 percent ferrosilicon' denote products containing the indicated percentages of silicon and recognized maximum percentages of minor elements.'' *See* Volume I of Petitions, at 6. Thus, 75 percent ferrosilicon is a grade of product that contains 75 percent silicon of total elements, as defined within HTSUS 7202.21.5000. The unit-of-measure referencing units per ''contained silicon'' basis simply means the unit of measure is based on the percentage of silicon out of total elements in the gross weight of the product. The ''contained silicon'' unit of measure is an industry standard unit of measure, as noted by Petitioners in Volume II of Petitions, at 2 and ns. 4–5.

[23] *See* Volume II of Petitions, at 3–4.

[24] *See id.,* at 3–4 and Exhibit II–3.

[25] *See id.; see also* Supplement to Russia Petition, at 3–4.

[26] *See id.,* at 4.

[27] *See* SAA, H.R. Doc. No. 103–316, at 833 (1994).

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See* Volume II of Petitions, at 4–6 and Exhibits II–4 and II–5; *see also* Supplement to Russia Petition, at 4–6 and Exhibits 2 through 4.

[32] *See id.*

[33] *See* Volume II of Petitions, at 4.

[34] *See id.*

[35] *See id.,* at 6.

[36] *See* Volume III of Petitions, at 3 and Exhibits III–3 and III–4; Foreign Research Report; Supplement to Venezuela Petition, at 2–3; and Venezuela Initiation Checklist.

[37] *See* Supplement to Russia Petition, at Exhibit 4.

[38] *See* Volume III of Petitions, at 3 and Exhibits III–3 and III–4; Foreign Research Report; Supplement to Venezuela Petition, at 2–3; and Venezuela Initiation Checklist.

Respondent Selection

Following standard practice in AD investigations involving ME countries, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports under the HTSUS numbers listed in the ''Scope of Investigations'' section above. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within seven days of publication of this **Federal Register** notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been made available to the Governments of Russia and Venezuela via IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than September 3, 2013, whether there is a reasonable indication that imports of ferrosilicon from Russia and Venezuela are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.[39]

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013) (''*Final Rule*''), which modified two regulations related to AD and countervailing duty (''CVD'') proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). As amended, 19 CFR 351.102(b)(21) identifies five categories of factual information, which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, is now required to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. As amended, 19 CFR 351.301 now provides specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to these investigations. Please review the *Final Rule,* available at *http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these investigations.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[40] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceeding initiated on or after March 14, 2011.[41] The formats for the revised certifications are provided at the end of the *Interim Final Rule* and the *Supplemental Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: August 8, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–19736 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–DS–P

[39] *See* section 733(a)(1) of the Act.

[40] *See* section 782(b) of the Act.

[41] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*'') (amending 19 CFR 351.303(g)(1) & (2)), as supplemented by *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011) (''*Supplemental Interim Final Rule*'').

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–944]

Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has conducted an administrative review of the countervailing duty order on certain oil country tubular goods (''OCTG'') from the People's Republic of China (''PRC''). The period of review is January 1, 2011, through December 31, 2011. We find that Wuxi Seamless Oil Pipe Co., Ltd. (''Wuxi'') and Jiangsu Chengde Steel Tube Share Co., Ltd. (''Jiangsu Chengde'') received countervailable subsidies during the POR.

DATES: *Effective Date:* August 14, 2013.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Christopher Siepmann, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1779 or (202) 482–7958, respectively.

Scope of the Order

The scope of the order consists of OCTG. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description, available in *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010) (''*OCTG Order*''), remains dispositive.

A full description of the scope of the *OCTG Order* is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, ''Decision Memorandum for Final Results of Countervailing Duty Administrative Review: Certain Oil Country Tubular Goods from the People's Republic of China,'' dated concurrently with this notice (''Decision Memorandum''), which is hereby adopted by this notice.

The Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (''the Act''). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[1] For a full description of the methodology underlying our conclusions, *see* Decision Memorandum.

In making these findings, we have relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we have drawn an adverse inference in selecting from among the facts otherwise available.[2] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Decision Memorandum.

Final Results of the Review

As a result of this review, we determine a net subsidy rate of 13.54 percent for Wuxi and a net subsidy rate of 1.95 percent for Jiangsu Chengde for the period January 1, 2011, through December 31, 2011.

Assessment Rates

Upon issuance of these final results, the United States Customs and Border Protection (''CBP'') shall assess countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of these final results.

Cash Deposit Requirements

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount listed above on shipments of subject merchandise by Wuxi or Jiangsu Chengde entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by the order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company.[3] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: August 7, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

List of Topics Discussed in the Decision Memorandum

1. Scope of the Order
2. Use of Facts Otherwise Available and Adverse Inferences
3. Subsidies Valuation Information
4. Analysis of Programs
5. Analysis of Comments

[FR Doc. 2013–19733 Filed 8–13–13; 8:45 am]

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[1] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

[2] *See* sections 776(a) and (b) of the Act.

[3] *See OCTG Order.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC807

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting of its Groundfish Essential Fish Habitat Review Committee (EFHRC).

DATES: The meeting will be held Wednesday September 4 through Thursday September 5, 2013. The meeting will begin each day at 8:30 a.m. and conclude at 5 p.m. or when business for the day has been completed.

ADDRESSES: The meeting will be held in the Large Conference Room of the Pacific Council offices, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to initiate plans for completing the periodic review of groundfish EFH. This will include reviewing the proposals to modify EFH, producing an informational report for the September Pacific Council meeting that summarizes the number and content of proposals, and discussing the Phase 2 Report and recommendations that will be delivered to the Council at the November meeting in Costa Mesa, CA.

Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the EFHRC's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, at (503) 820–2280, at least 5 days prior to the meeting date.

Dated: August 9, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–19697 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC799

Gulf of Mexico Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of correction of a public meeting notice of the Gulf of Mexico Fishery Management Council.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings of the Sustainable Fisheries/Ecosystem, Red Drum, Mackerel, Ad Hoc Restoration, Administrative Policy, Advisory Panel Selection, Reef Fish, Data Collection, and Joint Coral/Habitat Protection Management Committees; and a meeting of the Full Council. The Council will also hold an informal public question and answer session regarding agenda items and a formal public comment session.

DATES: The Council meetings will be held from 11 a.m. on Monday, August 26 until 4 p.m. on Thursday, August 29, 2013.

ADDRESSES: The meetings will be held at the Hilton Palacio del Rio Hotel, 200 South Alamo Street, San Antonio, TX 78205; (210) 222–1400.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL, 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630; fax: (813) 348–1711; email: *doug.gregory@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on August 9, 2013 (78 FR 48653). This notice is being re-published in its entirety to make corrections to some agenda items.

The items of discussion for each individual management committee agenda are as follows:

New Council Member Orientation, Monday, August 26, 2013, 9 a.m. Until 11 a.m.

Brief overview of Gulf Council history, procedures, and ongoing actions.

Sustainable Fisheries/Ecosystem Management Committee, Monday, August 26, 2013, 11 a.m. Until 11:30 a.m.

Receive a summary on the South Florida Management workshops.

Red Drum Management Committee Agenda, Monday, August 26, 2013, 1 p.m. Until 1:30 p.m.

Receive an update on Gulf of Mexico red drum data collection.

Mackerel Management Committee Agenda, Monday, August 26, 2013, 1:30 p.m. Until 3 p.m.

1. Review SEDAR 28 Gulf of Mexico Spanish mackerel Stock Assessments
2. Review public hearing comments and actions in Coastal Migratory Pelagics (CMP) Amendments 19 and 20 Public Hearing Drafts.
3. Discuss the schedule and timing for CMP Amendment 22—Recreational and Commercial Allocation of king mackerel.

Ad Hoc Restoration Committee Agenda, Monday, August 26, 2013, 3 p.m. Until 3:30 p.m.

1. Receive an update on the development plan for RESTORE's Marine Science Fund.
2. Summary of NOAA RESTORE Act Science Program Public Engagement Session.

Administrative Policy Committee Agenda, Monday August 26, 2013, 3:30 p.m. Until 4 p.m.

Discuss the Administrative Handbook and SOPPs.

Advisory Panel Selection Committee Agenda, Monday, August 26, 2013, 4 p.m. Until 5 p.m.

(**Note:** This meeting will be a CLOSED session.)

1. The Full Council in a CLOSED SESSION will appoint members to the Ad Hoc Red Snapper Individual Fishing Quota Advisory Panel.
2. Other Council business items.

Reef Fish Management Committee Agenda, Tuesday, August 27, 2013, 8:30 a.m. Until 12 noon and 1:30 p.m. until 5:30 p.m.

1. Receive a summary from the August 2013 Reef Fish SSC Meeting.
2. Discussion of Spawning Potential Ratio (SPR) Target Options.

3. Take Final Action on Individual Fishing Quotas (IFQ) Administrative Rule Changes.
4. Take Final Action on Amendment 39—Recreational Red Snapper Regional Management.
5. Review IFQ Inter-sector Trading Scoping Document.
6. Review Amendment 28—Red Snapper Allocation Options Paper.
7. Discuss Passengers on Dual-permitted Commercial Fishing Vessels
8. Receive an update on Red Snapper Recreational Landings and Supplemental Fall Season.
9. Discuss the 2014 Red Snapper Update Assessment and possible management actions.
10. Discuss Exempted Fishing Permits related to Reef Fish (if any).

Note: Immediately following committee recess will be an informal public Question and Answer Session on Gulf of Mexico fishery management issues on Tuesday, August 27, 2013.

Data Collection Management Committee Agenda, Wednesday, August 28, 2013, 8:30 a.m. Until 9 a.m.

1. Take Final Action on Modifications to the Federally-Permitted Seafood Dealer Reporting requirements.
2. Receive an update on the results of the Peer Reviewed Data Collection and Management Programs for the Magnuson-Stevens Managed Stocks.

Joint Coral/Habitat Protection Management Committee Agenda, Wednesday, August 28, 2013, 9 a.m. Until 10 a.m.

Receive a summary from the May 2013 Coral Workshop on Interrelationships between Corals and Fisheries.

Council Session Agenda, Wednesday, August 28, 2013, 10 a.m. Until 4 p.m.

10 a.m.–10:15 a.m.: Call to Order and Introductions, Induction of New Council Members, adoption of agenda and approval of minutes.

10:15 a.m.–11:30 a.m.: The Council will receive a Budget 101 overview.

1 p.m.–4 p.m.: The Council will receive public testimony on Final Action—IFQ Administrative Rule Changes, Final Action—Modifications to the Federally-Permitted Seafood Dealer Reporting Requirements, Mackerel Amendment 19—Coastal Migratory Pelagics Sale and Permit Provisions, Mackerel Amendment 20—Modifications to the Coastal Migratory Pelagics Zone Management, and Final Action—Reef Fish Amendment 39—Regional Management of Recreational Red Snapper. The Council will also hold an open public comment period regarding any other fishery issues or concerns. People wishing to speak before the Council should complete a public comment card prior to the comment period.

4 p.m.–4:15 p.m.: The Council will review and vote on Exempted Fishing Permits (EFP), if any.

4:15 p.m.–5:15 p.m.: The Council will receive committee reports from the Advisory Panel Selection, Ad Hoc Restoration, Red Drum, and Sustainable Fisheries/Ecosystem Management Committees.

Council Session Agenda, Thursday, August 29, 2013, 8:30 a.m. Until 4 p.m.

8:30 a.m.–2:30 p.m.: The Council will continue to receive committee reports from Coral/Habitat Protection, Data Collection, Mackerel, Administrative Policy and Reef Fish Management Committees.

2:30 p.m.–3:30 p.m.: The Council will review Other Business items: Amendment 7 to the Highly Migratory Species Fishery Management Plans (FMP) and review of the SEDAR schedule.

3:30 p.m.–3:45 p.m.: The Council will review the Action Schedule.

3:45 p.m.–4 p.m.: The Council will hold an election of the Chair and Vice Chair.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 9, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–19696 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC403

National Saltwater Angler Registry Program

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

ACTION: Notice.

SUMMARY: NMFS has established an annual fee of twenty-five dollars ($25.00) for registration of anglers, spear fishers and for-hire fishing vessels to register under the National Saltwater Angler Registry Program.

DATES: The registration fee will be required effective August 1, 2013.

ADDRESSES: Gordon C. Colvin, NMFS ST–12453, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Gordon C. Colvin; (240) 357–4524; email: *Gordon.Colvin@noaa.gov.*

SUPPLEMENTARY INFORMATION: The final rule implementing the National Saltwater Angler Registry Program, 50 CFR part 600, subpart P, was published in the **Federal Register** on December 30, 2008. The final rule states that persons registering with NMFS must pay an annual fee effective January 1, 2011, and that NMFS will publish the annual schedule for such fees in the **Federal Register**. The annual fee for registration was originally set at $15.00, effective January 1, 2011. NMFS policy requires that fees be reviewed every two years and be revised to reflect changes in estimated costs for administration of the program that requires the fees.

NMFS has completed its biennial review and has determined that the annual registration fee for anglers, spear fishers and for-hire fishing vessels will be raised to twenty-five dollars ($25.00). All persons registering on or after August 1, 2013 will be required to pay that registration fee, unless they are exempt as indigenous people per the provisions of 50 CFR 600.1410(f).

Dated: August 8, 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. 2013–19737 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC614

Marine Mammals; File No. 17996

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 Silverback Films Ltd, 59 Cotham Hill, Cotham, Bristol, BS6 6JR, United Kingdom, to conduct commercial or educational photography of bottlenose dolphins (*Tursiops truncatus*).

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

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Rosa L. González or Kristy Beard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On April 12, 2013, notice was published in the **Federal Register** (78 FR 21915) that a request for a permit to conduct commercial/educational photography 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 (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 17996 authorizes a commercial photography/filming project to film bottlenose dolphin strand-feeding events in the estuaries and creeks of Bull Creek and around Hilton Head, South Carolina. Filming would be conducted from a small boat and from a helicopter. A maximum of 500 dolphins, annually, would be approached. Filming would occur over one (or two if needed) sessions of three to four weeks each and be completed by October 2014. Footage would be used in a seven-part television series, The Hunt, an educational series on predation strategy and predator-prey dynamics for the British Broadcasting Company. The permit expires on October 31, 2014.

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 activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 9, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–19702 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Updates to List of National System of Marine Protected Areas MPAs

AGENCY: National Marine Protected Areas Center (MPA Center), Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of updates to the list of National System of Marine Protected Areas (MPAs).

SUMMARY: The National System of Marine Protected Areas (MPAs) provides a mechanism for agencies managing MPAs to work together on common conservation priorities. In January 2013, NOAA and the Department of the Interior (DOI) invited federal, state, commonwealth, territorial and tribal MPA programs with potentially eligible existing MPAs to nominate their sites to the National System of MPAs (national system). A total of 82 nominations were received, including 80 from the California Department of Fish and Wildlife and two from the National Park Service. Following a 60-day public review period of these nominations [78 FR 30870], no public comments were received by the National Marine Protected Areas Center (MPA Center). The managing agencies listed above were then asked to make a final determination of their desire to nominate these sites to the national system, which they subsequently confirmed. Finding them to be eligible for the national system, the MPA Center has accepted the nominations for 82 sites and placed them on the List of National System MPAs.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, NOAA, at 301–713–7265 or via email at *lauren.wenzel@noaa.gov.* A detailed electronic copy of the List of National System of MPAs is available at *marineprotectedareas.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background on National System

The national system of MPAs is made up of member MPAs, networks and systems established and managed by federal, state, commonwealth, territorial, tribal, or local governments. These sites are a subset of the approximately 1,700 MPAs in U.S. waters, and have been nominated by their management entity to participate in a collaborative partnership to address national marine conservation goals and represent diverse marine ecosystems and resources. Sites in the national system continue to be managed independently, but national system MPA managers work together at the regional and national levels to achieve common objectives for conserving the nation's important natural and cultural resources. For more information about the benefit of the National System of MPAs, see *http://marineprotectedareas.noaa.gov/nationalsystem/.*

Nomination Process

NOAA issues a call for nominations to the national system annually. This round of nominations began on January 28, 2013 and the deadline for nominations was March 29, 2013. A public comment period was held from May 22, 2013 [78 FR 30870] through July 22, 2013. No public comments were received. Additional details on the nomination process are posted at *marineprotectedareas.noaa.gov.*

Updates to List of National System MPAs

The list of 82 MPAs nominated by the California Department of Fish and Wildlife and the National Park Service to join the National System of MPAs was published in the **Federal Register** on May 22, 2013 [78 FR 30870]. Both the list of newly nominated sites and the complete List of National System MPAs, which now includes 437

members, are available at *marineprotectedareas.noaa.gov.*

Dated: August 7, 2013.

W. Russell Callendar,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 2013–19743 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Proposed Information Collection; Comment Request; NTIA/FCC Web-based Frequency Coordination System

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice.

SUMMARY: The U.S. Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this proposed information, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, U.S. Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 or via email at *JJessup@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Bruce M. Washington at *bwashington@ntia.doc.gov,* (202) 482–6415.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Telecommunications and Information Administration (NTIA) hosts a web-based system that collects specific identification information (*e.g.,* company name, location and projected range of the operation) from applicants seeking to operate in existing and planned radio frequency (RF) bands that are shared on a co-primary basis by federal and non-federal users. The web-based system provides a means for non-federal applicants to rapidly determine the availability of RF spectrum in a specific location, or the need for detailed frequency coordination of a specific newly proposed assignment within the shared portions of the radio spectrum. The Web site allows non-federal applicants proposed radio site information to be analyzed, and a real-time determination made as to whether there is a potential for interference to, or from, existing Federal government radio operations in the vicinity of the proposed site. This web-based coordination helps expedite the coordination process for non-federal applicants while assuring protection of government data relating to national security. The information provided by non-federal applicants will also assure the protection of the applicant's station from radio frequency interference from future government operations.

II. Method of Collection

NTIA collects the data by means of an internet web-based system. The applications on the Web site provide real-time responses: (1) Obtain a validation of the coordination of a single frequency, or (2) a notification of the unavailability of a frequency at one site and further coordination will be required by the Federal Communications Commission (FCC) and NTIA.

III. Data

OMB Control No: 0660–0018.

Form No.: N/A.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Applicants seeking to operate in the 71–76 GHz, 81–86 GHz, and 92–95 GHz radio frequency bands today, and additional bands as frequency coordination procedures allow.

Estimated Number of Respondents: 5,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,250.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 8, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–19674 Filed 8–13–13; 8:45 am]

BILLING CODE 3510–60–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2013–0020]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; CPSC National Awareness Survey

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is announcing that a proposed collection of information regarding a generic clearance to conduct national awareness surveys regarding the CPSC and CPSC activities has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax or email written comments on the collection of information by September 13, 2013.

ADDRESSES: Written comments should be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to: *oira_submission@omb.eop.gov.* All comments should be identified by Docket No. CPSC–2013–0020. In addition, written comments also should be submitted at: *http://www.regulations.gov*, under Docket No. CPSC–2013–0020, or by mail/hand delivery/courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 2013, the Commission provided an opportunity for public comment on a proposed collection of information on a generic clearance to conduct national awareness surveys regarding the CPSC and CPSC activities (78 FR 29731). One comment was received in support of the proposed survey activities. The commenter states that improving the CPSC's communication capabilities will aid the Commission in fulfilling its mission to reduce the risks to consumers from unsafe products. In compliance with 44 U.S.C. 3507, the CPSC has submitted the following proposed collection of information to the OMB for review and clearance: CPSC National Awareness Survey.

A. National Awareness Survey

The Commission is authorized under section 5(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2054(a), to conduct studies and investigations relating to the causes and prevention of deaths, accidents, injuries, illnesses, other health impairments, and economic losses associated with consumer products. Section 5(b) of the CPSA, 15 U.S.C. 2054(b), further provides that the Commission may conduct research, studies, and investigations on the safety of consumer products or test consumer products and develop product safety test methods and testing devices. To increase awareness about the CPSC and to communicate more effectively and efficiently with the public regarding information related to consumer product safety, such as product recalls and the reporting of hazardous incidents, the Commission must evaluate current awareness and benchmark changes in public awareness brought about through agency efforts. Using a national awareness survey (NAS), the Commission will benchmark current levels of awareness of the CPSC and, through two proposed surveys each year, measure changes in awareness. Data obtained through the surveys will allow the CPSC's Office of Communications to adjust its communications plans to increase effectiveness. The Commission is seeking a generic clearance approval from OMB to streamline the process for approval of subsequent awareness surveys; as the awareness efforts continue, related surveys may be need to be adjusted or modified to obtain the most relevant awareness data.

The first two NAS will provide baseline data on the awareness of the agency, the CPSC's programs, and recalls—information about which relatively little systematic data has been collected. Periodic subsequent surveys with new respondents at CPSC-determined intervals are contemplated, depending on agency resources and needs. Analysis of subsequent surveys will assess changes in awareness. Additional surveys also will provide assessment of the effects of temporal events, such as product recalls with wide media coverage, or seasonal use of fireworks or holiday lights. To gauge the extent of the public's awareness of the agency and its activities, each NAS will measure awareness of sources for product safety information, awareness of procedures for hazardous incident reporting, and awareness of product recall enforcement activity. In addition, NAS results will inform the CPSC on the relationship of awareness and key respondent characteristics, such as age or and household characteristics, including the presence of children.

Based on the information to be obtained through the proposed NAS, the CPSC intends to adjust its communications efforts to achieve a greater impact on consumer behavior among a broad range of consumers with differing needs. Reaching all target audiences requires varying communications approaches. The NAS are intended to assess which audiences are being reached and which messages are being communicated effectively. Results are expected to indicate which messages and methods of communication require further development. For example, awareness in households with children aged five and younger is expected to be different from awareness in households comprising only seniors. The need to include diverse respondents necessitates contacting a large number of households to obtain adequate sample sizes for all key subpopulations.

The first two survey data collections are proposed to include a sufficient number of respondents covering different time points to establish meaningful baseline estimates of consumer awareness and use of CPSC services. The data also may be used to support other aspects of agency operations and communications programs.

The survey will be administered using a computer-assisted telephone interview (CATI) system, in a secure location, to which only authorized personnel have access. The interview will be conducted using a random (cell and landline) telephone number dialing protocol. Interviewers will collect data from a randomly selected adult member of each household. Participation is voluntary, and all responses will be confidential. The operators dialing and conducting the survey are trained interviewers. The initial screening is short, taking less than a minute at the longest. The brevity of the screening will reduce the burden to nonparticipants. Respondents who are aware of the CPSC will be presented with 23 substantive questions. Those who are not familiar with the agency will be presented with 18 substantive questions. All participants will be asked 13 demographic questions and invited to participate in a brief follow-up phone discussion to provide context and detail on the CPSC and product safety information awareness. Follow-up discussions will be held with no more than nine respondents. Follow-up topics and questions will be based on baseline results. To minimize respondent burden, the CATI system will be designed to ensure that interviewers ask each respondent survey items appropriate for the respondent's level of awareness only.

The system's automatic survey control will produce status reports to allow ongoing monitoring of the survey's progress. The CATI scheduler will be used to route telephone numbers to interviewers, maintain a schedule of callback appointments, and reschedule unsuccessful contact attempts to an appropriate day and time.

B. Burden Hours

The number of respondents is estimated to be 1,348, who may consist of management, professional, or related workers. The total annual burden hours for respondents are estimated to be 455.9 hours. The hourly cost to each respondent is estimated to be $51.03 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' December 2012, Table 9, total compensation for all management, professional, and related workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Accordingly, based on these assumptions, the estimated total annual cost burden to all respondents is $23,264.58 (455.9 hours × $51.03, or $23,264.58).

The annual cost to the federal government includes the cost of administering the survey (including initial set-up costs) under the contract to design and conduct the NAS ($162,952), plus $3,976 for salary and benefits for government personnel assigned to this study. Government personnel is

expected to expend 6 days of staff time (3 days, or 24 hours of staff time, for each survey) at an average level of GS–14 step 5 (($119,238/.692) ÷ 2080 total hours per year) × 48 hours per year), using a 69.2 percent ratio of wages and salary to total compensation (from Table 1 of the September 2012 Employer Costs for Employee Compensation, published by the Bureau of Labor Statistics). For the first two surveys, the total estimated cost to the government is $166,928 ($162,952 plus $3,976). After the first two surveys, the total annual estimated cost to the government will be reduced to $133,976 ($130,000 plus $3,976) in future years for two surveys to be conducted annually as adjusted for inflation.

Dated: August 9, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–19690 Filed 8–13–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–36]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–36 with attached transmittal and policy justification.

Dated: August 9, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

AUG 02 2013

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-36, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to India for defense articles and services estimated to cost $885 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 13–36

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* India

(ii) *Total Estimated Value:*

Major Defense Equipment *	$625 million
Other	$260 million
TOTAL	$885 million

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 145 M777 155mm Light-Weight Towed Howitzers with Laser Inertial Artillery Pointing Systems (LINAPS), warranty, spare and repair parts, support and test equipment, publications and technical documentation, maintenance, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Army (UAD).

(v) *Prior Related Cases, if any:* None.

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None.

(viii) *Date Report Delivered to Congress:* 02 August 2013.

POLICY JUSTIFICATION

India—M777 155mm Light-Weight Towed Howitzers

The Government of India has requested a possible sale of 145 M777 155mm Light-Weight Towed Howitzers with Laser Inertial Artillery Pointing Systems (LINAPS), warranty, spare and repair parts, support and test equipment, publications and technical documentation, maintenance, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support. The estimated cost is $885 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to strengthen the U.S.-India strategic relationship and to improve the security of an important partner which continues to be a for political stability, peace, and economic progress in South Asia.

India intends to use the howitzers to modernize its armed forces and enhance its ability to operate in hazardous conditions. India will have no difficulty absorbing these weapons into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be BAE of Hattiesburg, Mississippi; Watervliet Arsenal of Watervliet, New York; Seiler Instrument Company of St Louis, Missouri; Triumph Actuation Systems of Bloomfield, Connecticut; Taylor Devices of North Tonawanda, New York; Hutchinson Industries of Trenton, New Jersey; and Selex, Edinburgh, United Kingdom. In accordance with the Indian Defense Procurement Procedure (DPP), it is anticipated that the vendor will be required to negotiate an offset contract with the government of India.

Implementation of this proposed sale will require annual trips to India involving up to eight (8) U.S. Government and contractor representatives for technical reviews/support, training, and in-country trials for a period of approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

This congressional notification transmittal number 13–BJ will supersede previously notified transmittal 09–DB.

[FR Doc. 2013–19717 Filed 8–13–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of Air Force

Exchange of Air Force Real Property for Non-Air Force Real Property

SUMMARY: Notice identifies excess Federal real property under administrative jurisdiction of the United States Air Force it intends to exchange for real property not currently owned by the Federal government that will be placed under the administrative jurisdiction of the Air Force.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Calix, Air Force Civil Engineer Center Installations Center of Excellence (AFCEC/CIT) , 2261 Hughes Avenue, Suite 155, Joint Base San Antonio (JBSA) Lackland, TX 78236–9853; telephone (210) 395–9481, (telephone number is not toll-free).

SUPPLEMENTARY INFORMATION: In accordance with 10 U.S.C. Section 2869 (d)(1), the Air Force is publishing this Notice to identify Federal real property that it intends to exchange for property that is needed by the Air Force to limit encroachment and other constraints on military operations at Hanscom Air Force Base, Massachusetts. Description of the Air Force Property: Approximately 36 acres of railway corridor of irregular width, located in the North Falmouth section of the Town of Falmouth, located on the southern portion of Cape Cod, Massachusetts. The rail corridor extends from an area just west of Route 28A and north of Route 151 on Cape Cod and extends to the southern portion of the Joint Base Cape Cod formally known as (Massachusetts Military Reservation), Otis Air National Guard Base, Massachusetts. The property consists of 23 tracts of land providing a rail corridor of about thirteen thousand linear feet in length.

Property Number

Status: Excess.

Comments: The Air Force railway land described above was determined to be excess to military mission needs on April 29, 2013. The property proposed to be acquired by the Air Force in the property exchange is about 18 acres of land, owned by the Commonwealth of Massachusetts, located adjacent to the Hanscom Air Force Base current main entry gate (Vandenberg Gate). If the transaction is approved, the Air Force intends to re-route the road into Vandenberg Gate and construct a new main gate facility to enhance the installation's main entry control point. Before the exchange agreement is approved by the Air Force, the Air Force will notify the appropriate Congressional committees of the terms and conditions of the proposed exchange pursuant to section 2869(d)(2) of title 10, United States Code.

Authority: Title 10, United States Code, Section 2869(d)(1).

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2013–19756 Filed 8–13–13; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement (EIS) for the Millennium Bulk Terminals—Longview Shipping Facility Project

AGENCY: U. S. Army Corps of Engineers (Corps), DoD.

ACTION: Notice of Intent.

SUMMARY: Millennium Bulk Terminals—Longview, LLC (MBTL) is proposing to construct and operate a shipping facility near Longview, Washington. MBTL currently intends to ship coal from the facility. Department of the Army (DA) authorization is required pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The Corps has determined the proposed project may have significant individual and/or cumulative impacts on the human environment. The Corps has entered into an agreement with the Cowlitz County Building and Planning Department (County) and the Washington State Department of Ecology (WDOE), (together, the co-lead agencies) to prepare a joint Environmental Impact Statement (EIS) in accordance with both the National Environmental Policy Act (NEPA) of 1969, as amended, and the Washington State Environmental Policy Act (SEPA). The Corps will serve as the lead federal agency for purposes of NEPA, and the County and WDOE will serve as lead agencies under SEPA.

DATES: The scoping period for this EIS will begin August 16, 2013. Written comments regarding the scope of the EIS, including the environmental analysis, range of alternatives, and potential mitigation actions should be submitted to the address below or by email to *comments@millenniumbulkeiswa.gov* by the closing date of the EIS scoping period, November 18, 2013.

ADDRESSES: Written comments regarding issues to be addressed in the EIS and requests to be included on the EIS notification mailing list should be submitted to Ms. Danette L. Guy, U.S. Army Corps of Engineers, Seattle District in care of MBTL EIS Co-Lead Agencies, 710 Second Avenue, Suite 550, Seattle, Washington 98104.

FOR FURTHER INFORMATION CONTACT: Ms. Danette L. Guy by email at *danette.l.guy@usace.army.mil,* by regular mail at (see **ADDRESSES**), or by telephone at (206) 316–3048.

SUPPLEMENTARY INFORMATION: Preparation of an EIS will support the Corps' eventual decision to either issue, issue with conditions, or deny a DA permit for the proposed action. As part of the NEPA process, the Corps will gather and analyze information to compare the potential environmental effects of possible project alternatives and a ''no action'' alternative in the EIS. A single, joint EIS will be prepared to assess the potential social, economic, and environmental impacts of the project, and will be sufficient in scope to address Federal, State, and local regulatory requirements and pertinent environmental and socio-economic issues. The EIS will disclose the extent to which information in the joint document is for NEPA analysis and/or SEPA analysis only. It is up to each co-lead agency to determine the relevance and weight the information in the EIS will be given by each co-lead agency when making its own agency determinations, based on each agency's respective statutes, responsibilities, and legal requirements.

The federal EIS process begins with publication of this Notice of Intent. The EIS will be prepared in accordance with the Corps' procedures for implementing NEPA (33 CFR Part 325, Appendix B) and consistent with the Corps' policy to facilitate public understanding and review of agency proposals.

1. *Proposed Action.* The decision to issue, issue with conditions, or to deny a permit for various activities within the Corps' jurisdiction associated with the proposed construction and operation of a shipping facility by Millennium Bulk Terminals—Longview (MBTL). Currently, MBTL intends to ship coal from the facility.

2. *Project Description.* The project site is located in Cowlitz County, Washington, in an industrial area along the Columbia River just west of the city of Longview. MBTL proposes to construct the project on approximately 190 acres of a 536-acre site. The project includes construction of two piers in the Columbia River connected by a conveyor and access ramp. One pier would be up to 1,400 feet long and range from approximately 90 to 130 feet wide. The second pier would be approximately 900 feet long and 100 feet wide. Both would be connected to dry land by an access trestle approximately 800 feet long and range in width from up to 35 feet on the north end to up to 60 feet on the south end. The piers and trestle would support two ship loaders. MBTL proposes to dredge approximately 500,000 cubic yards of substrate from a 48-acre berthing area along the riverward side of the proposed piers. The dredged material would be disposed in the flow lane of the Columbia River. Periodic future maintenance dredging of the berthing area is also proposed. The shipping facility would include an open-air storage area approximately 75 acres in size serviced by an on-site balloon track system with parking capacity for eight trains. A system of rail-mounted reclaimers would convey coal from the storage area to the loading facility. The terminal would also include rail car unloading facilities, roadways, service buildings, storm water treatment facilities, and utility infrastructure. Constructing the portion of the terminal adjacent to the Columbia River would impact approximately 38 acres of waters of the U.S., including wetlands and drainage ditches. Any compensatory mitigation for impacts to waters of the U.S. would comply with the 2008 C*ompensatory Mitigation Rule for Losses of Aquatic Resources,* 33 CFR parts 325 and 332; 73 FR 19594 (April 10, 2008).

3. Alternatives. The EIS will address an array of alternatives for a facility to receive material by rail and load ships for ocean transport. Alternatives may include, but will not be limited to, no action, alternative sites, alternative methods for on-site handling, and alternative facility designs. Mitigation measures could include, but would not be limited to, avoidance of sensitive areas, creation or enhancement of riverine nearshore habitats, and creation, restoration, or enhancement of wetlands.

4. *Scope of Analysis.* The scope of analysis identifies the federal action area under NEPA and, along with public input through the scoping process, informs the impacts (direct, indirect, and cumulative) analyzed in the EIS. In determining the scope of analysis for this EIS, the Corps must identify the scope of the activities under consideration and decide, for the purposes of NEPA, whether the agency has ''control and responsibility'' for activities outside of waters of the U.S. such that issuance of a permit would amount to approval of those activities (33 CFR Part 325 Appendix B, Par. 7(b)(1)). As a general rule, the Corps extends its scope of analysis beyond waters of the U.S. where the environmental consequences of upland elements of the project may be considered products of either the Corps permit action or the permit action in conjunction with other federal involvement (33 CFR Part 325 Appendix B, Para. 7(b)(2)).

For this EIS, the Corps' scope of analysis will include the entire MBTL project area and any offsite area that might be used for compensatory mitigation. The project area consists of the approximately 190-acre shipping terminal project site, the area to be dredged, the dredged material disposal site(s), and any other area in or adjacent to the Columbia River that would be affected by, and integral to, the proposed project.

5. *Scoping Process.* The scoping period will begin August 16, 2013 and continue for 95 days until November 18, 2013. The Corps invites Federal agencies, state and local governments, Native American Tribes, and the public to participate in the scoping process by providing written comments and/or attending the public scoping meetings scheduled for the dates and locations listed below. Written comments will be considered during preparation of the Draft EIS. Comments postmarked or emailed after the closing date of the scoping period will be considered to the extent feasible.

The purpose of scoping is to assist the Corps in identifying pertinent issues, public concerns, and alternatives, and the depth to which they should be evaluated in the EIS, consistent with the Corps' scope of analysis for this project, as stated above. The Corps has prepared project information documents to familiarize agencies, tribes, interested organizations, and the public with the proposed project and potential environmental impacts. Copies of these documents will be available at the public meetings and on the Internet Web site developed for this EIS, *www.millenniumbulkeiswa.gov,* or may be requested from Corps project manager, Ms. Danette L. Guy (see contact information above). Corps representatives will also answer scoping-related questions and accept comments at public scoping meetings.

a. Public scoping meetings will be held to present an overview of the MBTL project and afford participants an opportunity to provide comments on the range of actions, alternatives, and

potential impacts. The following public scoping meetings have been scheduled:

Cowlitz Expo Center, 1900 7th Avenue, Longview, Washington 98632 on Tuesday, September 17, 2013, from 5:00 p.m. to 8:00 p.m.

Spokane Convention Center, 334 West Spokane Falls Boulevard, Spokane, Washington 99201 on Wednesday, September 25, 2013, from 5:00 p.m. to 8:00 p.m.

The Trac Center, 6600 Burden Boulevard, Pasco, Washington 99301 on Tuesday, October 1, 2013, from 5:00 p.m. to 8:00 p.m.

Clark County Fairgrounds, 17402 Northeast Delfel Road, Ridgefield, Washington 98642 on Wednesday, October 9, 2013, from 5:00 p.m. to 8:00 p.m.

Tacoma Convention Center, 1500 Broadway, Tacoma, Washington 98402 on Thursday, October 17, 2013, from 5:00 p.m. to 8:00 p.m.

In addition, an ''online scoping meeting'' will be continuously hosted on the EIS Internet Web site at *www.millenniumbulkeiswa.gov* for the duration of the scoping period.

b. Potentially significant issues to be analyzed in the EIS include, but are not limited to direct, indirect, and cumulative effects of the project-specific activities proposed within the NEPA scope of analysis as described above on navigation (e.g., vessel traffic and navigational safety); aquatic habitats; aquatic species, including Endangered Species Act-listed species and Washington State species of concern; Tribal treaty rights; wetland and riparian habitat; wildlife; vehicle traffic; cultural, historic, and archeological resources; air and water quality; noise; recreation; land use; and aesthetics.

c. The Corps will consult with the Washington State Historic Preservation Officer and applicable Tribes to comply with the National Historic Preservation Act; the U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act; the National Marine Fisheries Service to comply with the Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act; and applicable Tribes to comply with reserved treaty fishing rights.

d. Development of the draft EIS will begin after the close of the scoping period. The draft EIS is currently scheduled to be available for public review and comment by June 2015.

e. A 90-day public review period will be provided for interested parties to review and comment on the draft EIS. Interested parties are encouraged to contact the Corps if they wish to be notified when the draft EIS is issued.

f. All comments received will become part of the administrative record for this project and subject to public release to third-parties, including any personally identifiable information such as name, phone number, and address, included in the comment.

Dated: July 29, 2013.

Bruce A. Estok,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 2013–19738 Filed 8–13–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0056]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; IEPS International Resource Information System (IRIS)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 13, 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–0056 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: IEPS International Resource Information System (IRIS).

OMB Control Number: 1840–0759.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Private Sector, Federal Government, Individuals or households.

Total Estimated Number of Annual Responses: 6,754.

Total Estimated Number of Annual Burden Hours: 13,439.

Abstract: This is a re-clearance of the on-line reporting system, International Resource Information System (IRIS) that IFLE uses to collect annual performance reports from Title VI and Fulbright-Hays grantees. The system is also used by IFLE to disseminate program information to the public.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–19622 Filed 8–13–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Inviting Guaranty Agencies To Submit Requests To Participate in a Voluntary Flexible Agreement

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites guaranty agencies with agreements to participate in the Federal Family Education Loan (FFEL) Program to submit requests to enter into a Voluntary Flexible Agreement (VFA) with the Secretary, as authorized by the Higher Education Act of 1965, as amended (HEA). Guaranty agencies whose requests are accepted will operate under the requirements of the VFA in lieu of the guaranty agency agreements established under the HEA.

The Secretary intends to enter into VFAs with a small number of guaranty agencies (likely three or fewer) that will assume responsibility for all or some of the defaulted and non-defaulted FFEL Program loans transferred to it by the Secretary from a guaranty agency whose HEA agreements with the Secretary are, or will be, terminated. Those agencies will continue to operate under their existing guaranty agency agreements, established under the HEA, for their own FFEL Program Loan portfolios.

DATES: Deadline for submission of a Request for a VFA: September 13, 2013.

ADDRESSES: A Request for a VFA must be submitted via email to the following email address: *vfateam@ed.gov. Instructions for Submitting a Request for a VFA:* A guaranty agency that wants to request a VFA pursuant to this notice must submit to the Secretary a letter on the guaranty agency's letterhead, signed by the chief executive officer of the guaranty agency. The letter must include the name, mailing address, email address, FAX number, and telephone number of a contact person at the guaranty agency. The guaranty agency must also submit, as attachments to the letter, information addressing required capacities and expertise as described in the *Agency Demonstrated Performance* section of this notice.

The letter and attachments are to be submitted as an Adobe Portable Document (PDF) attachment to an email message sent to the email address provided in the **ADDRESSES** section of this notice. The ''Subject'' line of the email must read ''Request for a VFA''.

FOR FURTHER INFORMATION CONTACT: Email: *VFATeam@ed.gov;* Telephone: (202) 377–4401.

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:

Voluntary Flexible Agreements

Under section 428(b) and (c) of the HEA, guaranty agencies perform certain roles in the FFEL Program pursuant to agreements with the Secretary. Section 428A of the HEA authorizes the Secretary to enter into VFAs with guaranty agencies in lieu of the agreements entered into under section 428(b) and (c) of the HEA. This authority allows the Secretary to work with guaranty agencies to develop, utilize, and evaluate alternate ways of ensuring that the responsibilities of the guaranty agencies are fulfilled in the most cost-effective and efficient manner possible. A VFA may provide that the guaranty agency will earn revenues and fees in a manner different than that provided under the regular guaranty agency agreements under section 428(b) and (c) of the HEA. The overall cost to the Federal government of a VFA cannot exceed the cost to the government under the regular guaranty agency agreements.

As part of a VFA with a guaranty agency, the Secretary may waive or modify statutory and regulatory requirements as necessary, except that the Secretary may not waive any statutory requirements related to the terms and conditions attached to student loans or to default claim amounts paid to FFEL Program lenders.

A VFA will also specify the circumstances under which it may be terminated by the Secretary in advance of any established termination date and any other provisions the Secretary believes are necessary to protect the United States from unreasonable risk of loss.

Earlier VFA Solicitation

In a **Federal Register** notice published on May 31, 2011 (76 FR 31312), the Secretary solicited proposals from guaranty agencies that wished to be considered for participation in a specialized VFA. The Secretary requested those proposals because of the then-recent significant statutory changes to the FFEL Program. Those changes included: the Ensuring Continued Access to Student Loan Act of 2008, as amended (Pub. L. 110–227) (ECASLA), which authorized the Secretary to create programs to allow FFEL Program loan holders to sell certain FFEL Program loans to the Secretary; and the SAFRA Act, part of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), that ended, as of July 1, 2010, the authority to originate FFEL Program loans. As a result of ECASLA and the SAFRA Act, the total dollar amount of FFEL Program loans held or insured by guaranty agencies has diminished (and will continue to diminish), resulting in less revenue available to the agencies and jeopardizing their ability to meet their FFEL Program responsibilities.

The purpose of the Secretary's 2011 VFA solicitation was to establish new guaranty agency structures and financing mechanisms to protect the Federal fiscal interest in light of the diminishing outstanding FFEL Program portfolio. The Secretary also expected that the VFAs would help ensure that guaranty agencies were able to continue to provide high quality services to borrowers, lenders, and postsecondary educational institutions while also supporting the important responsibilities that the agencies have in the areas of default prevention, outreach, and oversight.

After reviewing the proposals submitted by guaranty agencies in response to the May 31, 2011, **Federal Register** notice, the Secretary determined that the proposals did not meet the stated objectives for the VFAs, nor were they responsive to the specific proposal requirements included in the May 31, 2011, notice. For these reasons, the Secretary has decided that the VFA approach proposed in 2011 is no longer a viable response to the significant changes to the FFEL Program, and that it is appropriate to develop VFAs that better address the current status of the program and the evolving structure of the guaranty agency component of the FFEL Program.

Reasons for This Solicitation

As noted, certain statutory changes have reduced, and will continue to reduce, the revenues available to guaranty agencies. The Secretary expects that over the next several years, a number of guaranty agencies may choose to end their participation in the FFEL Program. It is also possible that, as a result of required oversight and monitoring of guaranty agencies' finances and operations, the Secretary may determine that it is necessary to terminate an agency's agreements under HEA section 428(b) and (c). Since 1990, 20 guaranty agencies have left the FFEL Program for a variety of reasons. In most of these situations, the Department has, working with the closing agency, arranged with another guaranty agency to assume all or part of the closing agency's FFEL Program responsibilities.

In light of the increasing likelihood that additional guaranty agencies will close as the FFEL Program loan portfolio is retired, the Secretary believes that a structured and predictable process should be developed and implemented to protect the integrity of the outstanding FFEL Program loan portfolio. Thus, the Secretary has decided to establish VFAs with a small number of guaranty agencies (likely three or fewer), each of which would,

upon the request of the Secretary, assume responsibility of some or all of a terminating guaranty agency's defaulted and non-defaulted loans.

Scope of the VFAs

When a guaranty agency's participation in the FFEL Program ends, the Department may arrange for the transfer of all or some of the outstanding non-defaulted FFEL Program loans, and all or some of the defaulted loan portfolio of the terminating agency, to one or more of the guaranty agencies participating under a VFA established pursuant to this notice (a VFA participating guaranty agency). Under the VFA, the Secretary would retain discretion in deciding which VFA participating guaranty agency or agencies, if any, will be responsible for a closing agency's portfolio.

A transfer of the FFEL Program portfolio from a terminating agency to a VFA participating guaranty agency will ensure that FFEL Program lenders that hold outstanding FFEL loans guaranteed by the terminating agency will retain the benefit of those guarantees and that the borrowers of those loans will continue to receive the services of a guaranty agency in accordance with statutory and regulatory requirements. Similarly, the transfer of defaulted loans on which the Secretary previously paid the terminating agency reinsurance pursuant to section 428(c) of the HEA to a VFA participating guaranty agency will ensure continued servicing and collection activities on those loans as required by the HEA and the Department's regulations.

Duration of the VFA

The Secretary expects that VFAs entered into as a result of this notice will be established for a period of four years with the possibility, if both parties agree, of year-to-year renewals at the end of the four-year period. The VFA will provide that the guaranty agency may not terminate the VFA early without requesting and receiving the Secretary's approval to do so. However, the VFA will also provide that, to protect the interests of Federal taxpayers, borrowers, and FFEL Program loan holders, the Secretary may terminate the VFA at any time and may do so without any advance notification to the agency. If a VFA is terminated, the Secretary will have sole discretion to determine the disposition of the loans assigned to the agency under the VFA.

Duration of Loan Transfer

The Secretary will assign the VFA participating guaranty agency responsibility for a loan transferred from a terminating agency for a minimum of two years from the date when the VFA participating guaranty agency, at the direction of the Secretary, assumes legal responsibility for the loan. The transferred loans may be defaulted loans or non-defaulted guaranteed loans. The VFA will also provide that for a transferred non-defaulted loan that subsequently defaults, the two-year period may be extended for up to three months if the VFA participating guaranty agency would otherwise be unable to perform the activities required under 34 CFR 682.410(b)(6)(ii). Notwithstanding the above, defaulted loans serviced by the VFA participating guaranty agency are subject to the requirements of 34 CFR 682.409 governing mandatory assignment by guaranty agencies of defaulted loans to the Secretary if they meet the criteria for such assignment.

After the end of the two-year period, the Secretary may direct the VFA participating guaranty agency to assign defaulted loans to the Secretary or to another guaranty agency for continued collections, and to transfer the guarantee on a non-defaulted loan.

Operating Under a VFA

A guaranty agency that enters into a VFA with the Secretary as described in this notice will operate under the VFA only for the loans transferred to it by the Secretary under the terms of the VFA. The agency will continue to operate under its existing guaranty agency agreements, established under section 428(b) and (c) of the HEA, for purposes of its own FFEL Program loan portfolio. Accordingly, the VFA will require the agency to maintain records on the transferred loans separately from the loans it holds or has guaranteed on its own behalf.

The terms of any VFA will be subject to any changes in the HEA (or other applicable laws) and the Department's regulations, unless waived or modified by the Secretary, and to any applicable administrative actions of the Secretary.

Agency Demonstrated Performance

The Secretary will choose the agencies with which to enter into a VFA pursuant to this notice by identifying those agencies that best demonstrate that they have the managerial and operational capacity, including significant and demonstrable scalability in their management, finances, systems, and infrastructure, to assume the responsibilities of an expanded loan portfolio.

A guaranty agency that requests to enter into a VFA with the Secretary pursuant to this notice must provide the Secretary, in the format described in the *Instructions for Submitting a Request for a VFA* section of this notice, detailed information that demonstrates that it has the necessary capacity and expertise in at least the following areas:

- Lender Oversight—The expertise and capacity to perform lender and lender servicer oversight in an efficient and cost-effective manner for an expanded loan portfolio.
- Default Aversion and Prevention—A fully developed and successful delinquency and default prevention program that is scalable to support an expanded portfolio of non-defaulted loans transferred to it under the VFA.
- Outreach and Financial Literacy—A fully developed and successful outreach and financial literacy program that is scalable to support an expanded portfolio of non-defaulted loans transferred to it under the VFA.
- Lender Claims Review—Scalability in operations and management to perform timely, accurate, and comprehensive lender claims review for an expanded loan portfolio.
- Claims Payment—The financial and operational capability to make timely, accurate, and reconcilable lender claim payments and reinsurance requests for an expanded loan portfolio.
- Collections—Demonstrated success and scalability in the collection of defaulted loans, including a successful loan rehabilitation program.
- Financial Reporting—The capability to provide accurate and timely required reports to the Secretary, both for its regular agency reporting and for the special reporting required under the VFA.
- National Student Loan System (NSLDS)—Demonstrated capacity to fulfill all current NSLDS reporting requirements in a timely and accurate manner and the systems flexibilities to provide any additional NSLDS reporting that may be required under the VFA.
- Assignment of Loans to the Secretary—The operational and financial processes necessary to assign an increased number of defaulted loans to the Secretary.
- FISMA Compliance—Proof of FISMA compliance based on applicable information technology (IT) security standards and guidelines established by the National Institute of Standards and Technology (NIST).

Secretary's Oversight

The Secretary will conduct additional oversight and monitoring of the activities of VFA participating guaranty agencies to assess each agency's continuing financial viability and operational capacity to properly perform

all FFEL Program guaranty agency responsibilities, including the added responsibilities assigned to it under the VFA. This oversight will include, at a minimum, requirements that the guaranty agency submit operational status reports, financial reports, and performance metrics on the portfolio assigned to it under the VFA.

Schedule of Revenues and Fees

The Secretary expects that the increased number of defaulted loans on which a VFA participating guaranty agency will collect will result in financial savings from economies of scale and increased efficiencies. In addition, the VFA participating guaranty agencies will earn increased revenues from Account Maintenance Fees (AMF) and Default Aversion Fees (DAF) on the increased number of non-defaulted loans for which the agency has assumed guarantor responsibility.

As noted in the *Voluntary Flexible Agreements* section of this notice, a VFA may provide that a guaranty agency will earn revenues and fees differently than it would under agreements pursuant to section 428(b) and (c) of the HEA. Therefore, VFAs developed as a result of this notice will include a revised schedule of revenues and fees that will apply to loans transferred to the VFA participating guaranty agency pursuant to the VFA. The revised schedule, which will be common to all VFA participating guaranty agencies, will result in lower costs to the Secretary.

Under the revised schedule, the VFA participating guaranty agency will receive the regular AMF rate calculated under 34 CFR 682.404(i) and DAF calculated under 34 CFR 682.404(k)(2). The schedule will provide that the agency will retain 100 percent of collection costs paid by borrowers on defaulted loans, capped at current regulatory limits. However, the revised schedule will provide that, except on loans which have been rehabilitated under 34 CFR 682.405, the Secretary's share of total collections of principal and interest is 100 percent. For loans that have been rehabilitated, the Secretary's share will be 93 percent.

Letters of Request for a VFA

Guaranty agencies with agreements with the Secretary under section 428(b) and (c) of the HEA that wish to enter into a VFA under the terms outlined in this notice must submit a written ''Request for a VFA'' by the deadline in the **DATES** section of this notice and in the format described in the *Instructions for Submitting a Request for a VFA* section of this notice.

Information to Be Included With the Request for a VFA

A Request for a VFA must include information addressing the guaranty agency's capacity to perform each of the activities discussed in the *Agency Demonstrated Performance* section of this notice. The information should be submitted as an attachment to the agency's Request for a VFA letter and be in the form of a bulleted narrative that totals no more than 10 pages. The Secretary may request that the agency provide supporting or other documentation to assist the Secretary in making a decision regarding the agency's possible participation in a VFA.

Availability of Letters of Request for Consideration

Requests for a VFA submitted to the Secretary in response to this notice will generally be considered public documents.

Selection

The Secretary will review and evaluate an agency's Request for a VFA letter, the accompanying supporting documentation, and other relevant information (e.g., financial information, audit and program review results, and any relevant public information about the agency and its management) that is available to the Secretary. The guaranty agencies that will be offered the opportunity to enter into a VFA as described in this notice will be those that the Secretary determines best demonstrate their capability to perform the responsibilities under the VFA.

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 contact listed above.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Program Authority: 20 U.S.C. 1070a, 1070a–1, 1070b–1070b–4, 1070c–1070c–4, 1070g, 1071–1087–2, 1087a–1087j, and 1087aa–1087ii; 42 U.S.C. 2751–2756b.

Dated: August 9, 2013.

Brenda Dann-Messier,

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

[FR Doc. 2013–19749 Filed 8–13–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–20–000]

Commission Information Collection Activities (FERC–515); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

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–515 (Rules of Practice and Procedure: Declaration of Intention).

DATES: Comments on the collection of information are due October 15, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–20–000) 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: Rules of Practice and Procedure: Declaration of Intention.

OMB Control No.: 1902–0079.

Type of Request: Three-year extension of the FERC–515 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–515 to implement the statutory provisions of Section 23(b) of the Federal Power Act (FPA).[1] Section 23(b) authorized the Commission to make a determination as to whether it has jurisdiction over a proposed water project[2] not affecting navigable waters[3] but across, along, over, or in waters over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States. Section 23(b) requires that any person intending to construct project works on such waters must file a declaration of their intention with the Commission. If the Commission finds the proposed project will have an impact on interstate or foreign commerce, then the entity intending to construct the project must obtain a Commission license or exemption before starting construction.[4] The information is collected in the form of a written application, containing sufficient details to allow the Commission staff to research the jurisdictional aspects of the project. This research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. A finding of non-jurisdictional by the Commission eliminates a substantial paperwork burden for the applicant who might otherwise have to file for a license or exemption application. The Commission implements these filing requirements under 18 CFR part 24.

Type of Respondents: Persons intending to construct project works on certain waters described above.

Estimate of Annual Burden[5]*:* The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–515: RULES OF PRACTICE AND PROCEDURE: DECLARATION OF INTENTION

Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B)=(C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
10	1	10	80	800

The total estimated annual cost burden to respondents is $56,000 [800 hours * $70/hour[6] = $56,000].

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.

Dated: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19659 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 817.

[2] Dams or other project works (see 16 U.S.C. 817).

[3] See 16 U.S.C. 796(8) for the definition of ''Navigable Waters''.

[4] Upon a finding of non-jurisdictional by the Commission, and if no public lands or reservations are affected, permission is granted upon compliance with State laws.

[5] The Commission 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.

[6] FY2013 Estimated Average Hourly Cost per FTE, including salary + benefits.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–19–000]

Commission Information Collection Activities (Ferc-511); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

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–511 (Transfer of Electric License).

DATES: Comments on the collection of information are due October 15, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–19–000) 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: Transfer of Electric License.

OMB Control No.: 1902–0069.

Type of Request: Three-year extension of the FERC–511 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–511 to implement the statutory provisions of Sections 4(e) and 8 of the Federal Power Act (FPA).[1] Section 4(e) authorizes the Commission to issue licenses for the construction, operation and maintenance of reservoirs, powerhouses, and transmission lines or other facilities necessary for the development and improvement of navigation and for the development, transmission, and utilization of power.[2] Section 8 of the FPA provides that the voluntary transfer of any license is made only with the written approval of the Commission. Any successor to the licensee may assign the rights of the original licensee but is subject to all of the conditions of the license. The information filed with the Commission is a mandatory requirement contained in the format of a written application for transfer of license, executed jointly by the parties of the proposed transfer. The sale or merger of a licensed hydroelectric project may occasion the transfer of a license. The Commission's staff uses the information collection to determine the qualifications of the proposed transferee to hold the license and to prepare the transfer of the license order. Approval by the Commission of transfer of a license is contingent upon the transfer of title to the properties under license, delivery of all license instruments, and evidence that such transfer is in the public interest. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 9.

Type of Respondents: Hydropower Project Licensees.

Estimate of Annual Burden:[3] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–511: TRANSFER OF ELECTRIC LICENSE

Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B)=(C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
23	1	23	40	920

The total estimated annual cost burden to respondents is $64,400 [920 hours * $70/hour[4] = $64,400].

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.

Dated: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19663 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–21–000]

Commission Information Collection Activities (FERC–574); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

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–574 (Gas Pipeline Certificates: Hinshaw Exemption).

DATES: Comments on the collection of information are due October 15, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–21–000) 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: 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: Gas Pipeline Certificates: Hinshaw Exemption.

OMB Control No.: 1902–0116.

Type of Request: Three-year extension of the FERC–574 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–574 to implement the statutory provisions of Sections 1(c), 4 and 7 of the Natural Gas

[1] 16 U.S.C. 797(e) and 801.

[2] Refers to facilities across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several Sates, or upon any part of public lands and reservations of the United States, or for the purpose of utilizing the surplus water or water power from any Government dam.

[3] The Commission 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.

[4] FY 2013 Estimated Average Hourly Cost per FTE, including salary + benefits

Act (NGA).[1] Natural gas pipeline companies file applications with the Commission furnishing information in order to facilitate a determination of an applicant's qualification for an exemption under the provisions of the Section 1(c). If the Commission grants exemption, the natural gas pipeline company is not required to file certificate applications, rate schedules, or any other applications or forms prescribed by the Commission.

The exemption applies to companies engaged in the transportation, sale, or resale of natural gas in interstate commerce if: (a) They receive gas at or within the boundaries of the state from another person at or within the boundaries of that state; (b) such gas is ultimately consumed in such state; (c) the rates, service and facilities of such company are subject to regulation by a State Commission; and (d) that such State Commission is exercising that jurisdiction. 18 CFR Part 152 specifies the data required to be filed by pipeline companies for an exemption.

Type of Respondents: Pipeline Companies

Estimate of Annual Burden:[2] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–574: GAS PIPELINE CERTIFICATES: HINSHAW EXEMPTION

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)
1	1	1	60	60

The total estimated annual cost burden to respondents is $4,200 [60 hours * $70/hour[3] = $4,200].

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.

Dated: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19660 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1414–004; ER10–1406–005; ER10–1416–005; ER13–1487–000; ER13–1489–000; ER13–1488–000.

Applicants: Quantum Auburndale Power, LP.

Description: Second Amendment to May 20, 2012 and May 13, 2013 Notification of Non-Material Change in Status and May 14, 2013 Tariff Filings of the Quantum Entities.

Filed Date: 7/30/13.

Accession Number: 20130730–5157.

Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2020–000.

Applicants: Solar Partners II, LLC.

Description: Supplement to July 24, 2013 Solar Partners II, LLC tariff filing.

Filed Date: 7/30/13.

Accession Number: 20130730–5181.

Comments Due: 5 p.m. ET 8/5/13.

Docket Numbers: ER13–2050–000.

Applicants: Solar Partners VIII, LLC.

Description: Supplement to July 29, 2013 Solar Partners VIII, LLC tariff filing.

Filed Date: 7/30/13.

Accession Number: 20130730–5185.

Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: ER13–2063–000.

Applicants: California Independent System Operator Corporation.

Description: 2013–07–30_MandatoryMSG to be effective 11/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5138.

Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2064–000.

Applicants: Pacific Gas and Electric Company.

Description: 3rd Amendment to Extend the PGE—SVP Interconnection Agreement to be effective 9/30/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5144.

Comments Due: 5 p.m. ET 8/20/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–38–000.

Applicants: MDU Resources Group, Inc.

Description: Application of MDU Resources Group, Inc. to increase its short term borrowings.

Filed Date: 7/30/13.

Accession Number: 20130730–5155.

Comments Due: 5 p.m. ET 8/20/13.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF13–387–000.

Applicants: WKN Wagner, LLC.

Description: Refund Report of WKN Wagner, LLC.

Filed Date: 7/30/13.

Accession Number: 20130730–5174.

Comments Due: 5 p.m. ET 8/20/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests,

[1] 15 U.S.C. 717–717w.

[2] The Commission 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] FY2013 Estimated Average Hourly Cost per FTE, including salary + benefits.

service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 31, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19586 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–93–000.

Applicants: Ameren Energy Generating Company, AmerenEnergy Resources Generating Company, Ameren Energy Marketing Company, Electric Energy, Inc., Midwest Electric Power, Inc., AmerenEnergy Medina Valley Cogen, L.L.C., Dynegy Inc.

Description: Response to July 26, 2013 letter requesting additional information of Ameren Energy Generating Company, et al.

Filed Date: 8/5/13.

Accession Number: 20130805–5409.

Comments Due: 5 p.m. ET 8/19/13

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2997–002; ER10–3018–002; ER10–3030–002; ER10–2992–002; ER10–3003–002; ER10–3015–002; ER10–2990–002; ER10–3016–002.

Applicants: Atlantic City Electric Company, Delmarva Power & Light Company, Potomac Electric Power Company, Pepco Energy Services, Inc., Bethlehem Renewable Energy, LLC, Eastern Landfill Gas, LLC, Potomac Power Resources, Inc., Fauquier Landfill Gas, LLC.

Description: Application for Category 2 Exemption in the Northeast Region of the PHI Entities.

Filed Date: 8/5/13.

Accession Number: 20130805–5408.

Comments Due: 5 p.m. ET 8/26/13.

Docket Numbers: ER12–1643–003.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Order 755 Reg. Market Compliance Changes to be effective 10/1/2014 .

Filed Date: 8/5/13.

Accession Number: 20130805–5191.

Comments Due: 5 p.m. ET 8/26/13.

Docket Numbers: ER13–1903–000; ER13–1904–000.

Applicants: MET New York Trading LLC, MET West Trading LLC.

Description: Updated Appendix B to July 8, 2013 MET New York Trading LLC and MET West Trading LLC tariff filing.

Filed Date: 8/6/13.

Accession Number: 20130806–5058.

Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2110–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: MR1 Rev. Relating to Seasonal Claimed Cap and Aud for Net-Met Gen to be effective 10/7/2013.

Filed Date: 8/5/13.

Accession Number: 20130805–5278.

Comments Due: 5 p.m. ET 8/26/13.

Docket Numbers: ER13–2111–000.

Applicants: Fairless Energy, LLC.

Description: Compliance Filing—Single MBR Tariff Nuclear Waiver Affiliate Restrictions to be effective 8/6/2013.

Filed Date: 8/5/13.

Accession Number: 20130805–5321.

Comments Due: 5 p.m. ET 8/26/13.

Docket Numbers: ER13–2112–000.

Applicants: Genesis Solar, LLC.

Description: Genesis Solar, LLC Market-Base Rate Application to be effective 10/1/2013.

Filed Date: 8/5/13.

Accession Number: 20130806–5002.

Comments Due: 5 p.m. ET 8/26/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19588 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1119–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: FOSA Clean-up to be effective 9/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5017.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1120–000.

Applicants: MarkWest New Mexico, L.L.C.

Description: MarkWest New Mexico Order No. 776 Compliance Filing to be effective 10/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5027.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1121–000.

Applicants: MarkWest Pioneer, L.L.C.

Description: MarkWest Pioneer Order No. 776 Compliance Filing to be effective 10/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5028.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1122–000.

Applicants: KPC Pipeline, LLC.

Description: KPC Order No. 776 Compliance Filing to be effective 10/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5029.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1123–000.

Applicants: NGO Transmission, Inc.

Description: NGO Transmission—Order No. 776 Compliance Filing to be effective 10/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5030.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1124–000.

Applicants: Clear Creek Storage Company, L.L.C.

Description: Clear Creek ACA Filing to be effective 10/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5034.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1125–000.

Applicants: Alliance Pipeline L.P.

Description: August 1–31, 2013. Auction to be effective 8/1/2013.

Filed Date: 7/30/13.

Accession Number: 20130730–5048.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1126–000.
Applicants: Northwest Pipeline LLC.
Description: ACA, Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5088.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1127–000.
Applicants: Arlington Storage Company, LLC.
Description: Arlington Storage Company, LLC–Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5089.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1128–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: Creole Trail Annual Charge Adjustment Filing to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5091.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1129–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: S–2 Tracker Filing Effective 2013–08–01 to be effective 8/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5124.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1130–000.
Applicants: Rager Mountain Storage Company LLC.
Description: Rager Mountain ACA Filing to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5125.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1131–000.
Applicants: Central New York Oil And Gas, L.L.C.
Description: Central New York Oil And Gas Company LLC—Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5126.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1132–000.
Applicants: Southwest Gas Transmission Company, A Li.
Description: Annual Charge Adjustment to be effective 10/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130731–5001.
Comments Due: 5 p.m. ET 8/12/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP10–1403–004.
Applicants: Sabine Pipe Line LLC.
Description: Sabine Sections 5 and 6.1.0 Rates and FT Rate Correction to be effective 10/1/2013 under RP10–1403 Filing Type: 580.
Filed Date: 7/30/13.
Accession Number: 20130730–5090.
Comments Due: 5 p.m. ET 8/12/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 31, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19590 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1133–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt (QEP 37657 to BP 41160) to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5018.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1134–000.
Applicants: Panther Interstate Pipeline Energy, LLC.
Description: Panther Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5022.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1135–000.
Applicants: Dauphin Island Gathering Partners.
Description: Order No. 776 Compliance—ACA Charge to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5033.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1136–000.
Applicants: Cimarron River Pipeline, LLC.
Description: ACA Compliance Filing (Order 776) to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5034.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1137–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: KeySpan Ramapo Release August 2013 to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5040.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1138–000.
Applicants: Alliance Pipeline L.P.
Description: ACA 2013 Order 776 to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5043.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1139–000.
Applicants: Northern Natural Gas Company.
Description: 20130731 Miscellaneous Filing to be effective 8/31/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5047.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1140–000.
Applicants: Paiute Pipeline Company.
Description: Non-conforming Service Agreements to be effective 7/31/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5048.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1141–000.
Applicants: Northern Natural Gas Company.
Description: 20130731 Negotiated Rate to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5049.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1142–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Brooklyn Union Ramapo Release August 2013 to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5054.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1143–000.

Applicants: Great Lakes Gas Transmission Limited Par.
Description: Great Lakes Gas Transmission Limited Partnership Semi-Annual Transporter's Use Report.
Filed Date: 7/31/13.
Accession Number: 20130731–5060.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1144–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Big Sandy Fuel Filing effective 9–1–2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5064.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1145–000.
Applicants: Ryckman Creek Resources, LLC.
Description: Ryckman Creek ACA Filing to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5069.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1146–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Imbalance Resolution Provisions to be effective 9/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5070.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1147–000.
Applicants: Tres Palacios Gas Storage LLC.
Description: Tres Palacios Gas Storage LLC—Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5075.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1148–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: Neg Rate 2013–07–31 Green Plains fka Choice Ethanol to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5135.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1149–000.
Applicants: Natural Gas Pipeline Company of America.
Description: NJR Energy Services LPS—RO to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5140.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1150–000.
Applicants: Texas Eastern Transmission, LP.
Description: TETLP July 31 Negotiated Rate Release to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5142.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1151–000.
Applicants: Natural Gas Pipeline Company of America.
Description: EDF Trading Negotiated Rate to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5144.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1152–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Castleton Negotiated Rate Filing to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5146.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1153–000.
Applicants: Equitrans, L.P.
Description: Negotiate Rate Service Agreements—EQT Energy & Range Resources to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5155.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1154–000.
Applicants: Questar Pipeline Company.
Description: JL 47 Loop Compliance Filing Berry Pet TSA.
Filed Date: 7/31/13.
Accession Number: 20130731–5172.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1155–000.
Applicants: Equitrans, L.P.
Description: Negotiated Rate Service Agreements—Retainage Provisions to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5187.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1156–000.
Applicants: Kern River Gas Transmission Company.
Description: 2013 ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5000.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1157–000.
Applicants: MIGC LLC.
Description: MIGC LLC Order 776 ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5001.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1158–000.
Applicants: Natural Gas Pipeline Company of America.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5002.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1159–000.
Applicants: Equitrans, L.P.
Description: Equitrans, L.P. 2013 Annual Charge Adjustment Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5006.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1160–000.
Applicants: Pine Needle LNG Company, LLC.
Description: 2013 Pine Needle ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5014.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1161–000.
Applicants: Texas Gas Transmission, LLC.
Description: Amendments to Neg Rate Agmts (Southwestern 27019 and 27435) to be effective 8/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5031.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1162–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5036.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1163–000.
Applicants: Texas Gas Transmission, LLC.
Description: Order 776 compliance filing (ACA) to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5038.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1164–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Order 776 Compliance Filing (ACA) to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5043.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1165–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Order 776 Compliance Filing (ACA) to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5044.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1166–000.
Applicants: Petal Gas Storage, L.L.C.
Description: Order 776 compliance filing (ACA) to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5045.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1167–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5046.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1168–000.

Applicants: Boardwalk Storage Company, LLC.
Description: Order 776 Compliance Filing (ACA) to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5047.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1169–000.
Applicants: Trunkline Gas Company, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5048.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1170–000.
Applicants: Southwest Gas Storage Company.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5049.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1171–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5050.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1172–000.
Applicants: Trunkline LNG Company, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5051.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1173–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5052.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1174–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: Fayetteville Express Pipeline LLC submits tariff filing per 154.203: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5053.
Comments Due: 5 p.m. ET 8/13/13

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–1097–003.
Applicants: Eastern Shore Natural Gas Company.
Description: Storage Tracker Filing—October 1, 2012 to be effective 10/1/2012.
Filed Date: 7/31/13.
Accession Number: 20130731–5088.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1097–004.
Applicants: Eastern Shore Natural Gas Company.
Description: Storage Tracker Amendment—Nov. 1, 2012 to be effective 11/1/2012.
Filed Date: 7/31/13.
Accession Number: 20130731–5113.
Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: RP13–1097–005.
Applicants: Eastern Shore Natural Gas Company.
Description: Storage Tracker Filing—April 1, 2013 to be effective 4/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5128.
Comments Due: 5 p.m. ET 8/12/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19591 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2124–004; ER10–2125–004; ER10–2127–004; ER10–2128–004; ER10–2130–005; ER10–2132–004; ER10–2133–005; ER10–2137–005; ER10–2131–005; ER10–2138–005; ER10–2139–005; ER10–2140–005; ER10–2141–005; ER10–2764–004; ER11–3872–005; ER11–4044–006; ER11–4046–005; ER12–161–004; ER12–164–004; ER12–645–006.
Applicants: Spring Canyon Energy LLC, Judith Gap Energy LLC, Invenergy TN LLC, Wolverine Creek Energy LLC, Forward Energy LLC, Willow Creek Energy LLC, Sheldon Energy LLC, Beech Ridge Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Vantage Wind Energy LLC, Stony Creek Energy LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, California Ridge Wind Energy LLC.
Description: Notification of Change in Facts of Spring Canyon Energy LLC, et al.
Filed Date: 7/30/13.
Accession Number: 20130730–5103.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–1776–001.
Applicants: Spokane Energy, LLC
Description: Spokane Energy, LLC submits Spokane Energy Amendment to June 25, 2013 Filing to be effective 6/26/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5076.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2053–000.
Applicants: Southern California Edison Company.
Description: Notices of Cancellation with Carson Dominguez Properties, L.P to be effective 3/29/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5000.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2054–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits 3rd Amendment to Extend the PG&E–NCPA Interconnection Agreement to be effective 9/30/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5001.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2055–000.
Applicants: Southern California Edison Company.
Description: Notice of Cancellation with CBP 19 Acres, LLC to be effective 3/29/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5002.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2056–000.
Applicants: Southwest Power Pool, Inc.
Description: 2198R9 Kansas Power Pool NITSA and NOA to be effective 7/1/2013.

Filed Date: 7/30/13.
Accession Number: 20130730–5050.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2057–000.
Applicants: BG Energy Merchants, LLC.
Description: Notice of Cancellation of Tariff to be effective 7/31/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5055.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2058–000.
Applicants: Southern California Edison Company.
Description: True-Up SGIA & Distrib Serv Agmt with County Sanitation Districts of LA County to be effective 9/29/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5068.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2059–000.
Applicants: Duke Energy Progress, Inc.
Description: Duke Energy Progress, Inc. submits tariff filing per 35.13(a)(2)(iii: Service Agreement No. 268 under Duke Energy Progress OATT to be effective 7/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5077.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2060–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Notice of Termination of Service Agreement No. 1743 to be effective 6/30/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5109.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2061–000.
Applicants: Southwest Power Pool, Inc.
Description: 1154R9 Associated Electric Cooperative NITSA and NOA to be effective 7/1/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5113.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: ER13–2062–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Borderline Sales Tariff Filing to be effective 9/29/2013.
Filed Date: 7/30/13.
Accession Number: 20130730–5123.
Comments Due: 5 p.m. ET 8/20/13

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–37–000.
Applicants: AEP Generating Company, AEP Texas North Company, AEP Texas Central Company, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, Wheeling Power Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Generating Company, et al.
Filed Date: 7/30/13.
Accession Number: 20130730–5116.
Comments Due: 5 p.m. ET 8/20/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–2–000.
Applicants: Spring Canyon Energy LLC, Judith Gap Energy LLC, Invenergy TN LLC, Wolverine Creek Energy LLC, Grays Harbor Energy LLC, Forward Energy LLC, Willow Creek Energy LLC, Sheldon Energy LLC, Hardee Power Partners Limited, Spindle Hill Energy LLC, Invenergy Cannon Falls LLC, Beech Ridge Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Vantage Wind Energy LLC, Stony Creek Energy LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, California Ridge Wind Energy LLC.
Description: Quarterly Land Acquisition Report of Spring Canyon Energy LLC, et al.
Filed Date: 7/30/13.
Accession Number: 20130730–5070.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: LA13–2–000.
Applicants: Bishop Hill Energy II LLC, Cordova Energy Company LLC, MidAmerican Energy Company, Saranac Power Partners, L.P.
Description: Quarterly Land Acquisition Report of the MidAmerican Parties.
Filed Date: 7/30/13.
Accession Number: 20130730–5072.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: LA13–2–000.
Applicants: Alabama Electric Marketing, LLC, Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete Energy Venture, LLC, CSOLAR IV South, LLC, High Desert Power Project, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Frontier Partners, Ltd., Tenaska Gateway Partners, Ltd., Tenaska Georgia Partners, L.P., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC, TPF Generation Holdings, LLC, Wolf Hills Energy, LLC.
Description: Quarterly Land Acquisition Report of the Tenaska MBR Sellers.
Filed Date: 7/30/13.
Accession Number: 20130730–5073.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: LA13–2–000.
Applicants: Astoria Generating Company, L.P.
Description: Quarterly Land Acquisition Report of Astoria Generating Company, L.P.
Filed Date: 7/30/13.
Accession Number: 20130730–5075.
Comments Due: 5 p.m. ET 8/20/13.

Docket Numbers: LA13–2–000.
Applicants: Arlington Valley Solar Energy II, LLC, Bluegrass Generation Company, L.L.C., Calhoun Power Company, LLC, Centinela Solar Energy, LLC, Cherokee County Cogeneration Partners, LLC, DeSoto County Generating Company, LLC, Doswell Limited Partnership, Las Vegas Power Company, LLC, LS Power Marketing, LLC, LSP Safe Harbor Holdings, LLC, LSP University Park, LLC, Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rocky Road Power, LLC, Tilton Energy LLC, University Park Energy, LLC, Wallingford Energy LLC.
Description: Quarterly Land Acquisition Report of the LS MBR Sellers.
Filed Date: 7/30/13.
Accession Number: 20130730–5119.
Comments Due: 5 p.m. ET 8/20/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 30, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19582 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–49–000.
Applicants: Buffalo Dunes Wind Project, LLC.
Description: Self-Certification of EG of Buffalo Dunes Wind Project, LLC.
Filed Date: 8/6/13.
Accession Number: 20130806–5148.
Comments Due: 5 p.m. ET 8/27/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2912–004.
Applicants: Alliance for Cooperative Energy Services.
Description: Notice of Non-Material Change in Status of Alliance for Cooperative Energy Services Power Marketing LLC.
Filed Date: 8/6/13.
Accession Number: 20130806–5154.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER11–4393–004.
Applicants: TAQA Gen X LLC.
Description: Notice of Non-Material Change in Status of TAQA Gen X LLC.
Filed Date: 8/6/13.
Accession Number: 20130806–5164.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2113–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Tie Line Name Changes to be effective 10/6/2013.
Filed Date: 8/6/13.
Accession Number: 20130806–5086.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2114–000.
Applicants: Virginia Electric and Power Company.
Description: Compliance Filing—VEPCO Wholesale MBR Nuclear Waiver to be effective 8/7/2013.
Filed Date: 8/6/13.
Accession Number: 20130806–5090.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2115–000.
Applicants: Southern California Edison Company.
Description: Amended LGIA and Distribution Service Agmt with Brea Power II to be effective 8/7/2013.
Filed Date: 8/6/13.
Accession Number: 20130806–5138.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2116–000.
Applicants: Nevada Power Company.
Description: Rate Schedule No. 138 Navajo Gen Station Operating Agmt as Amended concurrence to be effective 4/24/2013.
Filed Date: 8/6/13.
Accession Number: 20130806–5157.
Comments Due: 5 p.m. ET 8/27/13.

Docket Numbers: ER13–2117–000.
Applicants: Virginia Electric and Power Company.
Description: Compliance Filing—VEPCO MBS Tariff Nuclear Waiver to be effective 8/7/2013.
Filed Date: 8/6/13.
Accession Number: 20130806–5177.
Comments Due: 5 p.m. ET 8/27/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 6, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19589 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1990–002.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits Amendment—Docket No. ER13–1990—Attachment T Revisions to be effective 9/30/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5142.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2078–000.
Applicants: Southwest Power Pool, Inc.
Description: Integrated Marketplace—Grandfather Agreements Carve Out to be effective 3/1/2014.
Filed Date: 7/31/13.
Accession Number: 20130731–5199.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2079–000.
Applicants: New England Power Pool Participants Committee.
Description: August 2013 Membership Filing to be effective 7/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5055.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2080–000.
Applicants: Lavalley Energy, LLC.
Description: Lavalley Energy LLC Notice of Cancellation of MBR Tariff to be effective 8/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5084.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2081–000.
Applicants: Exelon Generation Company, LLC.
Description: Exelon Generation Company, LLC submits Notice of Cancellation to be effective 8/2/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5094.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2082–000.
Applicants: NorthWestern Corporation.
Description: SA 686—MATL Rimrock EPC to be effective 8/2/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5109.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2083–000.
Applicants: Entergy Services, Inc.
Description: Notice of Cancellation of Transmission Service Agreement No. 336 of Entergy Services, Inc.
Filed Date: 8/1/13.
Accession Number: 20130801–5111.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2084–000.
Applicants: Arizona Public Service Company.
Description: Rate Schedule No. 217 Exhibit B. GLA–SON—Amendment 3 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5122.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2085–000.
Applicants: Arizona Public Service Company.
Description: Rate Schedule No. 217 Exhibit B.SUD—Amendment 1 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5133.
Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2086–000.
Applicants: Arizona Public Service Company.
Description: Rate Schedule No. 217 Exhibit B.BKE–LIB—Amendment 1 to be effective 10/1/2013.

Filed Date: 8/1/13.
Accession Number: 20130801–5135.
Comments Due: 5 p.m. ET 8/22/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–30–001.
Applicants: MidAmerican Energy Company.
Description: Amended Application for Authorization to Issue and Sell Debt Securities of MidAmerican Energy Company.
Filed Date: 7/31/13.
Accession Number: 20130731–5220.
Comments Due: 5 p.m. ET 8/12/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–2–000.
Applicants: Ashtabula Wind, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Backbone Mountain Windpower LLC, Badger Windpower, LLC, Baldwin Wind, LLC, Bayswater Peaking Facility, LLC, Blackwell Wind, LLC, Butler Ridge Wind Energy Center, LLC, Cimarron Wind Energy, LLC, Crystal Lake Wind, LLC, Crystal Lake Wind II, LLC, Crystal Lake Wind III, LLC, Day County Wind, LLC, Diablo Winds, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, Ensign Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Co., FPL Energy Burleigh County Wind, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Cape, LLC, FPL Energy Cowboy Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Hancock County Wind, LLC, FPL Energy Illinois Wind, LLC, FPL, Energy Maine Hydro LLC, FPL Energy Marcus Hook, L.P., FPL Energy MH50 L.P., FPL Energy Montezuma Wind, LLC, FPL Energy Mower County, LLC, FPL Energy New Mexico Wind, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Oliver Wind I, LLC, FPL Energy Oliver Wind II, LLC, FPL Energy Sooner Wind, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyoming, LLC, Garden Wind, LLC, Gray County Wind Energy, LLC, Hatch Solar Energy Center I, LLC, Hawkeye Power Partners, LLC, High Majestic Wind Energy Center, LLC, High Winds, LLC, High Majestic Wind II, LLC, Jamaica Bay Peaking Facility, LLC, Lake Benton Power Partners II, LLC, Langdon Wind, LLC, Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Meyersdale Windpower LLC, Mill Run Windpower, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind Interconnection Services, LLC, NEPM II, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Power Marketing, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Osceola Windpower, LLC, Osceola Windpower II, LLC, Paradise Solar Urban Renewal, L.L.C., Peetz Table Wind Energy, LLC, Pennsylvania Windfarms, Inc., Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Sky River LLC, Somerset Windpower, LLC, Story Wind, LLC, Tuscola Bay Wind, LLC, Vasco Winds, LLC, Victory Garden Phase IV, LLC, Waymart Wind Farm, L.P., Wessington Wind Energy Center, LLC, White Oak Energy LLC, Wilton Wind II, LLC, Windpower Partners 1993, L.P.

Description: Quarterly Land Acquisition Report of NextEra Energy Companies.

Filed Date: 7/31/13.

Accession Number: 20130731–5219.

Comments Due: 5 p.m. ET 8/21/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19583 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–133–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: Section 203 Application of Northern States Power Company, a Minnesota corporation to Acquire Jurisdictional Facilities.
Filed Date: 8/2/13.
Accession Number: 20130802–5223.
Comments Due: 5 p.m. ET 8/23/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1332–001.
Applicants: Canadian Hills Wind, LLC.
Description: SFA Compliance Filing—June 24, 2013 Order (8.2.13) to be effective 6/24/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5019.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2093–000.
Applicants: Duke Energy Indiana, Inc.
Description: Amendment to RS No. 253 (2013) to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5081.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2094–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 08–02–2013 SA 2068 Minnkota-OTP FCA (H102–OTP) to be effective 8/3/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5086.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2095–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original Service Agreement Nos. 2769 & 2770 to be effective 9/16/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5114.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2096–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original Service Agreement No. 2693 to be effective 9/16/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5132.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2097–000.
Applicants: PJM Interconnection, L.L.C.

Description: Notice of Cancellation of Original Service Agreement No. 3377 to be effective 9/22/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5143.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2098–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original Service Agreement No. 2855 to be effective 7/22/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5147.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2099–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Info Policy Revisions Concerning Minimum Power Values to be effective 10/2/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5196.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2100–000.
Applicants: Virginia Electric and Power Company.
Description: New Baseline—VEPCO Wholesale Market-Based Rate Tariff to be effective 8/2/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5203.
Comments Due: 5 p.m. ET 8/23/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–2–000.
Applicants: Enel Green Power North America, Inc, Canastota Windpower, LLC, Caney River Wind Project, LLC, EGP Stillwater Solar, LLC, Enel Stillwater, LLC, Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Rocky Ridge Wind Project, LLC, Chisholm View Wind Project, LLC, Prairie Rose Wind, LLC.
Description: Quarterly Land Acquisition Report of Enel Green Power North America, Inc.
Filed Date: 8/2/13.
Accession Number: 20130802–5228.
Comments Due: 5 p.m. ET 8/23/13.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH13–22–000.
Applicants: Bloom Energy Companies.
Description: Bloom Energy Companies submits FERC–65–B Waiver Notification.
Filed Date: 8/2/13.
Accession Number: 20130802–5211.
Comments Due: 5 p.m. ET 8/23/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 2, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19585 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–778–000.
Applicants: Puget Sound Energy, Inc.
Description: OATT Formula Rate Filing Refund Report to be effective N/A.
Filed Date: 7/29/13.
Accession Number: 20130729–5120.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–265–002.
Applicants: Nevada Power Company.
Description: Rate Schedule No. 134 Interim BA Services Agmt-Errata to Compliance Filing to be effective 11/1/2012.
Filed Date: 7/29/13.
Accession Number: 20130729–5162.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–1317–002.
Applicants: Entergy Arkansas, Inc.
Description: RSP Agreements Compliance Filing to be effective 6/28/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5155.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–1370–001.
Applicants: MATL LLP.
Description: Compliance Filing to be effective 7/1/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5163.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–2048–000.
Applicants: Southwest Power Pool, Inc.
Description: 1976R2 Kaw Valley Electric Cooperative, Inc. NITSA and NOA to be effective 6/27/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5108.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–2049–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position W4–009/X4–005; Original Service Agreement No. 3604 to be effective 6/28/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5161.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–2050–000.
Applicants: Solar Partners VIII, LLC.
Description: Application for Market-Based Rate Tariff to be effective 8/22/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5165.
Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: ER13–2051–000.
Applicants: Southern California Edison Company.
Description: Amended Service Agmts for Wholesale Distribution Serv for Devers-Mirage Project to be effective 6/1/2013.
Filed Date: 7/29/13.
Accession Number: 20130729–5176.
Comments Due: 5 p.m. ET 8/19/13.

Docket Numbers: ER13–2052–000.
Applicants: PJM Interconnection, L.L.C.
Description: Revisions to PJM Rate Schedule 46—Market Monitor Services Agreement to be effective 12/31/9998.
Filed Date: 7/29/13.
Accession Number: 20130729–5177.
Comments Due: 5 p.m. ET 8/19/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 30, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19581 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1175–000.
Applicants: Transwestern Pipeline Company, LLC.
Description: ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5054.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1176–000.
Applicants: Gulf States Transmission LLC.
Description: GST ACA Compliance Filing on 8–1–2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5056.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1177–000.
Applicants: Garden Banks Gas Pipeline, LLC.
Description: Compliance with New ACA Requirements to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5058.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1178–000.
Applicants: MoGas Pipeline LLC.
Description: MoGas ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5059.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1179–000.
Applicants: Mississippi Canyon Gas Pipeline, L.L.C.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5060.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1180–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: FL&U Filing Effective September 1, 2013 to be effective 9/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5061.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1181–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: Compliance with New ACA Requirements to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5062.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1182–000.
Applicants: Stingray Pipeline Company, L.L.C.
Description: ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5064.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1183–000.
Applicants: KO Transmission Company.
Description: Order No. 776 Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5073.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1184–000.
Applicants: Kinder Morgan Illinois Pipeline LLC.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5074.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1185–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: 2013 TGPL ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5075.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1186–000.
Applicants: Questar Southern Trails Pipeline Company.
Description: QSTP Order 776 ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5076.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1187–000.
Applicants: White River Hub, LLC.
Description: WRH Order 776 ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5077.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1188–000.
Applicants: Young Gas Storage Company, Ltd.
Description: 2013 ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5078.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1189–000.
Applicants: Northern Natural Gas Company.
Description: 20130801 ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5081.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1190–000.
Applicants: Discovery Gas Transmission LLC.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5082.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1191–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5083.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1192–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5089.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1193–000.
Applicants: Destin Pipeline Company, L.L.C.
Description: ACA Filing—2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5090.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1194–000.
Applicants: Black Marlin Pipeline Company.
Description: 2013 ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5091.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1195–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Iroquois Gas Transmission System, L.P. submits ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5095.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1196–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: ACA 2013—remove from rates to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5105.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1197–000.

Applicants: Apache Corporation, Fieldwood Energy LLC.
Description: Joint Petition for Temporary Waiver of Commission Policies, Capacity Release Regulations and Related Tariff Provisions and Request for Expedited Action and Shortened Comment Period of Apache Corporation and Fieldwood Energy LLC.
Filed Date: 8/1/13.
Accession Number: 20130801–5107.
Comments Due: 5 p.m. ET 8/8/13.

Docket Numbers: RP13–1198–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5110.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1199–000.
Applicants: Ruby Pipeline, L.L.C.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5136.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1200–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5139.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1201–000.
Applicants: Viking Gas Transmission Company.
Description: ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5149.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1202–000.
Applicants: WTG Hugoton, LP.
Description: WTGH Address Change Filing (August 1, 2013) to be effective 9/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5153.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1203–000.
Applicants: OkTex Pipeline Company, L.L.C.
Description: ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5157.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1204–000.
Applicants: Midwestern Gas Transmission Company.
Description: ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5160.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1205–000.
Applicants: Questar Pipeline Company.
Description: QPC Order 776 ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5162.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1206–000.
Applicants: Guardian Pipeline, L.L.C.
Description: ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5164.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1207–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5169.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1208–000.
Applicants: Cheyenne Plains Gas Pipeline Company, L.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5172.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1209–000.
Applicants: Dominion Cove Point LNG, LP.
Description: DCP—ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5177.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1210–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5184.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1211–000.
Applicants: Hardy Storage Company, LLC.
Description: ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5191.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1212–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—ACA Compliance to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5196.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1213–000.
Applicants: TransColorado Gas Transmission Company L.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5218.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1214–000.
Applicants: Columbia Gas Transmission, LLC.
Description: ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5222.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1215–000.
Applicants: Central Kentucky Transmission Company.
Description: ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5224.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1216–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5227.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1217–000.
Applicants: Crossroads Pipeline Company.
Description: ACA 2013 to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5236.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1218–000.
Applicants: Mojave Pipeline Company, LLC.
Description: ACA 2013 Compliance Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5244.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1219–000.
Applicants: Paiute Pipeline Company.
Description: ACA Filing to be effective 10/1/2013.
Filed Date: 8/1/13.
Accession Number: 20130801–5248.
Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–1220–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Tenaska Gas Storage LPS _RO to be effective 8/3/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5026.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1221–000.
Applicants: Empire Pipeline, Inc.
Description: ACA Filing_Order No. 776 (Empire) to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5080.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1222–000.

Applicants: Millennium Pipeline Company, LLC.

Description: ACA 2013 to be effective 10/1/2013.

Filed Date: 8/2/13.

Accession Number: 20130802–5093.

Comments Due: 5 p.m. ET 8/14/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–556–002.

Applicants: Gulf Shore Energy Partners, LP.

Description: Gulf Shore Energy Partners, LP GAS TARIFF ORIGINAL VOLUME NO. 1—Compliance to be effective 8/1/2013.

Filed Date: 8/1/13.

Accession Number: 20130801–5241.

Comments Due: 5 p.m. ET 8/13/13.

Docket Numbers: RP13–714–002.

Applicants: Hardy Storage Company, LLC.

Description: Hardy Stipulation and Agreements to be effective 12/31/9998.

Filed Date: 8/1/13.

Accession Number: 20130801–5249.

Comments Due: 5 p.m. ET 8/13/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated August 2, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19578 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1876–001.

Applicants: BP Energy Company.

Description: Amendment to Request for Category 1 Status, Request for Waiver of TMP Update to be effective 7/2/2013.

Filed Date: 8/1/13.

Accession Number: 20130801–5243.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2042–001.

Applicants: Southwest Power Pool, Inc.

Description: 1886R2 Substitute Westar Energy, Inc. NITSA NOA to be effective 6/27/2013.

Filed Date: 8/1/13.

Accession Number: 20130801–5235.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2087–000.

Applicants: Arizona Public Service Company.

Description: APS and Western Kofa Capacitor Bank Project Interim AG, Rate Schedule No. 268 to be effective 10/1/2013.

Filed Date: 8/1/13.

Accession Number: 20130801–5143.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2088–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Haywood EMC RPPA (2013) to be effective 7/2/2012.

Filed Date: 8/1/13.

Accession Number: 20130801–5170.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2089–000.

Applicants: Florida Power & Light Company.

Description: FPL Revisions to LCEC Rate Schedule No. 312 to be effective 1/1/2012.

Filed Date: 8/1/13.

Accession Number: 20130801–5176.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2090–000.

Applicants: Florida Power & Light Company.

Description: FPL Revisions to LCEC Rate Schedule No. 317 to be effective 1/1/2014.

Filed Date: 8/1/13.

Accession Number: 20130801–5180.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2091–000.

Applicants: Southwest Power Pool, Inc.

Description: Revisions to Attachment AE and X—CFTC to be effective 3/1/2014.

Filed Date: 8/1/13.

Accession Number: 20130801–5242.

Comments Due: 5 p.m. ET 8/22/13.

Docket Numbers: ER13–2092–000.

Applicants: Northern States Power Company, a Minnesota corporation

Description: 2013–8–1_GRE-Multi-Pty JPZ Agrmt_304–NSP to be effective 6/1/2013.

Filed Date: 8/1/13.

Accession Number: 20130801–5245.

Comments Due: 5 p.m. ET 8/22/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 2, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19584 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–134–000.

Applicants: Astoria Energy LLC.

Description: Application under FPA Section 203 of Astoria Energy LLC including Confidential Ex. I.

Filed Date: 8/5/13.

Accession Number: 20130805–5260.

Comments Due: 5 p.m. ET 8/26/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2984–013.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 8/5/13.
Accession Number: 20130805–5277.
Comments Due: 5 p.m. ET 8/26/13.

Docket Numbers: ER13–1857–000.
Applicants: Idaho Power Company.
Description: Supplement to Triennial Filing to be effective N/A.
Filed Date: 8/2/13.
Accession Number: 20130802–5258.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2101–000.
Applicants: Virginia Electric and Power Company.
Description: New Baseline—VEPCO WCBR Tariff Cancel Old DB to be effective 8/5/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5240.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2102–000.
Applicants: ReEnergy Black River LLC.
Description: ReEnergy Black River Notice of Succession and MBR Tariff Revisions to be effective 8/3/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5245.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2103–000.
Applicants: ORNI 47 LLC.
Description: Petition of ORNI 47 LLC For Approval of Initial Market-Based Rate Tariff to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5249.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2104–000.
Applicants: Virginia Electric and Power Company.
Description: New Baseline—VEPCO Amended and Restated MBS Tariff to be effective 8/5/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5274.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2105–000.
Applicants: Exelon Generation Company, LLC.
Description: ExGen Rate Schedule No. 21 (NOSA) Filing to be effective 3/1/2014.
Filed Date: 8/2/13.
Accession Number: 20130802–5284.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2106–000.
Applicants: NedPower Mount Storm, LLC.
Description: New Baseline—NedPower MBR Tariff to be effective 8/5/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5295.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2107–000.
Applicants: Solar Partners I, LLC.
Description: Application for Market-Based Rate Authority to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5296.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2108–000.
Applicants: PJM Interconnection, L.L.C.
Description: Revisions to the PJM OATT & RAA re demand resource sell offer plans to be effective 10/2/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5303.
Comments Due: 5 p.m. ET 8/23/13.

Docket Numbers: ER13–2109–000.
Applicants: Fowler Ridge Wind Farm LLC.
Description: New Baseline—FRWF MBR Wholesale Power Sale Tariff to be effective 8/5/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5306.
Comments Due: 5 p.m. ET 8/23/13

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19577 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2065–000.
Applicants: Southern California Edison Company.
Description: Amended SGIA & Distribution Service Agmt with Lancaster Little Rock C LLC to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5002.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2066–000.
Applicants: Southern California Edison Company.
Description: Amended SGIA & Distribution Service Agreement with Lancaster Little Rock D LLC to be effective 8/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5003.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2067–000.
Applicants: Southwest Power Pool, Inc.
Description: 1166R19 Oklahoma Municipal Power Authority NITSA and NOA to be effective 7/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5046.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2068–000.
Applicants: Southwest Power Pool, Inc.
Description: 2571 Kansas Municipal Energy Agency NITSA and NOA to be effective 7/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5059.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2069–000
Applicants: OriGen Energy LLC.
Description: Market Based Rates to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5071.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2070–000.
Applicants: Southwest Power Pool, Inc.
Description: 2158R3 Arkansas Electric Cooperative Corp NITSA and NOA to be effective 7/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5080.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2071–000.
Applicants: AEP Texas North Company.
Description: TNC-Sharyland Utilities IA to be effective 7/18/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5103.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2072–000.
Applicants: Startrans IO, LLC.
Description: Offer of Settlement Modifying Appendix I to be effective 1/11/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5129.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2073–000.
Applicants: Source Power & Gas LLC.
Description: Market Based Rates to be effective 10/1/2013.
Filed Date: 7/31/13.

Accession Number: 20130731–5133.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2074–000.
Applicants: E.ON Global Commodities North America LLC.
Description: Market Based Rates to be effective 9/30/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5136.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2075–000.
Applicants: Alabama Power Company.
Description: SWE (PowerSouth Territorial) NITSA Filing to be effective 7/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5139.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2076–000.
Applicants: Hillman Power Company LLC.
Description: Rate Schedule 1 for Reactive Supply to be effective 10/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5141.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ER13–2077–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue Position NQ82; Original Service Agreement No. 3588 to be effective 7/1/2013.
Filed Date: 7/31/13.
Accession Number: 20130731–5143.
Comments Due: 5 p.m. ET 8/21/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–39–000.
Applicants: ITC Midwest LLC.
Description: Application of ITC Midwest LLC under Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations.
Filed Date: 7/31/13.
Accession Number: 20130731–5114.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ES13–40–000.
Applicants: ITC Great Plains, LLC.
Description: Application of ITC Great Plains, LLC under Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations .
Filed Date: 7/31/13.
Accession Number: 20130731–5115.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ES13–41–000.
Applicants: International Transmission Company.
Description: Application of International Transmission Company under Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations.
Filed Date: 7/31/13.
Accession Number: 20130731–5122.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ES13–42–000.
Applicants: NorthWestern Corporation.
Description: Application for Authorization under Section 204 of the Federal Power Act to Issue Securities and Request for Shortened Comment Period of NorthWestern Corporation.
Filed Date: 7/31/13.
Accession Number: 20130731–5132.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ES13–43–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: Application of Michigan Electric Transmission Company, LLC under Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations.
Filed Date: 7/31/13.
Accession Number: 20130731–5157.
Comments Due: 5 p.m. ET 8/21/13.

Docket Numbers: ES13–44–000; ES13–45–000; ES13–46–000; ES13–47–000; ES13–48–000; ES13–49–000; ES13–50–000.
Applicants: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C, Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., System Energy Resources, Inc.
Description: Joint application for authorizations under FPA Section 204 of Entergy Services, Inc., et al.
Filed Date: 7/31/13.
Accession Number: 20130731–5160.
Comments Due: 5 p.m. ET 8/21/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–2–000.
Applicants: EC&R O&M, LLC, Munnsville Wind Farm, LLC, Pioneer Trail Wind Farm, LLC, Settlers Trail Wind Farm, LLC, Stony Creek Wind Farm, LLC and Wildcat Wind Farm I, LLC.
Description: Quarterly Land Acquisition Report of E.ON CRNA Sellers.
Filed Date: 7/31/13.
Accession Number: 20130731–5067.
Comments Due: 5 p.m. ET 8/21/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 31, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19587 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1223–000.
Applicants: National Fuel Gas Supply Corporation.
Description: ACA Filing_Order No. 776 (2013) to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5101.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1224–000.
Applicants: WBI Energy Transmission, Inc.
Description: ACA Compliance Filing to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5111.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1225–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: ACA by Reference Filing TIGT to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5205.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1226–000.
Applicants: Rockies Express Pipeline LLC.
Description: ACA by Reference Filing—REX to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5207.
Comments Due: 5 p.m. ET 8/14/13.

Docket Numbers: RP13–1227–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: ACA by Reference Filing TB to be effective 10/1/2013.
Filed Date: 8/2/13.

Accession Number: 20130802–5208.
Comments Due: 5 p.m. ET 8/14/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–1223–001.
Applicants: National Fuel Gas Supply Corporation.
Description: Errata Filing—ACA Filing_Order No. 776 (2013) to be effective 10/1/2013.
Filed Date: 8/2/13.
Accession Number: 20130802–5178.
Comments Due: 5 p.m. ET 8/14/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–19579 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2074–000]

E.ON Global Commodities North America 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 E.ON Global Commodities North America LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19656 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2073–000]

Source Power & Gas 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 Source Power & Gas LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19655 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2069–000]

OriGen Energy 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 OriGen Energy LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19654 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2103–000]

ORNI 47 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 ORNI 47 LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19657 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2112–000]

Genesis Solar, 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 Genesis Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19662 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2107–000]

Solar Partners I, 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 Solar Partners I, LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19651 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1865–000]

Tesoro Refining & Marketing Company 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 Tesoro Refining & Marketing Company LLC's application for market-based rate authority, with an accompanying rate tariff, 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 August 27, 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 14 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 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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19653 Filed 8–13–13; 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

August 13, 2013 (9 a.m.–3 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. 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. ER12–2681, 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. ER13–769	Entergy Arkansas, Inc. and Entergy Mississippi, Inc.
Docket No. ER13–770	Entergy Arkansas, Inc. and Entergy Louisiana, LLC.
Docket No. ER13–948	Entergy Services, Inc.
Docket No. ER13–1194	Entergy Services, Inc.
Docket No. ER13–1195	Entergy Services, Inc.
Docket No. ER13–1317	Entergy Services, Inc.
Docket No. ER13–1508, et al.	Entergy Services, Inc.
Docket No. ER13–1556	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: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19661 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13625–003; Project No. 14504–000]

Lock+ Hydro Friends Fund XXX, LLC; FFP Project 121, LLC; Notice Announcing Preliminary Permit Drawing

The Commission has received two preliminary permit applications deemed filed on March 1, 2012, at 8:30 a.m.,[1] for proposed projects to be located at the U.S. Army Corps of Engineers' New Cumberland Locks and Dam on the Ohio River, near the town of New Cumberland, Hancock County, West Virginia and Jefferson County, Ohio. The applications were filed by Lock+ Hydro Friends Fund XXX, LLC for Project No. 13625 and FFP Project 121, LLC for Project No. 14504.

On August 21, 2013, at 10:00 a.m. (Eastern Time), the Secretary of the Commission, or her designee, will conduct a random drawing to determine the filing priority of the applicants identified in this notice. The Commission will select among competing permit applications as provided in section 4.37 of its regulations.[2] The priority established by this drawing will be used to determine which applicant, between those with

[1] Under the Commission's Rules of Practice and Procedure, any document received after regular business hours is considered filed at 8:30 a.m. on the next regular business day. *See* 18 CFR 385.2001(a)(2) (2013).

[2] *See id.* § 4.37.

identical filing times, will be considered to have the first-filed application.

The drawing is open to the public and will be held in room 2C, the Commission Meeting Room, located at 888 First Street NE., Washington, DC 20426. The Secretary will issue a subsequent notice announcing the results of the drawing.

Dated: August 7, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19658 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–526–000]

Tennessee Gas Pipeline Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on July 24, 2013, Tennessee Gas Pipeline Company, LLC (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP13–526–000, a prior notice request pursuant to sections 157.205, 157.210, and 157.211(a)(2) of the Commission's regulations under the Natural Gas Act (NGA). Tennessee seeks authorization to modify and operate meter station facilities and appurtenances located in Susquehanna County, Pennsylvania. Tennessee proposes to perform these activities under its blanket certificate issued in Docket No. CP82–413–000 [20 FERC ¶ 62,409 (1982)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Thomas G. Joyce, Manager, Certificates, Tennessee Gas Pipeline Company, LLC, 1001 Louisiana Street, Houston, Texas 77002, or by calling (713) 420–3299 (telephone) or (713) 420–1473 (fax) *tom_joyce@kindermorgan.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (www.ferc.gov) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. See, 18CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Dated: August 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–19652 Filed 8–13–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9900–04–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Montana's request to revise its National Primary Drinking Water Regulations Implementation EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective September 13, 2013 for the State of Montana's National Primary Drinking Water Regulations Implementation program, if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1697, *huffer.evi@epa.gov,* or Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive,

or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On July 12, 2012 the Montana Department of Environmental Quality (MT DEQ) submitted an application titled ''Safe Drinking Water Information System Lab to State'' for revision of its EPA-authorized Part 142 program under title 40 CFR. EPA reviewed MT DEQ's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D, for electronic reporting of drinking water data that does not require signature or include an electronic signature. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Montana's request to revise its Part 142—National Primary Drinking Water Regulations Implementation program, to allow electronic reporting of drinking water data that does not require signature or include an electronic signature, is being published in the **Federal Register**.

MT DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Montana's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Montana's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Dated: August 8, 2013.

Andrew Battin,

Director, Office of Information Collection.

[FR Doc. 2013–19750 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9900–00–OAR]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) announces a public meeting of the Clean Air Act Advisory Committee (CAAAC). The EPA established the CAAAC on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical, scientific and enforcement policy issues.

DATES AND ADDRESSES: Pursuant to 5 U.S.C. App. 2 Section 10(a) (2), notice is hereby given that the CAAAC will hold its next meeting on October 16, 2013, from 8:30 a.m. to 4:00 p.m. at the EPA Conference Facility at Potomac Yard, One Potomac Yard, Potomac Yard South, 2777 S. Crystal Dr., Arlington, VA 22202. Non-EPA attendees will need to present photo identification for entrance into the building. Seating will be available on a first come, first served basis. The Permits, New Source Review and Toxics Subcommittee will meet at the same location on October 15, 2013, from 1:30 p.m. to 4:30 p.m.

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available on the CAAAC Web site at *http://www.epa.gov/oar/caaac/* prior to the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will also be available on the CAAAC Web site or by contacting the Office of Air and Radiation Docket and requesting information under docket EPA–HQ–OAR–2004–0075. The Docket office can be reached by email at: *a-and-r-Docket@epa.gov* or FAX: 202–566–9744.

FOR FURTHER INFORMATION CONTACT: For more information about the CAAAC, please contact Jeneva Craig, Designated Federal Officer (DFO), Office of Air and Radiation, U.S. EPA by telephone at (202) 564–1674 or by email at *craig.jeneva@epa.gov.* For information on the Permits, New Source Review and Toxics subcommittee, please contact Liz Naess at (919) 541–1892. Additional Information on these meetings, CAAAC, and its Subcommittees can be found on the CAAAC Web site: *http://www.epa.gov/oar/caaac/.*

For information on access or services for individuals with disabilities, please contact Ms. Jeneva Craig at (202) 564–1674 or *craig.jeneva@epa.gov,* preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: August 7, 2013.

Jeneva Craig,

Designated Federal Officer, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. 2013–19748 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Number EPA–HQ–OECA–2013–0543; FRL–9900–09–OECA]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Charter Communications, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has entered into a Consent Agreement with Charter Communications, Inc. (Charter or Respondent) to resolve violations of the Clean Air Act (CAA) and requirements adopted as part of State Implementation Plans (SIPs) pursuant to the CAA, the Clean Water Act (CWA), and the Emergency Planning and Community Right-to-Know Act (EPCRA), and their implementing regulations.

The Administrator is hereby providing public notice of this Consent Agreement and proposed Final Order (CAFO), and providing an opportunity for interested persons to comment on the CAA, CWA, and EPCRA portions of the CAFO, pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C). Upon closure of the public comment period, the CAFO and any public comments will be forwarded to the Agency's Environmental Appeals Board (EAB).

DATES: Comments are due on or before September 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2013–0543, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: docket.oeca@epa.gov,* Attention Docket ID No. EPA–HQ–OECA–2013–0543.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OECA–2013–0543.
- *Mail:* Enforcement and Compliance Docket Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OECA–2013–0543.
- *Hand Delivery:* Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927. 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–HQ–OECA–2013–0543. The 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.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Special Litigation and Projects Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 564–5029; fax: (202) 564–0010; email: *Milton.Philip@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This proposed settlement agreement is the result of voluntary disclosures of CAA, CWA, and EPCRA violations by Charter to the EPA. Charter is among the largest providers of cable services in the United States, offering a variety of entertainment, information, and communications solutions to residential and commercial customers, and is located at 12405 Powerscourt Drive, St. Louis, Missouri 63131, and incorporated in Delaware. The Charter facilities that underwent audits included operating facilities, corporate offices, warehouses, and other storage locations.

On October 2, 2009, the EPA and Respondent entered into a corporate audit agreement pursuant to the Agency's policy on *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (Audit Policy), 65 FR 19,618 (Apr. 11, 2000), in which Respondent agreed to conduct a systematic, documented, and objective review of its compliance with applicable provisions of the CAA, CWA, and EPCRA. Respondent further agreed to submit progress reports detailing the status of the audit, specific facilities assessed, and information setting forth violations discovered and corrective actions taken. As agreed upon with the EPA, Respondent submitted a final audit report to the EPA on February 19, 2010, and an addendum dated August 20, 2010. A final list of all disclosed violations is contained in Attachment A to the CAFO.

Proposed Settlement

The EPA determined that Respondent satisfactorily completed its audit and has met all conditions set forth in the Audit Policy. Charter has agreed to pay a civil penalty of $57,313 for the violations identified in Attachment A. This figure is the calculated economic

benefit of noncompliance based on information provided by Respondent and use of the Economic Benefit (BEN) computer model. Of this amount, $11,453 is attributable to CAA violations, $3,767 is attributable to CWA violations, and $42,093 is attributable to EPCRA violations.

The EPA and Respondent negotiated the Consent Agreement in accordance with the Consolidated Rules of Practice, 40 CFR part 22, specifically 40 CFR 22.13(b) and 22.18(b) (*In re: Charter Communications, Inc.,* CAA–HQ–2012–8005; CWA–HQ–2012–8005; and EPCRA–HQ–2012–8005). This Consent Agreement is subject to public notice and comment under Section 311(b)(6)(C) of the CWA, 33 U.S.C. 1321(b)(6)(C). The procedures by which the public may comment on a proposed CWA Class II penalty order, or participate in a Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed Final Order is September 13, 2013. All comments will be transferred to the EAB for consideration. The EAB's powers and duties are outlined in 40 CFR 22.4(a).

Disclosed and Corrected Violations

CAA

Respondent disclosed that it violated CAA Section 110, 42 U.S.C. 7410, and requirements adopted as part of federally-approved State Implementation Plans (SIPs) at sixty-six (66) facilities listed in Attachment A and located in the following five (5) states: Alabama, Nebraska, Ohio, Tennessee, and Washington. Section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), requires states to submit plans to implement, maintain, and enforce ambient air quality standards. These states' SIPs include requirements approved by the EPA under Section 110 of the CAA, 42 U.S.C. 7410. As detailed below, these federally-approved provisions have been incorporated into the respective SIPs and are therefore federally-enforceable.

At the time of the violations, the Alabama SIP contained permit requirements and exemption provisions which were approved by the EPA on August 28, 1985, and became effective and federally-enforceable on October 28, 1985 (*see* 50 FR 34,804). These provisions required that Respondent either obtain permits to operate emergency generators or request exemptions in accordance with Ala. Admin. Code r. 335–3–14–01(1) and (5). Respondent operated fifty-four (54) emergency generators at various facilities across Alabama and failed to obtain the permits or required exemptions for these emergency generators.

At the time of the violations, the Nebraska SIP contained construction permit requirements which were approved by the EPA on July 8, 2003, and became effective and federally-enforceable on September 8, 2003 (*see* 68 FR 40,528). These provisions required that Respondent apply for and obtain an emergency generator construction permit in accordance with Title 129 of Neb. Admin. Code 17–001.01. Respondent operated an emergency generator at its facility located in Kearney, Nebraska. Respondent violated the federally-approved Nebraska SIP requirements by failing to apply for and obtain the required construction permit for this emergency generator.

At the time of the violations, the Ohio SIP contained permit and permit-by-rule requirements which were approved by the EPA on January 22, 2003, and became effective and federally-enforceable on March 10, 2003 (*see* 68 FR 2,909). These provisions required that Respondent apply for and obtain a permit or coverage under the permit-by-rule to operate the emergency generator at its Bellefontaine, Ohio facility in accordance with Ohio Admin. Code 3745–31–02 and 3745–31–03(A)(4)(a). Respondent violated the federally-approved Ohio SIP requirements by failing to apply for and obtain the required permit or coverage under the permit-by-rule for this emergency generator.

At the time of the violations, the Tennessee SIP contained a construction permit requirement which was approved by the EPA on July 29, 1996, and became effective and federally-enforceable on September 12, 1996 (*see* 61 FR 39,332). This provision required that Respondent obtain construction permits for its facilities in Blountville, Gatlinburg, Clarksville, and Jackson, Tennessee in accordance with Tenn. Comp. R. & Regs. 1200–03–09–01(1)(a). Respondent violated the federally-approved Tennessee SIP requirements by failing to obtain construction permits for emergency generators at these four (4) facilities.

At the time of the violations, the Washington SIP contained a registration requirement for stationary internal combustion engines of five hundred (500) horsepower or more and a notice of construction/approval requirement for new sources or emissions units which were approved by the EPA, and became effective and federally-enforceable, on June 2, 1995 (*see* 60 FR 28,726). The Washington SIP also contained the Yakima Regional Clean Air Agency's registration and construction notification/approval requirements which were approved by the EPA on February 2, 1998, and became effective and federally-enforceable on March 4, 1998 (*see* 63 FR 5,269). Respondent operated emergency generators at various facilities across Washington and was required to register and provide notice of construction and obtain approval for emergency generators at five (5) facilities in Walla Walla, Ellensburg, East Wenatchee, Colville, and Kennewick, Washington in accordance with Wash. Admin. Code 173–400–100(1)(z) and 173–400–110. Respondent was required to register and give notice of construction and obtain approval for emergency generators at two (2) facilities in Yakima and Sunnyside, Washington under Sections 4.01 and 4.02 of Restated Regulation I of the Yakima County Clean Air Authority. Respondent violated federally-approved Washington SIP requirements by failing to apply for and obtain registrations and meet notice requirements for emergency generators at its facilities in Walla Walla, Ellensburg, East Wenatchee, Colville, and Kennewick, Washington, and for failure to register and give notice of construction for emergency generators at its Yakima and Sunnyside, Washington facilities.

Charter violated federally-approved SIP requirements which were approved by the EPA pursuant to CAA Section 110, 42 U.S.C. 7410. Charter is therefore subject to federal enforcement under CAA Section 113, 42 U.S.C. 7413. The EPA, as authorized by CAA Section 113(d), 42 U.S.C. 7413(d), may assess a civil penalty for these violations. Under CAA Section 113(d), 42 U.S.C. 7413(d), the Administrator may issue an administrative penalty order to any person who has violated or is in violation of any applicable requirement or prohibition of the CAA, including any rule, order, waiver, permit, or plan. Proceedings under CAA Section 113(d), 42 U.S.C. 7413(d), are conducted in accordance with 40 CFR Part 22. The EPA, as authorized by the CAA, has assessed a civil penalty for these violations of federally-approved and federally-enforceable SIP requirements.

Respondent disclosed that it violated CAA Section 111, 42 U.S.C. 7411, and 40 CFR 60.4207, when it failed to convert from high-sulfur (5,000 ppm) to low-sulfur (500 ppm) diesel fuel on October 1, 2007, at one (1) facility in Minnesota. The EPA, as authorized by CAA Section 113(d), 42 U.S.C. 7413(d), has assessed a civil penalty for this violation.

CWA

Respondent disclosed that it failed to prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan in violation of CWA Section 311(j), 33 U.S.C. 1321(j), and the implementing regulations found at 40 CFR part 112, at two (2) facilities located in Massachusetts and Missouri and identified in Attachment A.

Under CWA Section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA Section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $177,500 by the EPA. Class II proceedings under CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), are conducted in accordance with 40 CFR part 22. As authorized by CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), the EPA has assessed a civil penalty for these violations.

Pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), the EPA will not issue an order in this proceeding prior to the close of the public comment period.

EPCRA

Respondent disclosed that it violated EPCRA Section 302(c), 42 U.S.C. 11002(c), and the implementing regulations found at 40 CFR part 355, at forty-seven (47) facilities listed in Attachment A when it failed to notify the State Emergency Response Commission (SERC) and/or the Local Emergency Planning Committee (LEPC) that these facilities are subject to the requirements of Section 302(c) of EPCRA. These forty-seven (47) facilities are located in the following states: Alabama, California, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, Nebraska, Oregon, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

Respondent disclosed that it violated EPCRA Section 303(d), 42 U.S.C. 11003(d), and the implementing regulations found at 40 CFR part 355, at forty-seven (47) facilities listed in Attachment A when it failed to designate a facility emergency coordinator and notify the LEPCs with jurisdiction over these facilities. These forty-seven (47) facilities are located in the following states: Alabama, California, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, Nebraska, Oregon, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

Respondent disclosed that it violated EPCRA Section 311(a), 42 U.S.C. 11021(a), and the implementing regulations found at 40 CFR part 370, at seventy-eight (78) facilities listed in Attachment A when it failed to submit a Material Safety Data Sheet (MSDS) for a hazardous chemical(s) and/or extremely hazardous substance(s) or, in the alternative, a list of such chemicals, to the LEPCs, SERCs, and the fire departments with jurisdiction over these facilities. These seventy-eight (78) facilities are located in the following states: Alabama, California, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, Nebraska, Nevada, Oregon, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

Respondent disclosed that it violated EPCRA Section 312(a), 42 U.S.C. 11022(a), and the implementing regulations found at 40 CFR Part 370, at seventy-eight (78) facilities listed in Attachment A when it failed to prepare and submit emergency and chemical inventory forms to the LEPCs, SERCs, and the fire departments with jurisdiction over these facilities. These seventy-eight (78) facilities are located in the following states: Alabama, California, Connecticut, Georgia, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, Nebraska, Nevada, Oregon, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

Under EPCRA Section 325, 42 U.S.C. 11045, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right-to-know requirements, or any other requirement of EPCRA. Proceedings under EPCRA Section 325, 42 U.S.C. 11045, are conducted in accordance with 40 CFR part 22. The EPA, as authorized by EPCRA Section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

List of Subjects

Environmental protection.

Dated: August 1, 2013.

Andrew R. Stewart,

Acting Director, Special Litigation and Projects Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

[FR Doc. 2013–19757 Filed 8–13–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Friday, August 9, 2013

August 2, 2013.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, August 9, 2013. The meeting is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	INTERNATIONAL	TITLE: Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267) SUMMARY: The Commission will consider a Report and Order that streamlines Part 25 of the Commission's rules to facilitate greater investment and innovation in the satellite industry and promote more rapid deployment of new satellite services to the public.
2	OFFICE OF ENGINEERING & TECHNOLOGY.	TITLE: Revision of Part 15 of the Commission's Rules Regarding Operation in the 57–64 GHz Band (RM–11104 and ET Docket No. 07–113) SUMMARY: The Commission will consider a Report and Order addressing technical requirements applicable to unlicensed services in the 57–64 GHz frequency band to provide additional competition in the broadband market, improve efficient delivery of broadband services in residences and businesses, and facilitate backhaul transport to support the deployment of 4th Generation (4G) and other wireless services.
3	WIRELINE COMPETITION.	TITLE: Rates for Interstate Inmate Calling Services (WC Docket No. 12–375) SUMMARY: The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking to reform interstate inmate calling services rates and practices.

Item No.	Bureau	Subject
4	INCENTIVE AUCTION TASK FORCE.	TITLE: Presentation on the Status of the Broadcast Incentive Auction SUMMARY: The Incentive Auction Task Force will present the latest update on progress towards the Commission's 2014 television broadcast incentive auction.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Meribeth McCarrick, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by email at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–19788 Filed 8–12–13; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011931–004.

Title: CMA CGM/Marfret Vessel Sharing Agreement.

Parties: CMA CGM S.A., CMA CGM (UK) Limited, and Compagnie Maritime Marfret S.A.

Filing Party: Draughn B. Arbona, Esq.; Senior Counsel; CMA CGM (America), LLC. 5701 Lake Wright Drive, Norfolk, VA 23502–1868.

Synopsis: The amendment would increase the frequency of service from fortnightly to weekly, and increase the number of vessels in the service.

Agreement No.: 012137–001.

Title: NYK-Hanjin Shipping Slot Exchange Agreement.

Parties: Nippon Yusen Kaisha, and Hanjin Shipping Co. Ltd.

Filing Parties: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment deletes Hapag-Lloyd as a party to the agreement, changes the name of the agreement to reflect the change in membership, and restates the agreement. The amendment also revises the geographic scope, the amount of space being exchanged, the duration of the agreement, and deletes obsolete language from the agreement.

Agreement No.: 012215.

Title: LGL/Inarme Cooperative Working Agreement.

Parties: Liberty Global Logistics LLC and Industria Armamento Meridionale S.p.A. (Inarme).

Filing Party: Brooke F. Shapiro; Winston & Strawn LLP; 200 Park Avenue; New York, NY 10166.

Synopsis: The agreement authorizes LGL and Inarme to cooperate and exchange space with each other in the trade between the U.S. East and Gulf Coasts on the one hand, and the Caribbean, South America, Central America, Mediterranean, and Middle East on the other hand.

Dated: August 9, 2013.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–19766 Filed 8–13–13; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 29, 2013.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *James A. Hopson, Delhi, Louisiana; W. Briggs Hopson, W. Briggs Hopson, III, James W. Hopson, Mary K. Ricks, all of Vicksburg, Mississippi; Stacey Hopson Burgess, Haltom City, Texas; David Doughty, Suzette Hopson Doughty, James O. Doughty, and Mary C. Doughty,* all of Rayville, Louisiana; collectively as a group acting in concert, to retain voting shares of Delhi Bancshares, Inc., and thereby indirectly retain voting shares of Guaranty Bank & Trust Company of Delhi, Louisiana, both in Delhi, Louisiana.

Board of Governors of the Federal Reserve System, August 9, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–19700 Filed 8–13–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Service (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting to discuss the Ryan White Program. The meeting will be open to the public.

DATES: The meeting will be held on September 18–19, 2013 from 9:00 a.m. to approximately 5:30 p.m. (EDT).

ADDRESSES: U.S. Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Talev, Public Health Analyst, Presidential Advisory Council on HIV/AIDS, Department of Health and Human Services, 200 Independence Avenue SW., Room 443H, Hubert H. Humphrey Building, Washington, DC 20201; phone: (202) 205–1178; email *caroline.talev@hhs.gov.* More detailed information about PACHA can be obtained by accessing the Council's Web site *www.aids.gov/pacha.*

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to promote effective prevention and cure of HIV disease and AIDS. The functions of the Council are solely advisory in nature.

The Council consists of not more than 25 members. Council members are selected from prominent community leaders with particular expertise in, or knowledge of, matters concerning HIV and AIDS, public health, global health, philanthropy, marketing or business, as well as other national leaders held in high esteem from other sectors of society. Council members are appointed by the Secretary or designee, in consultation with the White House Office on National AIDS Policy. The agenda for the upcoming meeting will be posted on the Council's Web site at *www.aids.gov/pacha.*

Public attendance at the meeting is 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 designated contact person. Due to space constraints, pre-registration for public attendance is advisable and can be accomplished by contacting Caroline Talev at *caroline.talev@hhs.gov* by Wednesday, September 11, 2013. Members of the public will have the opportunity to provide comments at the meeting. Any individual who wishes to participate in the public comment session must register with Caroline Talev at *caroline.talev@hhs.gov*; registration for public comment will not be accepted by telephone. Individuals who register to participate in the public comments session are encouraged to provide a hard copy of their comments to ensure accuracy of this information in the minutes developed for the meeting. The hard copy of the comments can be brought to the meeting and given to the designated PACHA staff member or sent in advance of the meeting to Caroline Talev at *caroline.talev@hhs.gov.* Public comment will be limited to two minutes per speaker. Any members of the public who wish to have printed material distributed to PACHA members at the meeting should submit, at a minimum, one copy of the materials to Caroline Talev, no later than close of business Wednesday, September 11, 2013.

Dated: July 24, 2013.

B. Kaye Hayes,

Executive Director, Presidential Advisory Council on HIV/AIDS.

[FR Doc. 2013–19644 Filed 8–13–13; 8:45 am]

BILLING CODE 4150–43–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: *''Evaluation of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) Quality Demonstration Grant Program: Survey Data Collection.''* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on May 31st, 2013 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by September 13, 2013.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer). Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) Quality Demonstration Grant Program: Survey Data Collection

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3, included funding for five-year grants so that States could experiment with and evaluate several promising ideas related to improving the quality of children's health care in Medicaid and CHIP. In February 2010, the Centers for Medicare & Medicaid Services (CMS) announced the award of 10 demonstration grants to States that convincingly articulated an achievable vision of what they could accomplish by the end of the five-year grant period, described strategies they would use to achieve the objectives, and explained how the strategies would achieve the objectives. Applicants were encouraged by CMS to address multiple grant categories (described below) and to partner with other States in designing and implementing their projects.

Of the 10 grantee States selected, six are partnering with other States, for a total of 18 demonstration States. The demonstration States are: Colorado (partnering with New Mexico); Florida (with Illinois); Maine (with Vermont); Maryland (with Wyoming and Georgia); Massachusetts; North Carolina; Oregon

(with Alaska and West Virginia); Pennsylvania; South Carolina; and Utah (with Idaho).

These demonstration States are implementing 51 distinct projects in at least one of five possible grant categories, A to E. Category A grantees are experimenting with and/or evaluating the use of pediatric quality measures, including those in the initial core set of children's health care quality measures (a group of measures developed for state Medicaid and CHIP agencies to report in a standardized fashion to CMS). Category B grantees are promoting health information technologies for improved care delivery and patient outcomes. Category C grantees are implementing person-centered medical homes or other provider-based levels of service delivery. Category D grantees will evaluate the impact of a model pediatric electronic health record. Category E grantees are testing other State-designed approaches to quality improvement in Medicaid and CHIP.

AHRQ's goal in supporting an evaluation of the CHIPRA Quality Demonstration Grant Program is to provide insight into how best to implement quality improvement programs as well as information on how successful programs can be replicated to improve children's health care quality in Medicaid and CHIP. The specific goals of this project are as follows:

1. Identify CHIPRA State activities that measurably improve the nation's health care, especially as it pertains to children.
2. Develop a deep, systematic understanding of how CHIPRA demonstration States carried out their grant-funded projects.
3. Understand why the CHIPRA demonstration States pursued certain strategies.
4. Understand whether and how the CHIPRA demonstration States' efforts affected outcomes related to knowledge and behavior change in targeted providers and/or consumers of health care.

This study is being conducted by AHRQ through its contractor, Mathematica Policy Research Inc., and their subcontractors, the Urban Institute and AcademyHealth, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To meet these goals AHRQ has designed a comprehensive evaluation that will make the best use of qualitative and quantitative research methods. The evaluation will include a survey of pediatricians and family physicians. This survey will include a random sample of physicians in Massachusetts, North Carolina, Ohio, and Pennsylvania. The questionnaire includes questions that support an analysis of (1) Physician attitudes towards specific strategies and resources aimed at improving the quality of care provided to pediatric patients; (2) the extent to which physicians' practices have attempted to implement changes in order to improve the quality of care provided to pediatric patients; (3) physician attitudes towards the utility of receiving performance feedback on nine of measures in the core quality measure set that are most relevant to primary care; (4) perceived usefulness of quality-of-care reports received by physician practices; (5) current practices and attitudes towards pay-for-performance financial incentive systems based on quality measure outcomes; (6) physicians' uses of and attitudes towards electronic health records (EHR) in quality measurement and improvement; (7) current and expected medical home accreditation processes; and (8) physician and practice demographic information. These data will be analyzed in conjunction with CMS claims data to gain insight on physician perspectives on quality measures and quality reporting and foster understanding of the strategies and resources that seemed to contribute most (or least) to those outcomes.

A separate information collection request will be submitted for interviews and focus groups that are part of this evaluation. Administrative and survey data will be analyzed with descriptive and inferential techniques appropriate to answering questions about outcomes and impacts.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this evaluation. The survey will be completed by 1,200 pediatricians and family physicians working in primary care settings in four States (300 per State) and takes 15 minutes to complete. The total burden is estimated to be 300 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Pediatrician and Family Physician Survey	1,200	1	15/60	300
Total	1,200	n/a	n/a	300

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this evaluation. The total cost burden is estimated to be $25,578.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Pediatrician and Family Physician Survey	1,200	300	$85.26	$25,578

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN—Continued

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Total	1,200	300	n/a	25,578

* Based upon the higher of the two means of the hourly wages for general and family practitioners and general pediatricians, National Compensation Survey: "May 2011 National Occupational Employment and Wage Estimates, United States." U.S. Department of Labor, Bureau of Labor Statistics.

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: August 2, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–19724 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–90–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) Consumer Assessment of Healthcare Providers and Systems (CAHPS) Health Plan Survey 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 October 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 d*oris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Collection of Information for Agency for Healthcare Research and Quality's (AHRQ) Consumer Assessment of Healthcare Providers and Systems (CAHPS) Health Plan Survey 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 Consumer Assessment of Healthcare Providers and Systems (CAHPS) Database for Health Plans: OMB Control number 0935–0165, expiration July 31, 2013. The CAHPS Health Plan Database consists of data from the AHRQ CAHPS Health Plan Survey. Health plans in the U.S. are asked to voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The CAHPS Database was developed by AHRQ in 1998 in response to requests from health plans, purchasers, and the Centers for Medicare & Medicaid Services (CMS) to provide comparative data to support public reporting of health plan ratings, health plan accreditation and quality improvement.

Background on the CAHPS Health Plan Survey. The CAHPS Health Plan Survey is a tool for collecting standardized information on enrollees' experiences with health plans and their services. The development of the CAHPS Health Plan Survey began in 1995, when AHRQ awarded the first set of CAHPS grants to Harvard, RTI, and RAND. In 1997 the CAHPS 1.0 survey was released by the CAHPS Consortium. The CAHPS Consortium refers to the research organizations involved in the development, dissemination, and support of CAHPS products. The current Consortium includes AHRQ, CMS, RAND, Yale School of Public Health, and Westat.

Since that time, the Consortium has clarified and updated the survey instrument to reflect field test results; feedback from industry experts; reports from health plan participants, data collection vendors, and other users; and evidence from cognitive testing and focus groups. In November 2006, the CAHPS Consortium released the latest version of the instrument: the CAHPS Health Plan Survey 4.0. The development of this update to the Health Plan Survey has been part of the ''Ambulatory CAHPS (A–CAHPS) Initiative,'' which arose as a result of extensive research conducted with users. AHRQ released the CAHPS Health Plan Survey 4.0, along with guidance on how to customize and administer it. The National Quality Forum endorsed the 4.0 version of the Health Plan Survey in July 2007.

Rationale for the information collection. The CAHPS Health Plan Database uses data from AHRQ's standardized CAHPS Health plan survey to provide comparative results to health care purchasers, consumers, regulators and policy makers across the country. The Database also provides data for AHRQ's annual National Healthcare Quality and National Healthcare Disparities Reports. Voluntary participants include public and private employers, State Medicaid agencies, State Children's Health Insurance

Programs (SCHIP), the Centers for Medicare & Medicaid Services (CMS), and individual health plans.

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

Each year State Medicaid agencies, and individual health plans decide whether to participate in the database and prepare their materials and dataset for submission to the CAHPS Health Plan Database. Participating organizations are typically State Medicaid agencies with multiple health plans. However, individual health plans are also encouraged to submit their data to the CAHPS Database. The number of data submissions per registrant varies from participant to participant and year to year because some participants submit data for multiple health plans, while others may only submit survey data for one plan.

Each organization that decides to participate in the database must have their point-of-contact (POC) complete a registration form providing their contact information for access to the on-line data submission system, sign and submit a DUA, and provide health plan characteristics such as health plan name, product type, type of population surveyed, health plan state, and plan name to appear in the reporting of their results.

Each vendor that submits files on behalf of a Medicaid agency or individual health plan must also complete the registration form in order to obtain access to the on-line submission system. The vendor, on behalf of their client, may also complete additional information about survey administration (CAHPS survey version used, mode of survey administration, total enrollment count, description of how the sample was selected), submit a copy of the questionnaire used, and submit one data file per health plan. Commercial health plan data is received directly from NCQA. Medicare health plan data is received from CMS.

Survey data from the CAHPS Health Plan Database is used to produce four types of products: (1) An annual chartbook available to the public on the CAHPS Database Web site (*https://www.cahpsdatabase.ahrq.gov/CAHPSIDB/Public/Chartbook.aspx*); (2) individual participant comparative reports that are confidential and customized for each participating organization (e.g., health plan, Medicaid agency) that submits their data; (3) a research database available to researchers wanting to conduct additional analyses; and (4) data tables provided to AHRQ for inclusion in the National Healthcare Quality and National Healthcare Disparities Reports.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondent to participate in the database. The burden hours pertain only to the collection of Medicaid data from State Medicaid agencies and individual Medicaid health plans because those are the only entities that submit data through the data submission process (other data are obtained directly from NCQA and CMS as noted earlier in Section 2). The 80 POCs in exhibit 1 are a combination of an estimated 60 State Medicaid agencies and individual health plans, and 20 estimated vendors.

Each State Medicaid agency, health plan or vendor will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a Health Plan information form of information about each Health Plan such as the name of the plan, the product type (e.g., HMO, PPO), the population surveyed (e.g., adult Medicaid or child Medicaid), the health plan State, total enrollment at the time the sample frame was generated, mode of survey administration (mail, telephone, IVR) and how the sample was selected. The online Health Plan Information form takes on average 30 minutes to complete per health plan with each POC completing the form for 4 plans on average. The data use agreement will be completed by the 60 participating State Medicaid agencies or individual health plans. Vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and return by fax or mail. Each submitter will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provide by the CAHPS Database. Since the unit of analysis is at the health plan level, submitters will upload one data file per health plan. Once a data file is uploaded the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to fix any errors in their data file and resubmit if necessary. It will take about one hour to submit the data for each plan, and each POC will submit data for 4 plans on average. The total burden is estimated to be 490 hours annually.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $20,202 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	80	1	5/60	7
Health Plan Information Form	80	4	30/60	160
Data Use Agreement	60	1	3/60	3
Data Files Submission	80	4	1	320
Total	300	NA	NA	490

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	80	7	[a] 47.34	$331
Health Plan Information Form	80	160	[a] 47.34	7,574
Data Use Agreement	60	3	[b] 85.02	255
Data Files Submission	80	320	[c] 37.63	12,042
Total	300	490	NA	20,202

* National Compensation Survey: Occupational wages in the United States May 2012, "U.S. Department of Labor, Bureau of Labor Statistics."
[a] Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
[b] Based on the mean hourly wage for Chief Executives (11–1011).
[c] Based on the mean hourly wages for Computer Programmer (15–1131).

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: August 8, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–19712 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Imaging Techniques for the Surveillance, Diagnosis, and Staging of Hepatocellular Carcinoma

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for scientific information submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public on imaging techniques for the surveillance, diagnosis, and staging of hepatocellular carcinoma. Scientific information is being solicited to inform our review of *Imaging Techniques for the Surveillance, Diagnosis, and Staging of Hepatocellular Carcinoma,* which is currently being conducted by the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information on imaging techniques for the surveillance, diagnosis, and staging of hepatocellular carcinoma will improve the quality of this review. AHRQ is conducting this comparative effectiveness review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: *Submission Deadline* on or before September 13, 2013.

ADDRESSES:

Online submissions: http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/. Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: SIPS@epc-src.org.

Print submissions:

Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Robin Paynter, Research Librarian, Telephone: 503–220–8262 ext. 58652 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a review of the evidence for *Imaging Techniques for the Surveillance, Diagnosis, and Staging of Hepatocellular Carcinoma.*

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on imaging techniques for the surveillance, diagnosis, and staging of hepatocellular carcinoma, including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://www.effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1600#7839*

This notice is to notify the public that the EHC program would find the following information on imaging techniques for the surveillance, diagnosis, and staging of hepatocellular carcinoma helpful:

- A list of completed studies your company has sponsored for this indication. In the list, *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost

to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.

▪ *A list of ongoing studies your company has sponsored for this indication.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

▪ Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your company for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the Effective Health Care Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is also available online at: *http://www.effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1600#7839*

Key Question 1

What is the comparative effectiveness of available imaging-based surveillance strategies (listed below under interventions for KQ 1), used singly or in sequence for detecting hepatocellular carcinoma (HCC) among individuals undergoing surveillance for HCC (individuals at high risk for HCC and individuals who have undergone liver transplants for HCC)?

a. What is the comparative test performance of imaging-based surveillance strategies for detecting HCC?

i. How is a particular technique's test performance modified by use of various reference standards (e.g., explanted liver samples, histological diagnosis, or clinical and imaging followup)?

ii. How is the comparative effectiveness modified by patient-level characteristics (e.g., body mass index, number of lesions, tumor diameter, or cause of liver disease) or other factors (e.g., technical aspects of imaging techniques, biomarker levels, test operator or interpreter skill, setting)?

b. What is the comparative effectiveness of imaging-based surveillance strategies on intermediate outcomes like diagnostic thinking?

c. What is the comparative effectiveness of imaging-based surveillance strategies on clinical and patient-centered outcomes?

d. What are the adverse effects or harms associated with imaging-based surveillance strategies?

Key Question 2

What is the comparative effectiveness of imaging techniques (listed under the interventions for KQ 2), used singly, in combination, or in sequence in diagnosing HCC among individuals in whom an abnormal lesion has been detected while undergoing surveillance for HCC (individuals at high risk for HCC and individuals who have undergone liver transplants for HCC) or through the evolution of symptoms and abdominal imaging done for other indications?

a. What is the comparative test performance of imaging techniques for diagnosing HCC?

i. How is a particular technique's test performance modified by use of various reference standards (e.g., explanted liver samples, histological diagnosis, or clinical and imaging followup)?

ii. How is the comparative effectiveness modified by patient-level characteristics (e.g., body mass index, number of lesions, tumor diameter, or cause of liver disease) or other factors (e.g., technical aspects of imaging techniques, biomarker levels, test operator or interpreter skill, setting)?

b. What is the comparative effectiveness of the various imaging techniques on intermediate outcomes like diagnostic thinking and use of additional diagnostic procedures such as fine-needle or core biopsy?

c. What is the comparative effectiveness of the various imaging techniques on clinical and patient-centered outcomes?

d. What are the adverse effects or harms (related to testing or a test-associated diagnostic workup) associated with the various imaging techniques?

Key Question 3

What is the comparative effectiveness of imaging techniques (listed under the interventions for KQ 3), used singly, in combination, or in sequence in staging HCC among patients diagnosed with HCC?

a. What is the comparative test performance of imaging techniques to predict HCC tumor stage?

i. How is a particular technique's test performance modified by use of various reference standards (e.g., explanted liver samples, histological diagnosis, or clinical and imaging followup)?

ii. How is the comparative effectiveness modified by patient-level characteristics (e.g., body mass index, number of lesions, tumor diameter, or cause of liver disease) or other factors (e.g., technical aspects of imaging techniques, biomarker levels, test operator or interpreter skill, setting)?

b. What is the comparative test performance of imaging techniques on diagnostic thinking?

c. What is the comparative effectiveness of imaging techniques on clinical and patient-centered outcomes?

d. What are the adverse effects or harms associated with using imaging techniques related to testing or test-associated diagnostic workup?

PICOTS (Population(s), Interventions, Comparators, Outcomes, Timing, Settings) by Key Question

Population(s)

- Key Question 1.
  - Patients at high risk for HCC undergoing surveillance. The population of high-risk patients is defined, as per the AASLD clinical guidelines, as composed of the following: Asian male HBV carriers over age 40, Asian female HBV carriers over age 50, HBV carriers with a family history of HCC, African/North American black HBV carriers, all individuals with cirrhosis (including alcoholic cirrhosis), HBV or HCV carriers with cirrhosis, and patients with stage 4 primary biliary cirrhosis.6 Other definitions of high-risk patients as defined by the primary studies will be accepted.
  - Patients who have undergone liver transplants for HCC, either with or without HCC detected in the explanted liver.
  - Both population groups will be considered separately.
- Key Question 2.
  - Patients at high risk for HCC in

whom a suspicious lesion(s) has been detected by surveillance or by other means.
  - Patients who have undergone liver transplants for HCC, either with or without HCC detected in the explanted liver.
  - Both population groups will be considered separately.
- Key Question 3
  - Patients diagnosed with HCC who require staging before initial treatment.
- All Key Questions
  - Patients with cholangiocarcinoma will be excluded.

Interventions

- Key Question 1
  - US, spiral CT, multidetector CT (MDCT), dual energy CT, or MRI.
  - Studies that included surveillance strategies of any other imaging test with or without additional biomarkers would also be included. The strategies could include the techniques being used singly or in a specific sequence.
- Key Question 2
  - Imaging techniques, used singly, in combination, or in a specific sequence, including US, spiral CT, MDCT, dual energy CT, MRI (including contrast agents like Gd-EOB–DTPA and SPIO), or fluorodeoxyglucose positron emission tomography (FDG–PET) with different tracers (including 18F, fluorothymidine [FLT], 11C-choline, and 11C = methionine, or others).
- Key Question 3
  - Imaging techniques, used singly, in combination, or in a specific sequence, including US, spiral CT, MDCT, dual energy CT, MRI with contrast (including contrast agents such as Gd-EOB–DTPA and SPIO), FDG–PET with different tracers (including 18F, FLT, 11C-choline, and 11C-methionine, or others), or contrast CT.
  - Test performance of imaging techniques will be stratified by the different staging systems used.
- All Key Questions
  - Outdated imaging techniques (e.g., conventional, nonspiral/nonmultidetector CT, or imaging techniques used before 1995) will be excluded.
  - Imaging techniques not available or in use in the United States (e.g., hepatic portography) will be excluded.

Comparators

- For studies of diagnostic accuracy (comparative test performance), the reference standard comparators will be histopathology (based on explanted liver specimens or biopsy) or clinical and imaging followup, and the imaging comparators will be alternative imaging tests or strategies.
- For studies of comparative effectiveness, the comparators will be no imaging or alternative imaging strategies.

Outcomes for Each Key Question

Key Question 1
- Diagnostic outcomes include:
  - Detection rates of HCC lesions.
  - Types of HCC lesions detected.
  - Test performance (e.g., sensitivity and specificity, predictive values, likelihood ratios, area under the receiver operating curve, or others) for diagnosing HCC, including stage-specific accuracy.
  - For all KQs, potential modifiers of measures of test performance will be evaluated, including the reference standards used (e.g., explanted liver samples, histological diagnosis, or clinical and imaging followup), patient and tumor-level characteristics (e.g., body mass index, number of lesions, tumor diameter, or cause of liver disease), or other factors (e.g., technical aspects of the imaging techniques, biomarker levels, test operator or interpreter skill, setting).
- Intermediate outcomes include:
  - Effects on diagnostic thinking.
- Effects on clinical decisionmaking.
  - Clinical and patient-centered outcomes include:
  - Overall mortality or survival.
  - Recurrence of HCC, including rates of seeding by fine-needle aspiration.
  - Quality of life as measured with scales such as the Short-Form Health Survey (SF–36) or EuroQol 5D (EQ–5™) or as defined by the primary studies.
  - Psychosocial effects of diagnostic testing on patients, patients' caregivers, and other family members, as measured by self-reported questionnaire instruments.
  - Resource utilization and patient burden (e.g., costs associated with the imaging procedure, access to the imaging facility, the number of imaging procedures, and other procedures conducted).

Key Question 2
- Diagnostic outcomes include:
  - Type of HCC lesions detected.
  - Test performance (e.g., sensitivity and specificity, predictive values, likelihood ratios, area under the receiver operating curve, or others) for diagnosing HCC. As in KQ 1, potential modifiers of measures of test performance will be evaluated, including the reference standards used (e.g., explanted liver samples, histological diagnosis, or clinical and imaging followup), patient and tumor-level characteristics (e.g., body mass index, number of lesions, tumor diameter, or cause of liver disease), or other factors (e.g., technical aspects of the imaging techniques, biomarker levels, test operator or interpreter skill, setting).
- Intermediate outcomes include:
  - Effects on diagnostic thinking.
- Effects on clinical decisionmaking.
  - Clinical and patient centered outcomes include:
  - Overall mortality or survival.
  - Recurrence of HCC, including rates of seeding by fine-needle aspiration
  - Quality of life as measured with scales such as the Short-Form Health Survey (SF–36) or EuroQol 5D (EQ–5™) or as defined by the primary studies.
  - Psychosocial effects of diagnostic testing on patients, patients' caregivers, and other family members, as measured by self-reported questionnaire instruments.
  - Resource utilization and patient burden (e.g., costs associated with the imaging procedure, access to the imaging facility, the number of imaging procedures and other procedures conducted).

Key Question 3
- Diagnostic outcomes include:
  - Measures for stage-specific accuracy of imaging (e.g., Obuchowski method for calculating the area under the receiver operating curve, stage reclassification rates).
- Intermediate outcomes include:
  - Effects on diagnostic thinking.
  - Effects on clinical decisionmaking.
- Clinical and patient-centered outcomes include:
  - Overall mortality or survival.
  - Recurrence of HCC, including rates of seeding by fine-needle aspiration
  - Quality of life as measured with scales such as the Short-Form Health Survey (SF–36) or EuroQol 5D (EQ–5™) or as defined in the primary studies.
  - Psychosocial effects of diagnostic testing on patients, patients' caregivers, and other family members as measured by self-reported questionnaire instruments.
  - Resource utilization and patient burden (e.g., costs associated with the imaging procedure, access to the imaging facility, the number of imaging procedures and additional procedures conducted).

Key Questions 1d, 2d, and 3d (Adverse Events or Harms)

- Adverse effects or harms associated with the imaging techniques (e.g., test-related anxiety, adverse events secondary to venipuncture, contrast allergy, exposure to radiation).
- Adverse effects or harms associated with test-associated diagnostic workup (e.g., harms of biopsy or harms associated with workup of other incidental tumors discovered on imaging).

Timing

- No restrictions will be placed on timing.
- For studies of comparative effectiveness, duration of followup, timing of interventions, and frequency of interventions will be recorded.

Settings

- All relevant care settings (e.g., primary and secondary care).

Dated: August 6, 2013.

Carolyn M. Clancy,

AHRQ Director.

[FR Doc. 2013–19714 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day-13–0743]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intra-partum Care Facilities in the United States and Territories (OMB No. 0920–0743, exp. 12/31/2011)—Reinstatement with Changes—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Health professionals recommend at least 12 months of breastfeeding, and Healthy People 2020 establishes specific national breastfeeding goals. In addition to increasing overall rates, a significant public health priority in the United States (U.S.) is to reduce variation in breastfeeding rates across population subgroups. Because hospital practices strongly influence infant feeding outcomes, the health care system is one of the most important and effective settings for improving breastfeeding initiation rates.

In 2007, CDC conducted the first national survey of Maternity Practices in Infant Nutrition and Care, known as the mPINC Survey. The survey inquired about care practices and support for breastfeeding throughout the maternity stay as well as staff training and maternity care practices. Following the collection of baseline information in 2007, the mPINC survey was conducted again in 2009 and 2011.

CDC proposes to repeat the mPINC in 2013 and 2015, with changes. In previous cycles of data collection, two versions of the mPINC survey instrument were used: one for hospitals and one for birth centers. In 2013 and 2015, one instrument will be used for both hospitals and birth centers. There are no changes to survey content, other than the minor changes needed to produce a single streamlined instrument for all facilities. There is no change to the estimated burden per response (30 minutes). Similarly, in 2013 and 2015 screening for eligible facilities will be conducted with a single screening instrument.

Facilities will identified by using information obtained through the American Association of Birth Centers (AABC) and the American Hospital Association (AHA) Annual Survey of Hospitals. Facilities that will be invited to participate in the survey include those that participated in previous iterations and those that were invited but did not participate in the previous iterations, as well as those that have become eligible since the most recent mPINC survey. All birth centers and hospitals with ≥1 registered maternity bed will be screened for eligibility via a brief phone call to assess their eligibility, identify additional locations, and identify the appropriate point of contact.

As with the initial surveys, a major goal of the 2013 and 2015 follow-up surveys is to be fully responsive to facilities' needs for information and technical assistance. CDC will provide direct feedback to respondents in a customized benchmark report of their results and identify and document progress since 2007 on their quality improvement efforts. CDC will use information from the mPINC surveys to identify, document, and share information related to incremental changes in practices and care processes over time at the hospital, state, and national levels. Data will be also used by researchers to better understand the relationships between hospital characteristics, maternity-care practices, state level factors, and breastfeeding initiation and continuation rates.

OMB approval is requested for three years. On an annualized basis, CDC estimates initial contact with 2,570 facilities that will complete Part A of the Screening Telephone Call, and 2,200 respondents that will also complete Part B of the Screening Telephone Call. CDC estimates receipt of completed surveys from 1,825 facilities.

Participation in the survey is voluntary, and responses may be submitted by mail or through a Web-based system. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,103.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name		Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Maternity facility	Screening telephone call script	Part A	2,570	1	1/60
		Part B	2,200	1	4/60
	mPINC Facility Survey		1,825	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–19675 Filed 8–13–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2013–0015; NIOSH 237–A]

National Institute for Occupational Safety and Health Personal Protective Technology Program and National Personal Protective Technology Laboratory Conformity Assessment Public Meeting

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following public meeting: ''Conformity Assessment Meeting on Non-Respiratory Personal Protective Equipment (PPE).''

To view the notice and related materials, visit *www.regulations.gov* and enter CDC–2013–0015 in the search field and click ''search.''

Stakeholder Meeting Time and Date: 8:00 a.m. to 12:00 p.m. EDT, September 17, 2013.

Place: NIOSH Pittsburgh Research Center located at 626 Cochrans Mill Road, Building 140, Pittsburgh, Pennsylvania 15236. This meeting will also be available by remote participation through ''live meeting.''

Purpose of the Meeting: This meeting is being held to provide 1) a summary of the work conducted by the NIOSH Personal Protective Technology (PPT) Conformity Assessment Working Group 2) provide an overview of model Conformity Assessment programs, and 3) solicit input to define a national framework for PPE conformity assessment.

This meeting will include presentations on Product and Standards, Risk Assessment, Surveillance and Compliance and Enforcement targeting General Industry, Healthcare, Public Safety, and Mining stakeholders.

Moderated breakout sessions will discuss preferred Conformity Assessment (CA) components (as detailed in the background below); existing U.S. CA infrastructure capabilities; and gaps in legislation, standards, and infrastructure that need to be filled to define the framework. These breakout discussions will not be available through remote participation; however, the breakout reports will be available to remote participants when the groups reconvene.

Status: The meeting is open to the public, limited only by the capacity (150) of the conference room. Registration will be accepted on a first-come first-served basis. Participants are encouraged to consider remote participation through ''live meeting.'' Registration by September 13, 2013 is required for both attendance in person and ''live meeting'' participation. Registration for both options is available on the NIOSH Web site. Non-U.S. citizens, attending in person, need to register on or before August 16, 2013, to allow sufficient time for mandatory CDC facility security clearance procedures to be completed. An email confirming registration will be sent from NIOSH to all participants. Government-issued photo identification is required to obtain entrance to the NIOSH location.

An opportunity for individuals or organization representatives wishing to offer verbal comments (five minute time limit) will be provided as time permits after the breakout reports. Time slots are limited and available on a first-come first-served basis. Preregistration for providing verbal comment can be requested when registering for the meeting. Submit electronic comments through *www.regulations.gov.*

All information received in response to this notice and meeting must include the agency name and docket number (CDC–2013–0015; NIOSH 237–A). All relevant comments received will be posted without change to *www.regulations.gov,* including any personal information provided. All electronic comments should be formatted in Microsoft Word. Please make reference to CDC–2013–0015 and NIOSH Docket Number 237–A.

Background: In response to recommendations made by the *National Academies of Science* during a programmatic review, the NIOSH Personal Protective Technology Conformity Assessment Working Group was established in 2011. The goal of this group is to prepare a national framework establishing criteria, including comprehensive and consistent processes, to address conformity assessment of non-respiratory personal protective equipment. Conformity assessment is defined as the ''demonstration that specified requirements relating to a product, process, system, person or body are fulfilled.'' Conformity assessment processes for PPT products are focused on product effectiveness and include the following primary components: Certification (ISO/IEC 17065), Inspection (ISO/IEC 17020), Testing (ISO/IEC 17025), Accreditation (ISO/IEC 17011), Surveillance (ISO/IEC 17011, ISO/IEC 17065), Supplier's Declaration of Conformity (ISO/IEC 17050), Registration (ISO/IEC 17021) and Quality Management Systems (ISO/9001).

The Conformity Assessment Project Report and preliminary framework documents will be available at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Metzler, General Engineer, NIOSH National Personal Protective Technology Laboratory Office of the Director at *NPPTLeventspublic@cdc.gov,* telephone (412) 386–6866, fax (412) 386–6617.

Dated: August 8, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–19676 Filed 8–13–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; CMS Computer Match No. 2013–08; HHS Computer Match No. 1309

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Internal Revenue Service (IRS), a Bureau of the Department of the Treasury.

DATES: *Effective Dates:* Comments are invited on all portions of this notice. Public comments are due 30 days after publication. The matching program will become effective no sooner than 40 days after the report of the matching program is sent to the Office of Management and Budget (OMB) and Congress, or 30 days

after publication in the **Federal Register**, whichever is later.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards & Services, Office of Enterprise Management, CMS, Room S2–24–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Aaron Wesolowski, Director, Verifications Policy & Operations Branch, Division of Eligibility and Enrollment Policy and Operations, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Avenue, Bethesda, MD 20814, Office Phone: (301) 492–4416, Facsimile: (443) 380–5531, E-Mail: *Aaron.Wesolowski@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;

2. Obtain the Data Integrity Board approval of the match agreements;

3. Furnish detailed reports about matching programs to Congress and OMB;

4. Notify applicants and beneficiaries that the records are subject to matching; and,

5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

This matching program meets the requirements of the Privacy Act of 1974, as amended.

Date: July 31, 2013.

Michelle Snyder,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

CMS Computer Match No. 2013–08
HHS Computer Match No. 1309

NAME:

''Computer Matching Agreement between the Department of Health and Human Services, Centers for Medicare & Medicaid Services, and the Department of the Treasury, Internal Revenue Service, for the Verification of Household Income and Family Size for Insurance Affordability Programs and Exemptions''.

SECURITY CLASSIFICATION:

Unclassified.

PARTICIPATING AGENCIES:

Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and Department of the Treasury, Internal Revenue Service (IRS).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

Sections 1411 and 1413 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively, the ACA) require the Secretary of HHS to establish a program for determining eligibility for certain Insurance Affordability Programs, certifications of Exemption, and authorize use of secure, electronic interfaces and an on-line system for the verification of eligibility.

Section 1414 of the ACA amended 26 U.S.C. 6103 to add paragraph (l)(21), which authorizes the disclosure of certain items of Return Information as part of the Eligibility Determination process for enrollment in the following Insurance Affordability Programs: advance payments of the premium tax credit (APTC) under Sections 1401, 1411 and 1412 of the ACA; a Cost Sharing Reduction (CSR) under Section 1402 of the ACA; Medicaid and the Children's Health Insurance Program (CHIP), under titles XIX and XXI of the Social Security Act, pursuant to Section 1413 of the ACA; or a State's Basic Health Program (BHP), if applicable, under Section 1331 of the ACA.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of the Computer Matching Agreement (CMA) is to establish the terms, conditions, safeguards, and procedures governing the disclosures of Return Information by IRS to CMS and by CMS to an Administering Entity (state agencies that administer Medicaid or CHIP, and state-based Exchanges and Marketplaces) through the CMS Data Services Hub to support the verification of Household Income and Family Size for an Applicant receiving an Eligibility Determination under the ACA.

Return Information will be matched by CMS in its capacity as the Federally-facilitated Exchange (Federally-facilitated Marketplace) or by an Administering Entity for the purpose of determining eligibility for Insurance Affordability Programs (APTC, CSR, Medicaid, CHIP or a BHP). Return Information will also be matched for determining eligibility for certain certificates of Exemption.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

The matching program will be conducted with data maintained by CMS in the Health Insurance Exchanges System (HIX), CMS System No. 09–70–0560, as amended, published at 78 **Federal Register** (FR) 8538 (Feb. 6, 2013) and 78 FR 32256 (May 29, 2013).

The matching program will also be conducted with specified Return Information maintained by IRS in the Customer Account Data Engine (CADE) Individual Master File, Treasury/IRS 24.030, published at 77 FR 47948 (August 10, 2012).

INCLUSIVE DATES OF THE MATCH:

The CMP will become effective no sooner than 40 days after the report of the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2013–19722 Filed 8–13–13; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; CMS Computer Match No. 2013–06; HHS Computer Match No. 1308

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974,

as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Veterans Health Administration (VHA), an Administration of the Department of Veterans Affairs (VA).

DATES: *Effective Dates:* Comments are invited on all portions of this notice. Public comments are due 30 days after publication. The matching program will become effective no sooner than 40 days after the report of the matching program is sent to the Office of Management and Budget (OMB) and Congress, or 30 days after publication in the **Federal Register**, whichever is later.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards & Services, Offices of Enterprise Management, CMS, Room S2–24–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Aaron Wesolowski, Director, Verifications Policy & Operations Branch, Division of Eligibility and Enrollment Policy and Operations, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Avenue, Bethesda, MD 20814, Office Phone: (301) 492–4416, Facsimile: (443) 380–5531, EMail: *Aaron.Wesolowski@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

This matching program meets the requirements of the Privacy Act of 1974, as amended.

Dated: August 9, 2013.

Michelle Snyder,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

CMS Computer Match No. 2013–06
HHS Computer Match No. 1308

NAME:

''Computer Matching Agreement between the Department of Health and Human Services, Centers for Medicare & Medicaid Services, and the Department of Veterans Affairs, Veterans Health Administration, for the Determination of Eligibility for the Advance Premium Tax Credit and Cost Sharing Reductions under the Affordable Care Act''

SECURITY CLASSIFICATION:

Unclassified

PARTICIPATING AGENCIES:

Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and Department of Veterans Affairs (VA), Veterans Health Administration (VHA).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

Sections 1411 and 1413 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively, the ACA) require the Secretary of HHS to establish a program for applying for and determining eligibility for advance payments of the premium tax credit and cost sharing reductions and authorize use of secure, electronic interfaces and an on-line system for the verification of eligibility.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of the Computer Matching Agreement is to establish the terms, conditions, safeguards, and procedures under which VHA will provide records, information, or data to CMS for making eligibility determinations for advance payments of the premium tax credit (APTC) and cost sharing reductions (CSR). The data will be used by CMS in its capacity as a Federally-facilitated Exchange, and by State-based Exchanges that will receive the results of verifications using VHA data obtained through the CMS Data Services Hub.

Data will be matched for the purpose of assisting CMS or a State-based Exchange to determine eligibility for the following benefits: (1) APTC under 26 U.S.C. § 36B and (2) CSR under Section 1402 of the ACA. Specifically, CMS will use VHA data to verify an Applicant or Enrollee's eligibility for VHA health care programs that constitute minimum essential coverage as defined in section 5000A(f) of the Internal Revenue Code of 1986, 26 U.S.C. § 5000A, as amended by § 1501 of the ACA.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

The matching program will be conducted with data maintained by CMS in the Health Insurance Exchanges (HIX) Program, CMS System No. 09–70–0560, as amended. The system is described in System of Records Notices (SORNs) published at 78 **Federal Register** (Fed. Reg.) 8538 (Feb. 6, 2013) and 78 Fed. Reg. 32256 (May 29, 2013).

The matching program will also be conducted with data maintained in two VHA systems of records. The VHA systems are described in the following SORNs:

- 147VA16 Enrollment and Eligibility Records (VA) published at 74 Fed. Reg. 44901 (August 31, 2009);
- 54VA16 Health Administration Center Civilian Health Medical Record—VA (CHAMPVA), and Spina Bifida Healthcare Program published at 74 Fed. Reg. 34398 (July 15, 2009).

INCLUSIVE DATES OF THE MATCH:

The CMP will become effective no sooner than 40 days after the report of the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 2013–19719 Filed 8–13–13; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0377]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Tobacco Health Document Submission

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 September 13, 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 0910–0654. Also include the FDA 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: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Tobacco Health Document Submission—(OMB Control Number 0910–0654)—Extension

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by adding, among other things, a new chapter granting FDA important authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. The Tobacco Control Act created many new requirements for the tobacco industry. Section 101 of the Tobacco Control Act amended the FD&C Act by adding, among other things, section 904(a)(4) (21 U.S.C. 387d(a)(4)).

Section 904(a)(4) of the FD&C Act requires each tobacco product manufacturer or importer, or agent thereof, to submit all documents developed after June 22, 2009, ''that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives'' (herein referred to as ''tobacco health documents'').

FDA announced the availability of a guidance on this collection in the **Federal Register** of April 20, 2010 (75 FR 20606), and requested tobacco health documents that were created during the period from June 23, 2009, through December 31, 2009. The guidance stated that information required under section 904(a)(4) of the FD&C Act must be submitted to FDA beginning December 22, 2009. Further, FDA stated it would publish a revised guidance specifying the timing of subsequent reporting. FDA is in the process of revising the April 2010 guidance but will continue collecting documents created during the specified period from any manufacturers, importers, or their agents who still have documents to submit.

FDA has been collecting the information submitted under section 904(a)(4) of the FD&C Act through a facilitative electronic form and through a paper form (Form FDA 3743) for those individuals who choose not to use the electronic method. In both forms, FDA is requesting the following information from firms that have not already reported or still have documents to report:

- Submitter identification: Submitter type, company name, address, country, company headquarters Dun and Bradstreet number, and company headquarters Facility Establishment Identifier number;
- Submitter point of contact: Contact name, title, position title, email, telephone, and fax; and
- Submission format and contents (as applicable):
  - Electronic documents: Media type, media quantity, size of submission, quantity of documents, file type, and file software;
  - Paper documents: Quantity of documents, quantity of volumes, and quantity of boxes; and
  - Whether or not a submission is being provided.
- Confirmation statement (with identification and signature of submitter including name, company name, address, position title, email, telephone, and fax); and
- Document categorization (as applicable): Relationship of the document or set of documents to the following:
  - Health, behavioral, toxicological, or physiological effects;
  - Specific current or future tobacco product(s);
  - Class of current or future tobacco product(s);
  - Specific ingredient(s), constituent(s), component(s), or additive(s);
  - Class of ingredient(s), constituent(s), component(s), or additive(s).
- Document readability and accessibility: Keywords; glossary or explanation of any abbreviations, jargon, or internal (e.g., code) names; special instructions for loading or compiling submission; and
- Document metadata: Date document was created, document author(s), document recipient(s), document custodian, document title or identification number, beginning and ending Bates numbers, and Bates number ranges for documents attached to a submitted email.

In addition to the electronic and paper forms, the guidance that FDA issued in April 2010 (75 FR 20606) was intended to assist persons making tobacco health document submissions. For further assistance, FDA is providing a technical guide, embedded hints, and a Web tutorial on the electronic portal.

The estimated 50 hours per response burden is based on the average burden estimate among all four respondents. Therefore, on an individual basis, the actual burden per respondent may be higher or lower than the 50 hours estimate because it is an average value. FDA currently is evaluating the classification/coding recommendations and will revisit this issue in future guidance. The number of documents received each year since the original collection period has fallen to less than 5 percent of the number received in the original collection period. FDA expects this is because documents created within the specified period have already been submitted. Also, the number of respondents who still have documents to submit has decreased. Therefore, FDA estimates the biannual burden of the continuation of this collection to be at most, 5 percent of the original burden.

In the **Federal Register** of April 10, 2013 (78 FR 21379), FDA published a 60-day notice requesting public

comment on the proposed collection of information. FDA received five comments; some comments raised more than one issue. Comments relevant to the information request are addressed in this document.

(Comment 1) One comment indicated that the intent of the notice was unclear and suggested that FDA revise and republish the notice to provide clarity and allow stakeholders more opportunity to comment.

(Response) FDA published the 60-day information collection notice (78 FR 21379) to provide an opportunity for comment on its proposed extension of an existing collection of information. The collection includes health tobacco documents created during the period June 23, 2009, through December 31, 2009, that have not been submitted to FDA. FDA does not believe that revision of the April 2013 notice would add clarity or provide a more meaningful opportunity to comment. FDA has met the requirements for the proposed extension of this collection of information.

(Comment 2) Another comment stated that FDA is outside its statutory authority in recommending coding/classification and places an unnecessary and unreasonable burden on the industry with no benefit to FDA in collecting this information.

(Response) Section 904(a)(4) of the FD&C Act grants FDA the authority to collect health document information as specified in this document. The classification and coding mentioned in this document are recommendations from the April 2010 guidance, and FDA will reevaluate and revisit this issue in developing future guidance.

(Comment 3) Two comments indicated that the timing and burden for this collection are underestimated.

(Response) The estimated burden of 50 hours per response is based on the average burden estimate among four respondents. Therefore, on an individual basis, the actual burden per respondent may be higher or lower than the 50 hours estimate because it is an average value. FDA notes that the number of documents received since the original collection period has decreased each year and is currently less than 5 percent of the number received in the year following the Agency's original announcement. FDA expects that this collection of information will decrease by 7,600 hours because most documents created within the specified period have been submitted, and the number of respondents who still have documents to submit has decreased. Therefore, FDA estimates the biannual burden of the continuation of this collection to be, at most, 5 percent of the original burden.

(Comment 4) One comment indicated that the information requested in this collection is from too narrow a collection window, and another comment stated that the collection of 2009 information in 2013 is not necessary.

(Response) Section 904(a)(4) of the FD&C Act sets out an ongoing requirement for the submission of tobacco health documents. FDA is in the process of revising the April 2010 guidance to specify the timing of subsequent submissions. However, the Agency will continue collecting documents created during the period from June 23, 2009, through December 31, 2009, from any manufacturers, importers, or their agents who still have documents to submit.

(Comment 5) Several comments referred to the 2009 draft guidance (74 FR 68629, December 28, 2009) and to previously submitted comments on the 2009 draft guidance.

(Response) The 2009 draft guidance was superseded by publication of the April 2010 guidance. FDA considered comments on the 2009 draft guidance while developing the April 2010 guidance. Comments on Agency guidance are welcome at any time (21 CFR 10.115(g)(5)), and comments submitted on the April 2010 guidance will be considered when the guidance is revised.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Tobacco Health Document Submissions and Form FDA 3743	4	2	8	50	400

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19683 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0842]

Consolidation of Wound Care Products Containing Live Cells

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is transferring oversight responsibilities for certain wound care products containing live cells from the Center for Devices and Radiological Health (CDRH) to the Center for Biologics Evaluation and Research (CBER). This consolidation initiative provides the opportunity to further develop and coordinate scientific and regulatory activities between CDRH and CBER. FDA believes that as more wound care products containing live cells are developed such consolidation is necessary for both efficient and consistent Agency action.

FOR FURTHER INFORMATION CONTACT: John Barlow Weiner, Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5130, Silver Spring, MD 20993, 301–796–8930, *john.weiner@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Consolidation of Approved Wound Care Products Containing Live Cells in CBER

On August 14, 2013, primary responsibility for regulating the following approved products: P950032, P960007, P000036, P010016, (all with product code MGR); H990013 (product code PBD); and H990002 (product code OCE), and all supplements included therein, was transferred from the Office of Device Evaluation, CDRH, to the Office of Cellular, Tissue and Gene Therapies, CBER. The jurisdictional assignment of these products to CBER is

in accordance with section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)) and 21 CFR 3.4. This will consolidate primary responsibility for regulating wound care products containing live cells in CBER.

II. Web page Listing CDRH Applications Transferred to CBER and Contact Information

FDA has created a Web page listing the premarket approval applications and humanitarian device exemptions in CDRH that are being transferred to CBER. Sponsors of these products are encouraged to consult the Web page to find new contact information. The Web page address is: *http://www.fda.gov/BiologicsBloodVaccines/CellularGeneTherapyProducts/ucm356173.htm.*

Commencing immediately, submitters should send submissions to: Document Control Center, HFM–99, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. *Contact for questions on submissions:* Patrick Riggins, Office of Cellular, Tissue and Gene Therapy, Center for Biologics Evaluation and Research, WOC1, Rm. 234N (HFM–705), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–5366, *patrick.riggins@fda/hhs.gov.*

Dated: August 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19685 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2006–D–0300] (formerly Docket No. 2006D–0504)

Radio Frequency Wireless Technology in Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Radio Frequency Wireless Technology in Medical Devices; Guidance for Industry and Food and Drug Administration Staff.'' This guidance document is intended to assist industry and FDA staff in identifying and appropriately addressing specific considerations related to the incorporation and integration of radio frequency (RF) wireless technology in medical devices. This guidance discusses issues that may affect the safe and effective use of medical devices that incorporate RF wireless technology, including selection of wireless technology, quality of service, coexistence, security, and electromagnetic compatibility, and provides recommendations for information to be included in FDA premarket submissions for such devices.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Radio Frequency Wireless Technology in Medical Devices; Guidance for Industry and Food and Drug Administration Staff'' to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002 or Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist those offices in processing your request, or fax your request to CDRH at 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Donald Witters, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1130, Silver Spring, MD 20993–0002, 301–796–2483; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA developed this guidance document to assist industry, systems and service providers, consultants, FDA staff, and others involved in the design, development, and evaluation of RF wireless technology in medical devices. The use and deployment of RF wireless technology in and around medical devices is an increasing concern because the electromagnetic environments where medical devices are used might contain many sources of RF energy, and the RF wireless emissions from one product or device could potentially affect the function of another. The guidance recommends that manufacturers address the potential issues that relate to the incorporation of RF wireless technology that may affect the safe and effective use of medical devices.

The draft guidance document and comment period were announced in the **Federal Register** on January 3, 2007 (72 FR 137). The comment period closed on April 2, 2007. Over 25 companies, numerous organizations, and many individuals provided around 180 comments. FDA considered all of the comments and revised the guidance where appropriate.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on radio frequency wireless technology in medical devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or the CBER Internet site at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* To receive ''Radio Frequency Wireless Technology in Medical Devices; Guidance for Industry and Food and Drug Administration Staff,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1618 to

identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in 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 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H have been approved under OMB control number 0910–0332; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (See **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: August 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19686 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Gastroenterology Regulatory Endpoints and the Advancement of Therapeutics; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research, in cosponsorship with the American College of Gastroenterology, the American Gastroenterological Association, the Crohn's and Colitis Foundation of America, Inc., the North American Society for Pediatric Gastroenterology, Hepatology, and Nutrition, and the Pediatric IBD Foundation, is announcing a 2-day public workshop entitled ''Gastroenterology Regulatory Endpoints and the Advancement of Therapeutics (GREAT II).'' Partners and stakeholders planning the workshop also include patients and representatives from the Eunice Kennedy Shriver National Institute of Child Health and Human Development at the National Institutes of Health. The purpose of this workshop is to provide a forum to consider issues related to endpoints that can support drug development in the following disease areas: Pediatric and adult inflammatory bowel diseases.

DATES: The public workshop will be held on October 21 and 22, 2013, from 8:30 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at the National Institutes of Health, 31 Center Dr., Natcher Conference Center, Building 45, Bethesda, MD 20892–2178.

FOR FURTHER INFORMATION CONTACT: Kevin Bugin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2302, FAX: 301–796–9905, email: *Kevin.Bugin@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: This workshop will address endpoints for registration trials. Stakeholders, including industry sponsors, academia, patients, and FDA, will be engaged to address challenging issues related to selection of endpoints and assessment methodologies in registration trials for products intended to treat adult and/or pediatric inflammatory bowel disease. The definition and measurement of treatment benefit in Crohn's disease registration trials, the role of existing and future clinical outcome assessments including development of patient reported outcome measures, timing of endpoint assessments, and dose-finding strategies will be discussed. In addition, there will be a followup to previous workshop discussions of endpoints and clinical trial design for ulcerative colitis registration trials. Strategies and methods to overcome the challenges of developing drugs in pediatric populations and facilitate the collection of dosing, safety, and efficacy information for drugs not currently approved for use in children will be discussed.

Participation in the Public Workshop:

Registration: There is no fee to attend the public workshop, but attendees must register in advance. Space is limited, and registration will be on a first-come, first-served basis. Persons interested in attending this workshop must register online at *http://www.great2.org* before October 1, 2013. For those without Internet access, please contact Kevin Bugin (see **FOR FURTHER INFORMATION CONTACT**) to register. Onsite registration will not be available.

If you need special accommodations due to a disability, please contact Kevin Bugin (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

Transcripts: Transcripts of the workshop will be available for review at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and on the Internet at *http://www.regulations.gov* approximately 30 days after the workshop. A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Send faxed requests to 301–827–9267.

Dated: August 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–19684 Filed 8–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received within 30 days of this notice.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

Information Collection Request Title: Request for Benefits Form—Optional Collection of Additional Medical Records, Collection of Benefits Determination Documentation OMB No. 0915–0334—Revision

Abstract: This is a revision to the request for OMB approval of the information collection requirements for the Countermeasures Injury Compensation Program (CICP). The CICP, within the Health Resources and Services Administration (HRSA), administers the compensation program authorized by the Public Readiness and Emergency Preparedness Act (PREP Act). The CICP provides compensation to eligible individuals (requesters) who suffer serious injuries directly caused by a covered countermeasure administered or used pursuant to a PREP Act Declaration, or to their estates and/or survivors. A declaration is issued by the Secretary of the Department of Health and Human Services (Secretary). The purpose of a declaration is to identify a disease, health condition, or a threat to health that is currently, or may in the future constitute, a public health emergency. In addition, the Secretary, through a declaration, may recommend and encourage the development, manufacturing, distribution, dispensing, and administration or use of one or more covered countermeasures to treat, prevent, or diagnose the disease, condition, or threat specified in the declaration.

To determine whether a requester is eligible for CICP benefits (compensation) for the injury, the CICP must review the Request for Benefits Package, which includes the Request for Benefits Form and Authorization for Use or Disclosure of Health Information Form(s), as well as the injured countermeasure recipient's medical records and supporting documentation.

A requester who is an injured countermeasure recipient may be eligible to receive benefits for unreimbursed medical expenses and/or lost employment income. The estate of a deceased countermeasure recipient may also be eligible to receive medical benefits and/or benefits for lost employment income accrued prior to the injured countermeasure recipient's death. If death was the result of the administration or use of the countermeasure, certain survivor(s) of deceased eligible countermeasure recipients may be eligible to receive a death benefit, but not unreimbursed medical expenses or lost employment income benefits. 42 CFR § 110.33. The death benefit is calculated using either the ''standard calculation'' or the ''alternative calculation.'' The ''standard calculation'' is based on the death benefit available under the Public Safety Officers' Benefits (PSOB) Program. 42 CFR 110.82(b). The ''alternative calculation'' is based on the deceased countermeasure recipient's income and is only available to the recipient's dependent(s) who is (are) younger than age 18. 42 CFR 110.82(c).

Approval is requested for the required continued information collection via the Request for Benefits Package, which has been updated to include all categories of potentially eligible requesters, including adult children, so that the CICP may continue to accept and process requests for benefits. The Request for Benefits Form and Instructions have been revised to remove the request for a Social Security number, update the CICP Web site address, and add a new category of eligible requesters, adult children. This new category was added because the CICP is generally required to use the same categories of survivors and order of priority for benefits as established and defined by the PSOB Program. 42 CFR 110.11(b). This new category of survivors was added under the PSOB Program.

Approval is requested for new mechanisms of obtaining medical documentation and supporting documentation collection. During the eligibility review, the CICP would like to provide requesters with the opportunity to supplement their case files with additional medical records and supporting documentation before a final determination is made. The CICP would ask requesters to complete and sign a form indicating whether they intend to submit additional documentation prior to the final determination of their case.

Approval is requested for a benefits documentation package the CICP plans to send to requesters who may be eligible for compensation which includes certification forms and instructions outlining the documentation needed to determine the types and amounts of benefits. This documentation is required under 42 CFR 110.61–110.63 of the CICP's implementing regulations to enable the CICP to determine the types and amounts of benefits the requester may be eligible to receive.

Need and Proposed Use of the Information: The information collected from requesters to the CICP provides data and documentation that is needed for the Program to determine: (1) The requester's eligibility to receive benefits; and (2) if applicable, the type and amount of benefits that may be awarded.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Request for Benefits Form and Supporting Documentation	100	1	100	11	1100
Authorization for Use or Disclosure of Health Information Form	100	1	100	2	200
Additional Documentation and Certification	30	1	30	.75	22.5
Benefits Package and Supporting Documentation	30	1	30	.125	3.75

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Total	100				1326.25

Dated: August 6, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–19648 Filed 8–13–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30-Day Proposed Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, which requires 30 days for public comment on proposed information collection projects, the Indian Health Service (IHS) is submitting to the Office of Management and Budget (OMB) a request for a revision of an approved collection of information titled, ''Application for Participation in the IHS Scholarship Program (OMB Control Number 0917–0006),'' with an expiration date of August 31, 2013. This proposed information collection project was previously published in the **Federal Register** (78 FR 36197) on June 17, 2013, and allowed 60 days for public comment, as required by 3506(c)(2)(A). The IHS received no comments regarding this collection. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: ''Application for Participation in the IHS Scholarship Program (OMB Control Number 0917–0006).'' *Type of Information Collection Request:* Revision of the currently approved information collection, ''Application for Participation in the IHS Scholarship Program, (OMB Control No. 0917–0006).'' *Form Number(s):* IHS–856–3, IHS–856–5 through 856–19, IHS–856–21 through 856–24, IHS–817, and IHS–818 are retained for use by the IHS Scholarship Program (IHSSP) as part of this current Information Collection Request. Reporting forms are found on the IHS Web site at *www.ihs.gov/scholarship.* Form Numbers: IHS–856, IHS–856–2, IHS–856–4, IHS–856–20, IHS–815, and IHS–816 have been deleted from the previous Information Collection Request in an effort to comply with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). *Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to: solicit, process, and award IHS Pre-graduate, Preparatory, and/or Health Professions Scholarship recipients; monitor the academic performance of recipients; and to place recipients at payback sites. The IHS Scholarship Program streamlined the application process by converting the IHS–856 to an electronic tool and reduced the number of required supplemental application and reporting forms to minimize the time needed by applicants and recipients to complete the application process and provide required information after receiving a scholarship from the IHSSP. The IHSSP application is electronically available on the internet at the IHS Web site at: *http://www.ihs.gov/scholarship/apply_now.cfm.*

Affected Public: Individuals, not-for-profit institutions and State, local or Tribal Governments. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hours.

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response*	Annual burden hours
Faculty/Employer Evaluation (IHS–856–3)	1500	2	3000	0.42 (25 min)	1250
Delinquent Federal Debt (IHS–856–5)	1500	1	1500	0.13 (8 min)	200
Course Curriculum Verification (IHS–856–6)	1500	1	1500	0.70 (42 min)	1050
Verification of Acceptance or Decline of Award (IHS–856–7).	500	1	500	0.13 (8 min)	67
Recipient's Initial Program Progress Report (IHS–856–8)	1200	1	1200	0.13 (8 min)	160
Notification of Academic Problem (IHS–856–9)	50	1	50	0.13 (8 min)	7
Change of Status (IHS–856–10)	50	1	50	.045 (25 min)	21
Request for Approval of Deferment (IHS–856–11)	20	1	20	0.13 (8 min)	3
Preferred Placement (IHS–856–12)	150	1	150	0.50 (30 min)	75
Notice of Impending Graduation (IHS–856–13)	170	1	170	0.17 (10 min)	28
Notification of Deferment Program (IHS–856–14)	20	1	20	0.13 (8 min)	3
Placement Update (IHS–856–15)	170	1	170	0.18 (11 min)	31
Annual Status Report (IHS–856–16)	200	1	200	0.25 (15 min)	50
Extern Site Preference Request (IHS–856–17)	300	1	300	0.13 (8 min)	40
Request for Extern Travel Reimbursement (IHS–856–18)	150	1	150	0.10 (6 min)	15
Lost Stipend Payment (IHS–856–19)	50	1	50	0.13 (8 min)	7
Summer School Request (IHS–856–21)	100	1	100	0.10 (6 min)	10
Change of Name or Address (IHS–856–22)	20	1	20	0.13 (8 min)	3
Request for Credit Validation (IHS–856–23)	30	1	30	0.10 (6 min)	3
Faculty/Advisor Evaluation (IHS–856–24)	1500	2	3000	0.42 (25 min)	1250
Scholarship Program Agreement (IHS–817)	175	1	175	0.16 (10 min)	29

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response*	Annual burden hours
Health Professions Contract (IHS–818)	225	1	225	0.16 (10 min)	38
Total			12580		4340

* For ease of understanding, burden hours are also provided in actual minutes.

There are no direct costs to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost in time to respondents, as a group, is $45,396 [4340 burden hours × $10.46 per hour (2013 GS–3 hourly base pay rate)]. This total dollar amount is based upon the number of burden hours per data collection instrument, rounded to the nearest dollar. *Request for Comments:* Your written comments and/or suggestions are invited on one or more of the following points:

(a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Requests for Further Information: Send your requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions to: Dr. Dawn Kelly, Chief, Scholarship Program, 801 Thompson Avenue, TMP Suite 450A, Rockville, MD, 20852, call non-toll free (301) 443–6622, send via facsimile to (301)—443–6048, or send your email requests, and return address to: *Dawn.Kelly@ihs.gov.*

Direct Your Comments to OMB: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

Comment Due Date: Comments regarding this information collection are best assured of having full effect if received within 30 days of the date of this publication.

Dated: August 5, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–19639 Filed 8–13–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Direct Service and Contracting Tribes; National Indian Health Outreach and Education; Limited Competition Cooperative Agreements Announcement Type: New Limited Competition Funding Announcement Number: HHS–2013–IHS–NIHOE–0002 Catalog of Federal Domestic Assistance Number: 93.933

Key Dates

Application Deadline Date: September 8, 2013
Review Date: September 10, 2013
Earliest Anticipated Start Date: September 30, 2013
Proof of Non-Profit Status Due Date: September 8, 2013

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS), Office of Direct Service and Contracting Tribes is accepting competitive applications for two limited competition cooperative agreements under the National Indian Health Outreach and Education (NIHOE) program: The Behavioral Health—Methamphetamine and Suicide Prevention Intervention (MSPI) outreach and education award and the Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) outreach and education award. The Behavioral Health—MSPI outreach and education award is funded by IHS and is authorized under the Snyder Act, codified at 25 U.S.C. § 13; the Transfer Act, codified at 42 U.S.C. § 2001; the Consolidated Appropriations Act, 2012, Public Law 112–74 and the Continuing Appropriations Resolution, 2013, Public Law 112–175. The HIV/AIDS outreach and education award is funded by the Office of the Secretary (OS), Department of Health and Human Services (HHS). Funding for the HIV/AIDS award will be provided by OS via an Intra-Departmental Delegation of Authority dated July 17, 2017 to IHS to permit obligation of funding appropriated by the Consolidated Appropriations Act, 2012, Public Law 112–74. Each award is funded through a separate funding stream by each respective Agency's appropriations. The awardee is responsible for accounting for each of the two awards separately and must provide two separate financial reports (one for each award), as indicated below. This program is described in the Catalog of Federal Domestic Assistance under 93.933.

Background

The NIHOE program carries out health program objectives in the American Indian/Alaska Native (AI/AN) community in the interest of improving Indian health care for all 566 Federally-recognized Tribes including Tribal governments operating their own health care delivery systems through Indian Self-Determination and Education Assistance Act (ISDEAA) contracts and compacts with the IHS and Tribes that continue to receive health care directly from the IHS. This program addresses health policy and health programs issues and disseminates educational information to all AI/AN Tribes and villages. The NIHOE MSPI and HIV/AIDS awards require that public forums be held at Tribal educational consumer conferences to disseminate changes and updates in the latest health care information. These awards also require that regional and national meetings be coordinated for information dissemination as well as for the inclusion of planning and technical assistance and health care recommendations on behalf of participating Tribes to ultimately inform IHS and the Department of Health and Human Services (HHS) based on Tribal input through a broad based consumer network.

Purpose

The purpose of these cooperative agreements is to further IHS health program objectives in the AI/AN

community with expanded outreach and education efforts for the MSPI and HIV/AIDS programs on a national scale and in the interest of improving Indian health care. This announcement includes two separate awards, each of which will be awarded as noted below. The purpose of the MSPI award is to further the goals of the national MSPI program. The MSPI is a national demonstration project aimed at addressing the dual problems of methamphetamine use and suicide in Indian Country. The MSPI supports the use and development of evidence-based and practice-based models which are culturally appropriate prevention and treatment approaches to methamphetamine abuse and suicide in a community driven context. The six goals of the MSPI are to effectively prevent, reduce, or delay the use and/or spread of methamphetamine abuse; build on the foundation of prior methamphetamine and suicide prevention and treatment efforts in order to support the IHS, Tribes, and urban Indian health organizations in developing and implementing Tribal and/or culturally appropriate methamphetamine and suicide prevention and early intervention strategies; increase access to methamphetamine and suicide prevention services; improve services for behavioral health issues associated with methamphetamine use and suicide prevention; promote the development of new and promising services that are culturally and community relevant; and demonstrate efficacy and impact. [**Note:** While the national MSPI program includes outreach to urban Indian organizations, outreach aimed specifically at urban Indian organizations will be addressed in a separate award announcement. However, materials developed by the grantee in the NIHOE MSPI award described in this announcement may be distributed by IHS to urban Indian organizations, at the discretion of the Agency.]

The purpose of the HIV/AIDS award is to further the goals of the national HIV/AIDS program. HIV and AIDS are a critical and growing health issue within the AI/AN population. The IHS National HIV/AIDS Program seeks to avoid complacency and to increase awareness of the impact of HIV/AIDS on AI/ANs. All activities are part of the IHS's implementation plan to meet the three goals of the President's National HIV/AIDS Strategy (NHAS) to: Reduce the number of people who become infected with HIV, increase access to care and optimize health outcomes for people living with HIV, and reduce HIV-related disparities. This population faces additional health disparities that contribute significantly to the risk of HIV transmission such as substance abuse and sexually transmitted infections. Amongst AI/AN people, HIV/AIDS exists in both urban and rural populations (and on or near Tribal lands); however, many of those living with HIV are not aware of their status. These statistics, risk factors, and missed opportunities for screening illuminate the need to go beyond raising awareness about HIV and begin active integration of initiatives that will help routinize HIV services. If the status quo is unchanged, prevalence will continue to increase and AI/AN communities may face an irreversible problem. Therefore, the National HIV/AIDS Program is working to change the way HIV is discussed, to change and improve the way HIV testing is integrated into health services, and to firmly establish linkages and access to care. The IHS HIV/AIDS Program is implemented and executed via an integrated and comprehensive approach through collaborations across multi-health sectors, both internal and external to the agency. It attempts to encompass all types of service delivery 'systems' including IHS/Tribal/Urban (I/T/U) facilities. The IHS HIV/AIDS Program is committed to realizing the goals of the President's NHAS and has bridged the objectives and implementation to the IHS HIV/AIDS Strategic Plan.

Limited Competition Justification

Competition for both of the awards included in this announcement is limited to national Indian health care organizations with at least ten years of experience providing education and outreach on a national scale. This limitation ensures that the awardee will have: (1) A national information-sharing infrastructure which will facilitate the timely exchange of information between HHS and Tribes and Tribal organizations on a broad scale; (2) a national perspective on the needs of AI/AN communities that will ensure that the information developed and disseminated through the projects is appropriate, useful and addresses the most pressing needs of AI/AN communities; and (3) established relationships with Tribes and Tribal organizations that will foster open and honest participation by AI/AN communities. Regional or local organizations will not have the mechanisms in place to conduct communication on a national level, nor will they have an accurate picture of the health care needs facing AI/ANs nationwide. Organizations with less experience will lack the established relationships with Tribes and Tribal organizations throughout the country that will facilitate participation and the open and honest exchange of information between Tribes and HHS. With the limited funds available for these projects, HHS must ensure that the education and outreach efforts described in this announcement reach the widest audience possible in a timely fashion, are appropriately tailored to the needs of AI/AN communities throughout the country, and come from a source that AI/ANs recognize and trust. For these reasons, this is a limited competition announcement.

II. Award Information

Type of Award

Cooperative Agreements.

Estimated Funds Available

The total amount of funding identified for the current fiscal year 2013 is approximately $250,000 to fund two cooperative agreements for one year; $150,000 will be awarded for the Behavioral Health—MSPI award and $100,000 will be awarded for the HIV/AIDS award. Competing and continuation awards issued under this announcement are subject to the availability of funds. In the absence of funding, the IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Two awards will be issued under this program announcement. It is the intention of IHS and the Office of the Secretary (OS) that one entity will receive both awards. OS and IHS will concur on the final decision as to who will receive both awards.

Project Period

The project periods for each award will be for one year and will run from September 30, 2013 with completion by September 29, 2014.

Cooperative Agreement

In the HHS, a cooperative agreement is administered under the same policies as a grant. The funding agencies (IHS and OS) are required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both agencies and the grantee. IHS and OS, through IHS, will be responsible for activities listed under section A and the awardee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

The IHS assigned program official will monitor the overall progress of the awardee's execution of the requirements of the two awards: IHS award and OS award noted below as well as their adherence to the terms and conditions of the cooperative agreements. This includes providing guidance for required reports, development of tools, and other products, interpreting program findings, and assistance with evaluation and overcoming any difficulties or performance issues encountered. The IHS assigned program official must approve all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to these awards and any supplemental awards prior to the presentation or dissemination of such materials to any party.

(1) Behavioral Health—MSPI award:

i. The IHS assigned program official will work in partnership with the awardee to identify and provide presentation topics on MSPI for the National Tribal Advisory Committee meetings; the Behavioral Health Work Group; webinars; and IHS Area conference calls.

ii. The IHS assigned program official will work in partnership with the awardee to identify MSPI projects in need of technical assistance.

(2) HIV/AIDS AWARD:

IHS staff will be providing support for the HIV/AIDS award as follows:

i. The IHS assigned program official will work in partnership with the awardee in all decisions involving strategy, hiring of grantee personnel, deployment of resources, release of public information materials, quality assurance, coordination of activities, any training, reports, budget, and evaluation. Collaboration includes data analysis, interpretation of findings, and reporting.

ii. The IHS assigned program official will work closely with OS and all participating IHS health services/programs, as appropriate, to coordinate award activities.

iii. The IHS assigned program official will coordinate the following for OS and the participating IHS program offices and staff:

- Discussion and release of any and all special grant conditions upon fulfillment.
- Monthly scheduled conference calls.
- Appropriate dissemination of required reports to each participating program.

iv. The IHS will, jointly with the awardee, plan and set an agenda for each of the conferences mentioned in this announcement that:

- Shares the training and/or accomplishments.
- Fosters collaboration amongst the participating program offices, agencies, and/or departments.
- Increases visibility for the partnership between the awardee and the IHS and OS.

v. IHS will provide guidance in addressing deliverables and requirements.

vi. IHS will provide guidance in preparing articles for publication and/or presentations of program successes, lessons learned, and new findings.

vii. IHS will communicate via monthly conference calls, individual or collective site visits, and monthly meetings.

viii. IHS staff will review articles concerning the HHS, OS, and the Agency for accuracy and may, as requested by the awardee, provide relevant articles.

ix. IHS will provide technical assistance to the entity as requested.

x. IHS staff may, at the request of the entity's board, participate on study groups and may recommend topics for analysis and discussion.

B. Grantee Cooperative Agreement Award Activities

The awardee must comply with relevant Office of Management and Budget (OMB) Circular provisions regarding lobbying, any applicable lobbying restrictions provided under other law and any applicable restriction on the use of appropriated funds for lobbying activities.

The awardee is responsible for the following in addition to fulfilling all requirements noted for each award component: Behavioral Health—MSPI and HIV/AIDS.

i. To succinctly and independently address the requirements for each of the two awards listed below: Behavioral Health—MSPI and HIV/AIDS.

ii. To facilitate a forum or forums at which concerns can be heard that are representative of all Tribal governments in the area of health care policy analysis and program development for each of the two components listed above.

iii. To assure that health care outreach and education is based on Tribal input through a broad-based consumer network involving the Area Indian health boards or health board representatives from each of the twelve IHS Areas.

iv. To establish relationships with other national Indian organizations, with professional groups, and with Federal, State, and local entities supportive of AI/AN health programs.

v. To improve and expand access for AI/AN Tribal governments to all available programs within the HHS.

vi. To disseminate timely health care information to Tribal governments, AI/AN health boards, other national Indian organizations, professional groups, Federal, State, and local entities.

vii. To provide periodic dissemination of health care information, including publication of a newsletter four times a year that features articles on MSPI and HIV/AIDS health promotion/disease/behavioral health prevention activities and models of best or promising practices, health policy, and funding information relevant to AI/AN, etc.

The following schedule of deliverables outlines the requirements necessary to effectuate timely and effective support services to Tribal MSPI projects:

Summary of Tasks To Be Performed

MSPI:

- The awardee shall provide culturally competent educational workshops and technical assistance related to the prevention, treatment and aftercare of methamphetamine addiction and suicide at designated national meetings and conference calls.
- At a minimum, the awardee shall provide in-person Tribal MSPI program updates (focusing on practice-based and promising practices) at the National Tribal Advisory Committee meetings and conference calls; the Behavioral Health Work Group meetings and conference calls; and IHS Area conference calls.
- The awardee shall participate in at least 90 percent of the MSPI Area conference calls facilitated by the IHS assigned program official. The awardee must be included on the agenda and provide presentations on specific areas of interest identified by the Tribal MSPI programs and IHS assigned program official. PowerPoint slides will be approved prior to the presentation and will be made available on the awardee's organizational Web site and the MSPI portal.

Workshops

- The awardee shall provide teleconference and webinar workshops on topics of particular importance to Tribal MSPI programs. Topics should include sustainability, program development, and business practices for

healthcare facilities and organizations. Topics will be discussed prior to the teleconference or webinar and will be subject to approval from the IHS assigned program official.

• The awardee shall conduct workshops and/or presentations including, but not limited to, challenges, potential solutions, and successes in the form of promising practices of Tribal MSPI programs at one national conference (venue and content of presentations to be agreed upon by the awardee and the IHS assigned program official).

• The awardee shall maintain a booth at identified meetings and conferences to provide comprehensive information on Tribal MSPI programs, curricula, findings, articles, and strategies to local, regional, state, and Federal agencies and organizations.

Technical Assistance

• The awardee shall provide relevant evidence-based and practice-based programmatic information for Tribal MSPI programs in a timely manner.

• The awardee shall provide one-on-one technical assistance and progress report review to 25 percent of MSPI programs, identified by the IHS assigned program official as having program implementation issues (i.e., program development and administration issues, implementing practice-based practices/evidence-based practices/culturally relevant traditional methods issues, or program marketing challenges).

• The technical assistance provided by the awardee shall consist of email and phone conversations with the Tribal MSPI program staff providing expert guidance for specific implementation concerns, and aiding the Tribal MSPI programs to identify challenges and solutions, etc.

○ The awardee shall develop an MSPI program development toolkit for Tribal programs including information identified by the MSPI Project Officer Team (i.e., MSPI requirements, program development, budgetary practices, business practices, etc.).

• The awardee shall identify and provide education, assistance, and recommendations to Tribal MSPI programs regarding one special population per year for the life of the award (e.g., youth; elderly; lesbian, gay, bisexual, and transgender; veterans; disabled, etc.).

Information Sharing

• The awardee shall develop, maintain, and disseminate comprehensive information on Tribal MSPI programs, curricula, findings, articles, and strategies to all Tribal MSPI programs, and:

○ Present the information at conference and meeting booths as described above.

○ Post and update monthly methamphetamine and suicide prevention-related information on its organizational Web site, the MSPI portal, and otherwise make materials accessible to Tribal MSPI programs.

○ Develop a comprehensive list of evidence-based and practice-based program development and business practice guidelines for use by Tribal MSPI programs.

○ Coordinate with Division of Behavioral Health (DBH) staff and other Federal agencies to develop and disseminate promotional materials geared toward the reduction of mental health stigma to Tribal communities who are addressing suicide and methamphetamine issues.

○ Coordinate and maintain Tribal MSPI program profiles on IHS determined Web site and make materials accessible to Tribal MSPI Programs.

○ Develop, coordinate and maintain a promotional media campaign related to the impact and outcomes of the MSPI Projects in Tribal communities.

○ Develop and publish (i.e., Tribal Law and Order Act Newsletter, identified organizational newsletter, and other appropriate venues) a minimum of three articles focusing on the impact and outcomes of the MSPI Projects in Tribal communities.

• The awardee shall, in collaboration with the IHS assigned program official, provide expert guidance in the areas of practice-based and evidence-based practice implementation and culturally-appropriate traditional practices regarding methamphetamine and suicide prevention with a special focus on Indian youth. The awardee shall provide to the IHS assigned program official written documentation of the assistance provided to the programs.

Reporting

• The awardee shall provide semi-annual reports documenting and describing progress and accomplishment of the activities specified above, attaching any necessary documentation to adequately document accomplishments.

• The awardee shall attend bi-weekly, regularly scheduled, in-person and conference call meetings with the IHS assigned program official team to discuss the awardee's services and MSPI related issues. The awardee must provide meeting minutes that highlight the awardee's specific involvement and participation.

• The awardee shall help the IHS assigned program official identify challenges faced by participating Tribal communities and assist in developing solutions.

• The awardee shall obtain approval from the IHS assigned program official of all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to this award and any supplemental awards prior to the presentation or dissemination of such materials to any party, allowing for a reasonable amount of time for IHS review.

Deliverables

• Attendance at regularly scheduled meetings between awardee and the IHS assigned program official, evidenced by meeting minutes which highlight the awardee's specific involvement and participation.

• Participation on no less than 90 percent of the MSPI Area conference calls facilitated by the IHS assigned program official, evidenced by meeting agenda and minutes.

• Evidence of presentation of information at conference and meeting booths, workshops and/or presentations provided at the:

(a) National Tribal Advisory Committee conference calls and meetings; and

(b) Behavioral Health Work Group conference calls and meetings. (PowerPoint slides in electronic form and one hard copy are to be submitted to the program official and the IHS assigned program official as required).

(c) IHS Area conference calls; and

(d) IHS Area and national webinars.

• Evidence of one-on-one technical assistance to programs identified as having program implementation issues (meeting minutes, brief report including at a minimum, the description of the problem, resources provided, and action plan).

• Completed programmatic reviews of semi and annual progress reports of 25 percent of the Tribal MSPI programs, in order to identify programs that require technical assistance. [Note: This review is not to replace IHS review of MSPI programs. The programmatic reviews to be conducted by grantee are secondary reviews intended solely to identify programs in need of technical assistance.]

• Copies of educational and practice-based information provided to Tribal MSPI programs (electronic form and one hard copy).

• Copies of all promotional and educational materials provided to Tribal

MSPI programs and other projects (electronic form and one hard copy).

• Copies of all promotional materials provided to media and other outlets (electronic form and one hard copy).

• Copies of all articles published (electronic form and one hard copy).

• Evidence of posting of MSPI-related information on organizational Web sites.

• Documentation of dissemination of culturally-informed promotional materials geared toward positive messaging to Tribal communities.

• Finalized list of evidence-based and practice-based program development and business practice guidelines for use by Tribal MSPI programs.

• Completed program development toolkit to be submitted to the IHS assigned program official.

• Semi-annual and annual progress reports to DBH, due no later than 30 days after the reporting cycle, attaching any necessary documentation. For example: Meeting minutes, correspondence with Tribal MSPI programs, samples of all written materials developed including brochures, news articles, videos, and radio and television ads to adequately document accomplishments.

HIV/AIDS

In alignment with the above program and independent from MSPI activities (both via fiscal resources and programmatic implementation), the awardee shall:

• Disseminate existing HIV/AIDS messages to AI/AN audiences in a format designed to solicit, collect, and report on community-level feedback and generate discussion regarding the disease and its prevention. This may include electronic and emerging means of communication. At least four distinct audiences (such as women, young people, etc.) will be addressed and engaged. Preference will be given to reaching audiences with the highest HIV burden or potential increases as supported by the NHAS.

• Disseminate existing IHS HIV/AIDS program and other HIV/AIDS training materials to educators, health care providers, and other key audiences. Collect and report on relevant evaluation criteria, including impacts on underlying knowledge, attitudes, or beliefs about HIV acquisition, testing, or treatment.

• Deliver an HIV/AIDS technical assistance and activity support program. Engage in documented partnerships with AI/AN communities to expand their capacity relevant to HIV/AIDS education and prevention efforts. Local activity support may include subawards of resources and distribution of incentives to qualified AI/AN-serving community organizations increasing HIV/AIDS education and prevention in their populations. Subaward eligibility standards and management controls will be proposed by the awardee and will be subject to IHS approval. These activities must be conducted in accordance with Federal grant policies and procedures. Awardee will collect and maintain relevant evaluation materials and generate reports that highlight progress towards the President's NHAS goals on the community level and that collect best practices for dissemination to other communities.

• Contribute technical expertise to the IHS HIV/AIDS program and develop formal written documents responding to information requests from the public regarding HIV/AIDS initiatives.

• Develop and launch anti-stigma messaging for at least one audience, coordinated with other local activities to: Increase HIV screening; and increase access to services, or increase positive role modeling for people living with, or at risk of, acquiring HIV/AIDS.

• Support and document issue-specific discussions with Tribal Leaders as needed to address effective prevention interventions for AI/AN populations as noted in the President's NHAS.

• Obtain approval from the IHS assigned program official of all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to this award and any supplemental awards prior to the presentation or dissemination of such materials to any party, allowing for a reasonable amount of time for IHS review.

III. Eligibility Information

1. Eligibility

Eligible applicants include 501(c)(3) non-profit entities who meet the following criteria.

Eligible applicants that can apply for this funding opportunity are National Indian Organizations.

The National Indian Organization must have the infrastructure in place to accomplish the work under the proposed program.

Eligible entities must have demonstrated expertise in the following areas:

• Representing all Tribal governments and providing a variety of services to Tribes, Area health boards, Tribal organizations, and Federal agencies, and playing a major role in focusing attention on Indian health care needs, resulting in improved health outcomes for AI/ANs.

• Promotion and support of Indian education and coordinating efforts to inform AI/AN of Federal decisions that affect Tribal government interests including the improvement of Indian health care.

• National health policy and health programs administration.

• Have a national AI/AN constituency and clearly support critical services and activities within the IHS mission of improving the quality of health care for AI/AN people.

• Portray evidence of their solid support of improved health care in Indian Country.

• Provide evidence of at least ten years of experience providing education and outreach on a national scale.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management of this decision.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with your application submission by the Application Deadline Date listed under Key Dates on page one.

Letters of Intent will not be required under this funding opportunity announcement.

Applicants submitting any of the above additional documentation after the initial application submission due date are required to ensure the information was received by the IHS by obtaining documentation confirming delivery (i.e. FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can

be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

Two complete separate signed applications are required. Both applications should address all the following components separately in each application. Each separate application must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must not exceed 20 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Letter of Support from Organization's Board of Directors.
- 501(c)(3) Certificate.
- Biographical sketches for all key personnel.
- Position descriptions.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG–LobbyingForm).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) A–133 required Financial Audit (if applicable)

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 20 pages and must: Be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½′ x 11′ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this possible grant award. If the narrative exceeds the page limit, only the first 20 pages will be reviewed. The 20-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Reminder: You are required to submit two separate complete and signed application packages. One for the Behavioral Health—MSPI cooperative agreement and one complete signed application package for the HIV/AIDS cooperative agreement. This applies to the narratives and budgets as well and all components listed below. Be sure to address each component separately in its respective application package. The page limitations below are for each narrative and budget submitted.

Part A: Program Information (3 page limitation)

Section 1: Needs

Describe how the national Indian organization has the experience to provide outreach and education efforts regarding the pertinent changes and updates in health care for each of the two components listed herein: Behavioral Health—MSPI and HIV/AIDS.

Part B: Program Planning and Evaluation (5 page limitation)

Section 1: Program Plans

Describe fully and clearly how the national Indian organization plans to address the NIHOE II MSPI and HIV/AIDS requirements, including how the national Indian organization plans to demonstrate improved health education and outreach services to all 566 Federally-recognized Tribes for each of the two components described herein.

Section 2: Program Evaluation

Describe fully and clearly how the outreach and education efforts will impact changes in knowledge and awareness in Tribal communities regarding both components. Identify anticipated or expected benefits for the Tribal constituency.

Part C: Program Report (2 page limitation per component)

Section 1: Describe major accomplishments over the last 24 months.

Identify and describe significant program achievements associated with the delivery of quality health outreach and education. Provide a comparison of the actual accomplishments to the goals established for the project period for both components, or if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 24 months.

Identify and summarize recent major health related outreach and education project activities of the work performed for both components during the last project period.

B. Budget Narrative: This narrative must describe the budget requested and match the scope of work described in the project narrative. The budget narrative should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Standard Time (EST) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. The applicant will be notified by the DGM via email of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days

a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM (*Paul.Gettys@ihs.gov*) at (301) 443–2114. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until a Grants.gov tracking number has been received. In the event the applicant is unable to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see Section IV.6 below for additional information). The waiver must be documented in writing (emails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM. Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a waiver from the Acting Director of DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EST, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If technical challenges are experienced while submitting the application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Direct Service and Contracting Tribes (ODSCT) will notify applicants that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform*, or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the ''Transparency Act.''

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration (CCR) and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act,

including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 20 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (15 points)

(1) Describe the organization's current health, education and technical assistance operations as related to the broad spectrum of health needs of the AI/AN community. Include what programs and services are currently provided (i.e., Federally-funded, State-funded, etc.), and identify any memorandums of agreement with other national, Area or local Indian health board organizations. This could also include HHS' agencies that rely on the applicant as the primary gateway organization that is capable of providing the dissemination of health information to Tribes. Include information regarding technologies currently used (i.e., hardware, software, services, Web sites, etc.), and identify the source(s) of technical support for those technologies (i.e., in-house staff, contractors, vendors, etc.). Include information regarding how long the applicant has been operating and its length of association/partnerships with Area health boards, etc. [historical collaboration].

(2) Describe the organization's current technical assistance ability. Include what programs and services are currently provided, programs and services projected to be provided, and describe any memorandums of agreement with other national Indian organizations that deem the applicant as the primary source of health policy information for AI/ANs, or any other memorandums of agreement with other Area Indian health boards, etc.

(3) Describe the population to be served by the proposed projects. Are they hard to reach? Are there barriers? Include a description of the number of Tribes who currently benefit from the technical assistance provided by the applicant.

(4) Describe the geographic location of the proposed project including any geographic barriers experienced by the recipients of the technical assistance to the health care information provided.

(5) Identify all previous IHS cooperative agreement awards received, dates of funding and summaries of the projects' accomplishments. State how previous cooperative agreement funds facilitated education, training and technical assistance nationwide for AI/ANs. (Copies of reports will not be accepted.)

(6) Describe collaborative and supportive efforts with national, Area, and local Indian health boards.

(7) Explain the need/reason for the proposed projects by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed projects. Explain how these gaps/weaknesses have been assessed.

(8) Explain what measures were taken or will be taken to ensure the proposed projects will not create new gaps or weaknesses in services or infrastructure.

(9) Describe the effect of the proposed project on current programs (i.e., Federally-funded, State funded, etc.) and, if applicable, on current equipment (i.e., hardware, software, services, etc.). Include the effect of the proposed projects on planned/anticipated programs and/or equipment.

(10) Describe how the projects relate to the purpose of the cooperative agreement by addressing the following: Identify how the proposed project will address national Indian health care outreach and education regarding various health data listed, e.g. MSPI and HIV and AIDS, dissemination, training, and technical assistance, etc.

B. Project Objective(s), Work Plan and Approach (40 points)

(1) Identify the proposed project objective(s) for each of the two projects, as applicable, addressing the following:

- Measurable and (if applicable) quantifiable.
- results oriented.
- time-limited.

Example: Issue four quarterly newsletters, provide alerts and quantify number of contacts with Tribes. Goals must be clear and concise.

(2) Address how the proposed projects will result in change or improvement in program operations or processes for each proposed project objective for the selected projects. Also address what tangible products, if any, are expected from the project, (i.e. legislative analysis, policy analysis, annual conferences, mid-year conferences, summits, etc.).

(3) Address the extent to which the proposed projects will provide, improve, or expand services that address the need(s) of the target population. Include a strategic plan and business plan currently in place that are being used that will include the expanded services. Include the plan(s) with the application submission.

(4) Submit a work plan in the Appendix that:

- Provides the action steps on a timeline for accomplishing each of the projects' proposed objective(s).
- Identifies who will perform the action steps.
- Identifies who will supervise the action steps taken.
- Identifies what tangible products will be produced during and at the end of the proposed project objective(s).
- Identifies who will accept and/or approve work products during the duration of the proposed projects and at the end of the proposed projects.
- Identifies any training that will take place during the proposed projects and who will be attending the training.
- Identifies evaluation activities proposed in the work plans.

(5) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

(6) Describe what updates will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

C. Program Evaluation (20 points)

Each proposed objective requires an evaluation component to assess its progress and ensure its completion.

Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and process. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

- What will the criteria be for determining success of each objective?
- What data will be collected to determine whether the objective was met?
- At what intervals will data be collected?
- Who will collect the data and their qualifications?
- How will the data be analyzed?
- How will the results be used?

(2) For process evaluation, describe:

- How will the projects be monitored and assessed for potential problems and needed quality improvements?
- Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and what are their qualifications?
- How will ongoing monitoring be used to improve the projects?
- Describe any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.
- How will the organization document what is learned throughout the projects' grant periods?

(3) Describe any evaluation efforts planned after the grant period has ended.

(4) Describe the ultimate benefit to the AI/AN population served by the applicant organization that will be derived from these projects.

D. Organizational Capabilities, Key Personnel and Qualifications (15 points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plans.

(1) Describe the organizational structure of the organization beyond health care activities, if applicable.

(2) Describe the ability of the organization to manage the proposed projects. Include information regarding similarly sized projects in scope and financial assistance, as well as other cooperative agreements/grants and projects successfully completed.

(3) Describe what equipment (i.e., fax machine, phone, computer, etc.) and facility space (i.e., office space) will be available for use during the proposed projects. Include information about any equipment not currently available that will be purchased through the cooperative agreement/grant.

(4) List key personnel who will work on the projects. Include title used in the work plans. In the Appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

(5) If personnel are to be only partially funded by this cooperative agreement, indicate the percentage of time to be allocated to this project and identify the resources used to fund the remainder of the individual's salary.

E. Categorical Budget and Budget Justification (10 points)

This section should provide a clear estimate of the program costs and justification for expenses for the entire cooperative agreement period for each award. The budgets and budget justifications should be consistent with the tasks identified in the work plans. Because each of the two awards included in this announcement are funded through separate funding streams, the applicant must provide a separate budget and budget narrative for each of the two components and must account for costs separately.

(1) Provide a categorical budget for each of the 12-month budget periods requested for each of the two projects.

(2) If IDC are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the Appendix. *See Section VI. Award Administration Information, 3. Indirect Costs.*

(3) Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient costs and other details to facilitate the determination of cost allowability (i.e., equipment specifications, etc.).

Multi-Year Project Requirements (if applicable)

Projects requiring second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Map of area to benefit project identifying where target population resides and project location(s). Include trails, parks, schools, bike paths and other such applicable information.
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation. If an applicant receives less than a minimum score, it will be considered to be ''Disapproved'' and will be informed via email by the IHS program office of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424), of the application within 30 days of the completion of the Objective Review.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the

DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 60 points, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'', but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2013, the approved application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR Part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- 2 CFR Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- 2 CFR Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (National Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm.* For questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Separate progress reports are required for each of the two awards included in this announcement. Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Separate financial reports are required for the IHS award and the OS award. The awardee is responsible for accounting for each award separately. Federal Financial Report (FFR) (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: the Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and

Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: 1) the project period start date was October 1, 2010 or after and 2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Mr. Chris Buchanan, Director, ODSCT, 801 Thompson Avenue, Suite 220, Rockville, Maryland 20852, Telephone: (301) 443–1104, Fax: (301) 443–4666, E-Mail: *Chris.Buchanan@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Mr. Andrew Diggs, DGM, Grants Management Specialist, 801 Thompson Avenue, TMP Suite 360, Rockville, Maryland 20852, Telephone: (301) 443–5204, Fax: (301) 443–9602, E-Mail: *Andrew.Diggs@ihs.gov.*

3. Questions on systems matters may be directed to: Mr. Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: 301–443–2114; or the DGM main line 301–443–5204, Fax: 301–443–9602, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: August 5, 2013.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2013–19645 Filed 8–13–13; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0605]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its subcommittees will meet on September 4 through 6, 2013, in Chicago, Illinois to discuss issues related to shallow draft inland, coastal waterway navigation and towing safety. The meetings will be open to the public.

DATES: TSAC subcommittees will meet Wednesday, September 4, 2013, from 10 a.m. to 5 p.m. The full TSAC committee will meet Thursday, September 5, 2013, from 8 a.m. to 5 p.m. and on Friday, September 6, 2013, from 8 a.m. to 12 noon. Please note that the meeting may close early if the committee has completed its business.

All submitted written materials, comments, and requests to make presentations at the meetings should reach Mr. William J. Abernathy, Alternate Designated Federal Officer (ADFO) for TSAC by August 28, 2013. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: All meetings will be held on the third floor at the Robert G. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604. Though the building is a public facility, all attendees will be required to provide government-issued picture identification card in order to gain admittance to the facility. Also, individuals and their belongings will be subject to screening at the point of entry.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. William J. Abernathy.

To facilitate public participation, we are inviting public comment on the issues to be discussed by the committee as listed in the ''Agenda'' section below. Comments must be submitted in writing no later than August 28, 2013, and must be identified by [Docket No. USCG–2013–0605] and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. (Preferred method to avoid delays in processing.)
- *Fax:* 202–493–2252
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: This notice, and documents or comments related to it, may be viewed in our online docket, USCG–2013–0605 at *http://www.regulations.gov.* The following link will take you directly to the docket: *http://www.regulations.gov/#!docketDetail;D=USCG-2013-0605.*

A separate public comment period will be offered following the planned agenda. Public comments will be limited to three minutes per speaker. Please note that the public comment period may end before the time indicated following the last call for comments. Contact the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Robert L. Smith Jr., Designated Federal Officer (DFO) of TSAC; U.S. Coast Guard Headquarters, Office of Operating and Environmental Standards (CG–OES–2); 2100 Second Street SW. STOP 7126; Washington, DC 20593–7126. Telephone (202) 272–1410, fax (202) 372–1926, or email at: *Robert.L.Smith@uscg.mil* or Mr. William J. Abernathy, ADFO TSAC; U.S. Coast Guard Headquarters, CG–OES–2; 2100 Second Street SW. STOP 7126; Washington, DC 20593–7126.

Telephone (202) 372–1363, fax (202) 372–1926, or email at: *William.J.Abernathy@uscg.mil.*

If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

TSAC is an advisory committee established by statute. See 33 U.S.C. 1231a. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Deputy Commandant for Operations on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. TSAC will advise, consult with, and make recommendations reflecting the Committee's independent judgment to the Secretary on matters and actions concerning shallow-draft inland and coastal waterway navigation and towing safety.

Agenda

TSAC Subcommittee Meetings

The following subcommittees will meet on September 4, 2013, to address:

- TASK 12–03, ''Recommendations for the Enhancement of Towing Vessel Operational Stability.''
- TASK 12–05, ''Recommendations to Improve Operational, Structural or Other Standards to Enhance Fire Prevention and Containment Aboard Towing Vessels.''
- TASK 13–01, ''Recommendations for the Improvement of Automatic Identification System Encoding for Towing Vessels.''
- TASK 13–02, ''Recommendations Regarding Manning of Inspected Towing Vessels.''
- TASK 13–03, ''Recommendations to Create Standardized Terminology for the Towing Industry.''

Further information on the active Task Statements is located on the TSAC Homeport site at the following address: *https://homeport.uscg.mil/TSAC.*

TSAC Meeting Agenda

1. Introductions and opening remarks.
2. Updates and reports from subcommittees scheduled to meet September 4, 2013. The committee will review the information presented on each issue, deliberate on any recommendations presented in the subcommittees' reports, and formulate recommendations for the Department's consideration.
3. TSAC will receive tasking from the DFO for the following issues:

a. Task Statement on ''Recommendations for Facility Permitting and Construction so as to Not Impede Commercial Vessel Navigation.''

b. Task Statement on ''Recommendations for Designation of Narrow Channels.''

c. Task Statement on ''Recommendations for the Repair, Maintenance, and Utilization of Towing Gear.''

d. Task Statement on ''Recommendations regarding the American Waterways Operators' Report on Steel Hull Repair for Towing Vessels.''

e. Task Statement on ''Recommendations for Requirements Related to Use of Liquefied Natural Gas as a Marine Fuel.''

f. Task Statement concerning the ''Recommendations for the Improvement of Marine Casualty Reporting.''

g. Task Statement on ''Recommendation to Establish Criteria for Identification of Air Draft for Vessels and Towed Vessels.''

4. Presentations on the following items of interest:

a. Final National Pollutant Discharge Elimination System General Permit for Discharges Incidental to the Normal Operation of a Vessel—NPDES Vessel General Permit (VGP) (*78 FR 21938, April 12, 2013*).

b. Case Study on Towing Vessel Safety by the Towing Vessel—National Center of Expertise.

c. Presentation on Towing Vessel Electronic Charting Navigation Safety.

d. Update on Towing Vessel Mariner Credentialing Policy Issues

e. Waterways Analysis and Management System (WAMS) for reviewing a waterway's Aid to Navigation system and Ports and Waterways Safety Assessment (PAWSA); tools for assessing and controlling risks in local waterways and to support safe marine navigation and the effective and efficient flow of waterborne commerce.

5. Public comment period.

Dated: August 08, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–19679 Filed 8–13–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0702]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee (GLPAC). The GLPAC provides advice and makes recommendations to the Secretary of Homeland Security and the Coast Guard on matters relating to Great Lakes pilotage, including review of proposed Great Lakes pilotage regulations and policies.

DATES: Applicants must submit a cover letter and resume in time to reach Mr. David Dean, the Alternate Designated Federal Officer (ADFO) on or before September 1, 2013.

ADDRESSES: Send your cover letter and resume indicating the membership category for which you are applying via one of the following methods:

- Email: *David.J.Dean@uscg.mil.*
- Fax: (202) 372–1909 ATTN: Mr. David Dean, GLPAC ADFO.
- Mail: Mr. David Dean, GLPAC ADFO, Commandant (CG–WWM–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Stop 7580, Washington, DC 20593–7580.

FOR FURTHER INFORMATION CONTACT: Mr. David Dean, GLPAC ADFO, Commandant (CG–WWM–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Stop 7580, Washington, DC 20593–7580; telephone 202–372–1533, fax 202–372–1914, or email at *David.J.Dean@uscg.mil.*

SUPPLEMENTARY INFORMATION: The GLPAC is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act* (FACA) 5 U.S.C. (Pub. L. 92–463) and under the authority of 46 U.S.C. 9307, as amended. GLPAC expects to meet once per year but may also meet at other times at the call of the Secretary. Further information about GLPAC is available by going to the Web site: *https://www.facadatabase.gov.* Click on the search tab and type ''Great Lakes'' into the search form. Then select ''Great Lakes Pilotage Advisory Committee'' from the list.

The Committee consists of seven members appointed by and serving at the pleasure of the Secretary of Homeland Security upon

recommendation by the Coast Guard Commandant. To be eligible, applicants should have particular expertise, knowledge, and experience regarding the regulations and policies on the pilotage of vessels on the Great Lakes, and at least 5 years of practical experience in maritime operations.

We will consider applicants for two positions that expire or become vacant on September 30, 2013.

- One member representing the interests of Great Lakes ports.
- One member representing the interests of shippers whose cargoes are transported through Great Lakes ports.

Members shall serve terms of office of up to three years and may be reappointed. All members serve at their own expense but may receive reimbursement for travel and per diem from the Federal Government.

Registered lobbyists are not eligible to serve on Federal Advisory Committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act,* Title 2, United States Code, Section 1603.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all of its recruitment actions.

To visit our online docket, go to *http://www.regulations.gov* enter the docket number for this notice (USCG–2013–0702) in the Search box, and click ''Search''. Please do not post your resume on this site. Note, during the vetting process, applicants may be asked to provide date of birth and social security number.

Dated: August 9, 2013.

Mike M. Sollosi,

Acting Director, Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2013–19742 Filed 8–13–13; 8:45 am]

BILLING CODE 9110–04–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–13–019]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 19, 2013 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–365–366 and 731–TA–734–735 (Third Review) (Certain Pasta from Italy and Turkey). The Commission is currently scheduled to complete and file its determinations and views of the Commission on or before August 30, 2013.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: August 12, 2013.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–19857 Filed 8–12–13; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; Alltech Associates, Inc.

By Notice dated May 14, 2013, and published in the **Federal Register** on May 22, 2013, 78 FR 30330, Alltech Associates, Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Lysergic acid diethylamide (7315)	I
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import these controlled substances for the manufacture of reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Alltech Associates, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Alltech Associates, Inc. to ensure that the company's registration is consistent with the public interest.

The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19634 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated May 14, 2013, and published in the **Federal Register** on May 22, 2013, 78 FR 30330, Arizona Department of Corrections, ASPC-Florence, 1305 E. Butte Avenue, Florence, Arizona 85132, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Pentobarbital (2270), a basic class of controlled substance listed in schedule II.

The facility intends to import the above listed controlled substance for legitimate use. Supplies of this particular controlled substance are inadequate and are not available in the form needed within the current domestic supply of the United States.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Arizona Department of Corrections to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties,

conventions, or protocols in effect on May 1, 1971.

DEA has investigated Arizona Department of Corrections, ASPC-Florence to ensure that its registration is consistent with the public interest. The investigation has included inspection and testing of the Arizona Department of Corrections, ASPC-Florence facility's physical security systems, verification of its compliance with state and local laws, and a review of its background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR § 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19637 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Registration, Wildlife Laboratories Inc.

By Notice dated May 14, 2013, and published in the **Federal Register** on May 22, 2013, 78 FR 30329, Wildlife Laboratories Inc., 1401 Duff Drive, Suite 400, Fort Collins, Colorado 80524, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of Etorphine (except HCI) (9056), a basic class of controlled substance listed in schedule I.

The company plans to import the listed controlled substance for sale to its customer.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Wildlife Laboratories Inc. to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Wildlife Laboratories Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR § 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19621 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Siegfried USA, LLC

This is notice that on June 10, 2013, Siegfried USA, LLC., 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by letter to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances to bulk manufacture API'S for distribution to its customer.

Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007).

As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745, all applicants for registration to import a basic classes of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: August 2, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19745 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; IRIX Manufacturing, Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 18, 2013, IRIX Manufacturing, Inc., 309 Delaware Street, Greenville, South Carolina 29605, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance as API for clinical trials.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than October 15, 2013.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19616 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Wildlife Laboratories, Inc.

By Notice dated April 16, 2013, and published in the **Federal Register** on April 23, 2013, 78 FR 23958, Wildlife Laboratories, Inc., 1230 W. Ash Street, Suite D, Windsor, Colorado 80550, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Carfentanil (9743), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the above listed controlled substance for sale to veterinary pharmacies, zoos, and for other animal and wildlife applications.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a), and determined that the registration of Wildlife Laboratories, Inc., to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Wildlife Laboratories, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19612 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Penick Corporation

By Notice dated April 10, 2013, and published in the **Federal Register** on April 19, 2013, 78 FR 23595, Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

The company plans to manufacture the listed controlled substances as bulk controlled substance intermediates for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Penick Corporation to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time.

DEA has investigated Penick Corporation to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19614 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Registration, Rhodes Technologies

By Notice dated April 10, 2013, and published in the **Federal Register** on April 19, 2013, 78 FR 23596, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for conversion and sale to dosage form manufacturers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Rhodes Technologies to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Rhodes Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19608 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; American Radiolabeled Chemicals, Inc.

By Notice dated April 10, 2013, and published in the **Federal Register** on April 19, 2013, 78 FR 23596, American Radiolabeled Chemicals, Inc., 101 Arc Drive, St. Louis, Missouri 63146, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Dimethyltryptamine (7435)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

Drug	Schedule
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Metazocine (9240)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture small quantities of the listed controlled substances as radiolabeled compounds for biochemical research.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. § 823(a) and determined that the registration of American Radiolabeled Chemicals, Inc., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated American Radiolabeled Chemicals, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR § 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: August 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–19619 Filed 8–13–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Job Corps Application Data (Job Corps Enrollee Allotment Determination, Extension Without Revisions)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)].

This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, ETA is soliciting comments regarding the collection of data about OMB 1205–0030 (January 31, 2014).

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before October 15, 2013.

ADDRESSES: Submit written comments to Linda Estep, Office of Job Corps Room N4507 Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 888–886–1303 ext. 7212 (this is a toll-free number). Fax: 202–693–2764; email: *estep.linda@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Job Corps is the nation's largest residential educational and career technical training program for young Americans. Job Corps was established in 1964 by the Economic Opportunity Act, and currently is authorized by Title I–C of the Workforce Investment Act of 1998. For almost 50 years, Job Corps has helped prepare nearly three million at-risk young people, ages 16 to 24, for success in our nation's workforce. With 125 centers in 48 states, Puerto Rico, and the District of Columbia, Job Corps assists students across the nation in attaining academic credentials, including a High School Diploma (HSD) and/or General Educational Development (GED), and career technical training credentials, including industry-recognized certifications, state licensures, and pre-apprenticeship credentials.

Job Corps is administered by the U.S. Department of Labor (DOL) through the Office of Job Corps and six Regional Offices. DOL awards and administers contracts for the recruiting and screening of new students, center operations, and the placement and transitional support of graduates and former enrollees. Large and small corporations and nonprofit organizations manage and operate 97 Job Corps centers under contractual agreements with DOL.

These contract Center Operators are selected through a competitive procurement process that evaluates potential operators' technical expertise, proposed costs, past performance, and other factors, in accordance with the Competition in Contracting Act and the Federal Acquisition Regulations. The remaining 28 Job Corps centers, called Civilian Conservation Centers, are operated by the U.S. Department of Agriculture Forest Service, via an interagency agreement. The DOL has a direct role in the operation of Job Corps, and does not serve as a pass-through agency for this program.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Job Corps Enrollee Allotment Determination.

OMB Number: Existing number OMB 1205–0030.

Affected Public: Individuals or households, Federal Government.

Form(s): ETA 658.

Total Annual Responses: 1,749.

Average Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 87.5 hours.

Total Annual Burden Cost for Respondents: $450.62.

The purpose of this collection is to provide a vehicle to make allotments

available to students who desire an allotment and have a qualifying dependent. This is completed by the Job Corps Admissions Counselors or center staff, and signed by the student during a personal interview.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 31, 2013.

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2013–19698 Filed 8–13–13; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Proposed Information Collection Request Submitted for Public Comment and Recommendations Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference (USERRA/VP)

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Notice.

SUMMARY: The Veterans' Employment and Training Service (VETS) is announcing an opportunity for public comment on a proposed collection of information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. (44 U.S.C. 3506(c)(2)(A).) In this notice, VETS is soliciting comments concerning the proposed information collection request for the VETS USERRA/VP Form 1010.

DATES: Comments are to be submitted by October 15, 2013.

ADDRESSES: Follow the instructions for submitting comments.

- *Email: 1010-FRN-20013-VETS@dol.gov.* Include ''VETS–1010 Form'' in the subject line of the message.
- *Fax:* (202) 693–4755 Please send comments by fax only if they are 10 pages or less.
- *Mail:* Kenan Torrans, Deputy Director, Division of Investigation and Compliance, VETS, U.S. Department of Labor, Room S–1316, 200 Constitution Avenue NW., Washington, DC 20210.
- Receipt of submissions, whether by U.S. Mail, email, or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4731 (VOICE) (this is not a toll-free number) or (202) 693–4760 (TTY/TDD).

All comments received, including any personal information provided, will be available for public inspection during normal business hours at the above address. People needing assistance to review comments will be provided with appropriate aids such as readers or print magnifiers.

FOR FURTHER INFORMATION CONTACT: Kenan Torrans, Deputy Director, Division of Investigation and Compliance, VETS, at the U.S. Department of Labor, Room S–1316, 200 Constitution Avenue NW., Washington, DC 20210, or by email at: *1010-FRN-2013-VETS@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The VETS/USERRA/VP Form 1010 (VETS–1010 Form) is used to file complaints with the Department of Labor's Veterans' Employment and Training Service (VETS) under either the Uniformed Services Employment and Reemployment Rights Act (USERRA) or the laws and regulations related to Veterans' Preference (VP) in Federal employment.

On October 13, 1994, the Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law 103–353, 108 Stat. 3150 was signed into law. Contained in Title 38, U.S.C., 4301–4335, USERRA is the replacement for the Veterans' Reemployment Rights (VRR) law. The purposes of USERRA laws and regulations are: To minimize disruption to the lives of persons who perform service in the uniformed services (including the National Guard and Reserves), as well as to their employers, their fellow employees, and their communities, by providing for prompt reemployment of such persons upon completion of such service; to encourage individuals to participate in non-career uniformed service by eliminating and minimizing the disadvantages to civilian careers and employment which can result from such service; and to prohibit discrimination in employment and acts of reprisal against persons because of their obligations in the uniformed services, prior service, intention to join the uniformed services, filing of a USERRA claim, seeking assistance concerning an alleged USERRA violation, testifying in a proceeding, or otherwise assisting in an investigation of a USERRA claim.

The Veterans Employment Opportunities Act (VEOA) of 1998, Public Law 105–339, 112 Stat. 3182, contained in Title 5 U.S.C. 3330a–3330c, authorizes the Secretary of Labor to provide assistance to preference eligible individuals who believe their rights under the veterans' preference laws have been violated, and to investigate claims filed by those individuals. The purposes of veterans' preference laws include: To provide preference for certain veterans over others in Federal hiring from competitive lists of applicants; to allow access and open up Federal job opportunities to veterans that might otherwise be closed to the public; to provide preference eligible veterans with preference over others in retention during reductions in force in Federal agencies.

Four minor changes, listed below, were made to the VETS–1010 Form. We believe they will have no significant impact on the burden hours needed to collect required information and to complete the form. VETS now has an electronic complaint form, the VETS e1010, available on our Web site at: *www.dol.gov/vets,* and which may also be accessed via our USERRA and Veterans' Preference elaws Advisors, available on our Web site at: *http://www.dol.gov/elaws/veterans.html.* The e1010 may be completed and submitted electronically without having to download, print, and mail a signed hard copy to our Atlanta regional lead center. To ensure the continuity between the paper and electronic form, we propose changing the following sections on the VETS–1010 Form:

Phone: (404) 562–2305 will be changed to: (866) 4–USA–DOL ((866)–487–2365).

Section I: Claimant Information, question #5 will be changed from: ''Work Phone:'' to: ''Cell Phone:''.

Section II: Uniformed Service Information, the check boxes in question #8 (asking the claimant to designate in which branch of service he or she served) will be changed in order to be consistent with the data fields that are already incorporated in the e1010 version.

Section IV: Claim Information, the labels and content of questions #20 and #21 (asking the claimant to indicate the issues involved in the claim) will be changed in order to be consistent with the data fields that are already incorporated in the e1010 version.

II. Desired Focus of Comments

VETS is soliciting comments concerning the proposed information collection in the VETS–1010 Form. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

III. Current Actions

This notice requests an extension, with non-substantive updates and modification, of the current Office of Management and Budget approval of the paperwork requirements for VETS–1010 Form.

Type of Review: Extension.

Agency: Veterans' Employment and Training Service.

Title: VETS/USERRA/VP (VETS–1010 Form.)

OMB Number: 1293–0002.

Affected Public: Individuals or households.

Total Respondents: Approximately 2,250.

Average Time per Response: 30 minutes, including 10 minutes estimated to collect the information needed to file a USERRA or VP claim and 20 minutes estimated to complete the form.

Total Burden Hours: 1,125 hours.

Total Annualized Capital/Startup costs: $0.

Total Initial Annual Costs: $0.

Comments submitted in response to this notice will be summarized and included in the request for the Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Keith Kelly,

Assistant Secretary, Veterans' Employment and Training Service, U.S. Department of Labor.

[FR Doc. 2013–19695 Filed 8–13–13; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that 11 meetings of the Humanities Panel will be held during September, 2013 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended).

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506, or as otherwise indicated. See **SUPPLEMENTARY INFORMATION** section for further information.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION:

Meetings

1. *Date:* September 09, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 302.

This meeting will discuss applications for the Humanities Initiatives at Historically Black Colleges and Universities, submitted to the Division of Education Programs.

2. *Date:* September 09, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subject of Asia for the Bridging Cultures through Film grant program, submitted to the Division of Public Programs.

3. *Date:* September 10, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subject of Europe for the Bridging Cultures through Film grant program, submitted to the Division of Public Programs.

4. *Date:* September 10, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 302.

This meeting will discuss applications for the Humanities Initiatives at Tribal Colleges and Universities grant program, submitted to the Division of Education Programs.

5. *Date:* September 11, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 302.

This meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions grant program, submitted to the Division of Education Programs.

6. *Date:* September 12, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subject of the Americas for the Bridging Cultures through Film grant program, submitted to the Division of Public Programs.

7. *Date:* September 12, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Location: Netherlands Organisation for Scientific Research, Laan van Nieuw Oost-Indië 300, The Hague, The Netherlands NL–2593 CE.

This meeting will discuss applications for the Digging into Data Challenge grant program, submitted to the Office of Digital Humanities.

8. *Date:* September 12, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Location: Netherlands Organisation for Scientific Research, Laan van Nieuw Oost-Indië 300, The Hague, The Netherlands NL–2593 CE.

This meeting will discuss applications for the Digging into Data Challenge grant program, submitted to the Office of Digital Humanities.

9. *Date:* September 13, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Location: Netherlands Organisation for Scientific Research, Laan van Nieuw Oost-Indië 300, The Hague, The Netherlands NL–2593 CE.

This meeting will discuss applications for the Digging into Data Challenge grant program, submitted to the Office of Digital Humanities.

10. *Date:* September 13, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Location: Netherlands Organisation for Scientific Research, Laan van Nieuw Oost-Indië 300, The Hague, The Netherlands NL–2593 CE.

This meeting will discuss applications for the Digging into Data Challenge grant program, submitted to the Office of Digital Humanities.

11. *Date:* September 16, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subjects of Africa and the Middle East for the Bridging Cultures through Film grant program, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5 U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: August 8, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–19694 Filed 8–13–13; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0162]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Part 21 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Reporting of Defects and Noncompliance.''

2. *Current OMB approval number:* 3150–0035.

3. *How often the collection is required:* On occasion, as defects and noncompliance are reportable as they occur.

4. *Who is required or asked to report:* Individual directors and responsible officers of firms constructing, owning, operating, or supplying the basic components of any facility or activity licensed under the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, as amended, to report immediately to the NRC the discovery of defects in basic components or failures to comply that could create a substantial safety hazard.

5. *The number of annual respondents:* 350.

6. *The number of hours needed annually to complete the requirement or request:* 34,705 hours (9,420 hours reporting + 25,190 hours recordkeeping + 95 hours third-party disclosure).

7. *Abstract:* The 10 CFR Part 21 regulation requires each individual, corporation, partnership, commercial grade dedicating entity, or other entity subject to the regulations in this part to adopt appropriate procedures to evaluate deviations and failures to comply to determine whether a defect exists that could result in a substantial safety hazard. Depending upon the outcome of the evaluation, a report of the defect must be submitted to the NRC. Reports submitted under 10 CFR Part 21 are reviewed by the NRC staff to determine whether the reported defects or failures to comply in basic components at the NRC licensed facilities or activities are potentially generic safety problems. These reports have been the basis for the issuance of numerous NRC Generic Communications that have contributed to the improved safety of the nuclear industry. The records required to be maintained in accordance with 10 CFR Part 21 are subject to inspection by the NRC to determine compliance with the subject regulation.

Submit, by October 15, 2013, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate 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 or other forms of information technology?

The public may examine and have copied for fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, and Rockville, Maryland 20874. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2013–0162. You may submit your comments by any of the following methods: Electronic comments go to: *http://www.regulations.gov* and search for Docket No. NRC–2013–0162. Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 8th day of August, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–19647 Filed 8–13–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Vogtle Electric Generating Station, Units 3 and 4; Southern Nuclear Operating Company; Change to the Turbine Building Structures and Layout

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting both an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment No. 7 to Combined Licenses (COL), NPF–91 and NPF–92. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company,

Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP), Units 3 and 4, located in Burke County, Georgia. The amendment requests to revise the structure and layout of the Turbine Building, which includes changes to Tier 1 information located in Table 3.3–1, ''Definition of Wall Thicknesses for Nuclear Island Buildings, Turbine Building, and Annex Building,'' and security-related Figure 3.3–11B, ''Turbine Building General Arrangement Plan at elevation 100'-0'''' (NOTE: this figure is withheld from public disclosure because it contains security-related information) of the Updated Final Safety Analysis Report (UFSAR). The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 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–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3442; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual 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.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The request for the amendment and exemption were submitted by letter dated October 17, 2012 (ADAMS Accession No. ML12296A836). The licensee supplemented this request on January 4, 2013 (ADAMS Accession No. ML13008A234), and February 7, 2013 (ADAMS Accession No.ML13039A329).
- *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.

FOR FURTHER INFORMATION CONTACT: Anthony Minarik, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6185; email: *Anthony.Minarik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from Paragraph B of Section III, ''Scope and Contents,'' of Appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR) and issuing License Amendment No. 7 to COLs, NPF–91 and NPF–92, to the licensee. The exemption is required by Paragraph A.4 of Section III, ''Processes for Changes and Departures,'' Appendix D to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought to change UFSAR information related to the design and layout of the turbine building. As part of this request, the licensee needed to change the Tier 1 information located in Table 3.3–1 and security-related Figure 3.3–11B of its UFSAR. In Table 3.3–1, these changes described the wall thicknesses and elevations of the Turbine Building due to revising the structure and layout of the building. Tier 1 information in security-related Figure 3.3–11B was revised to reflect the new layout and positioning of structures within the Turbine Building.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, and Section VIII.A.4. of Appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML13115A858.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for Vogtle Units 3 and 4 (COLs NPF–91 and NPF–92). These documents can be found in ADAMS under Accession Nos. ML13115A632 and ML13115A690. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML13115A719 and ML13115A751. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to Vogtle Unit 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated October 17, 2012, and as supplemented by letters dated January 4, 2013, and February 7, 2013, the licensee requested from the Commission an exemption from the provisions of 10 CFR part 52, Appendix D, Section III.B, as part of license amendment request 12–006, ''Changes to the Structure and Layout of the Turbine Building'' (LAR 12–006).

For the reasons set forth in Section 3.1, ''Evaluation of Exemption,'' of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML13115A858, the Commission finds that:

A. The exemption is authorized by law;

B. The exemption presents no undue risk to public health and safety;

C. The exemption is consistent with the common defense and security;

D. Special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. The special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. The exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption to the provisions of 10 CFR part 52, Appendix D, Section III.B, to allow deviations from the Tier 1 certification information in Table 3.3–1 and security-related Figure 3.3–11B of the certified Design Control Document, as described in the licensee's request dated October 17, 2012, and as supplemented on January 4, 2013, and

February 7, 2013. This exemption is related to, and necessary for the granting of License Amendment No. 7, which is being issued concurrently with this exemption.

3. As explained in Section 5.0, ''Environmental Consideration,'' of the NRC staff's Safety Evaluation (ADAMS Accession No. ML13115A858), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of May 16, 2013.

III. License Amendment Request

By letter dated October 17, 2012, the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF–91 and NPF–92. The licensee supplemented this application on January 4, 2013, and February 7, 2013. The licensee sought to change Tier 2 information previously incorporated into the UFSAR. Additionally, these Tier 2 changes involved changes to Tier 1 material in the UFSAR, and would revise the associated material that has been included in Appendix C of each of the VEGP, Units 3 and 4, COLs. The requested amendment will revise Tier 2 UFSAR information related to the design and layout of the Turbine Building detailed in the amendment request. These Tier 2 changes require modifications to particular Tier 1 Information located in Table 3.3–1 and security-related Figure 3.3–11B. These changes were necessary as part of the following layout and structural changes to the Turbine Building: (1) Changing the door location on the motor-driven fire pump room in the Turbine Building, (2) clarifying the column line designations for the southwest and southeast walls of the Turbine Building first bay, (3) changing the floor to ceiling heights at three different elevations in the Turbine Building main area, and (4) increasing elevations and wall thicknesses in certain walls of the Turbine Building first bay.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on December 11, 2012 (77 FR 73684). The supplements had no effect on the no significant hazards consideration determination and no comments were received during the 60-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on October 17, 2012, and supplemented by letters dated January 4, 2013, and February 7, 2013. The exemption and amendment were issued on May 16, 2013 as part of a combined package to the licensee. (ADAMS Accession No. ML13115A424).

Dated at Rockville, Maryland, this 8th day of August, 2013.

For the Nuclear Regulatory Commission.

Lawrence Burkhart,

Chief Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–19709 Filed 8–13–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320; NRC–2013–0183]

Three Mile Island, Unit 2; Post Shutdown Decommissioning Activities Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; availability; request for comment.

SUMMARY: On June 28, 2013, the GPU Nuclear Inc. (GPUN) submitted its Post Shutdown Decommissioning Activity Report (PSDAR) for Three Mile Island, Unit 2 (TMI–2). The PSDAR provides an overview of GPUN's proposed decommissioning activities, schedule, and costs for TMI–2. The NRC is requesting public comments on the PSDAR.

DATES: Submit comments by September 27, 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.

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–2013–0183. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; 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, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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: John T. Buckley, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6607; email: *John.Buckley@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0183 when contacting the NRC about the availability of information regarding this document. You may access publically-available information by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0183.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The

ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The PSDAR, dated June 2013, was placed in ADAMS with Accession No. ML13190A366.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0183 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. Discussion

The NRC issued GPUN operating license DPR–73 for TMI–2 on February 8, 1978. Commercial operation of TMI–2 began on December 30, 1978. On March 28, 1979, TMI–2 experienced an accident which resulted in severe damage to the reactor core and has been in a non-operating status since the accident. The GPUN defueled the reactor vessel and decontaminated the facility to the extent that the plant is in a safe, inherently stable condition known as post-defueling monitored storage (PDMS). Approximately 99 percent of the fuel was removed from TMI–2 and shipped to Idaho National Engineering and Environmental Laboratory under the responsibility of the U.S. Department of Energy.

The accident made the shutdown of TMI–2 unique from all other reactors in that GPUN did not follow the standard process for cessation of operations provided in § 50.82 of Title 10 of the Code of Federal Regulations (10 CFR), ''Termination of license.'' The formal transition of TMI–2 from post-accident cleanup to PDMS required NRC approval. The GPUN obtained NRC approval to maintain TMI–2 in the PDMS state until decommissioning with the issuance of License Amendment No. 45 dated September 14, 1993 (ADAMS Accession No. 9405190046). License Amendment No. 45 also converted GPUN's operating license to the current possession-only license. As a result, the NRC considers GPUN to have submitted a certification of permanent cessation of operations and a certification of permanent fuel removal as of September 14, 1993. In accordance with § 50.82 in effect at that time, GPUN should have submitted a decommissioning plan by September 1995. In 1996, the NRC amended its regulations in 10 CFR 50.82 to require, among other things, that power reactor licensees submit a PSDAR instead of a decommissioning plan. On June 28, 2013, the GPUN submitted its PSDAR to establish compliance with § 50.82(a)(4). The GPUN stated that its PSDAR will maintain TMI–2 in the PDMS state up to an additional 20 years to coincide with the end of the TMI, Unit 1 (TMI–1) Operating License to synchronize decommissioning of TMI–1 and TMI–2.

III. Request for Public Comments

The NRC is requesting public comments on the PSDAR.

Dated at Rockville, Maryland, this 6th day of August 2013.

For the Nuclear Regulatory Commission.

Bruce Watson,

Chief, Decommissioning and Uranium Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–19710 Filed 8–13–13; 8:45 am]

BILLING CODE 7590–01–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 12h–1(f);
OMB Control No. 3235–0632, SEC File No. 270–570.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 12h–1(f) [17 CFR 240.12h–1(f)] provides an exemption from the registration requirements of the Securities Exchange Act of 1934 for compensatory employee stock options of issuers that are not required to file periodic reports under the Exchange Act and that have 500 or more option holders and more than $10 million in assets at its most recently ended fiscal year. The information required under Rule 12h–1(f) is not filed with the Commission. Rule 12h–1(f) permits issuers to provide the required information (other than the issuer's books and records) to the option holders and holders of share received on exercise of compensatory employee stock options either by: (i) physical or electronic delivery of the information; and (ii) notice to the option holders and holders of shares received on exercise of compensatory employee stock options of the availability of the information on a password-protected Internet site. We estimate that it takes approximately 2 burden hours per response to provide the information required under Rule 12h–1(f) and that the information is filed by approximately 40 respondents. We estimate that 25% of the 2 hours per response (0.5 hours) is prepared by the company for a total annual reporting burden of 20 hours (0.5 hours per response × 40 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid control number.

Please direct your written comment to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 8, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19670 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30647; File No. 811–07528]

Special Opportunities Fund, Inc.; Notice of Application

August 8, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for a declaratory order under Section 554(e) of the Administrative Procedure Act of 1946 (''APA'') concerning a proxy voting procedure under Section 12(d)(1)(F) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicant requests an order declaring that its proxy voting procedure does not cause the applicant to be in violation of Section 12(d)(1) of the Act.

APPLICANT: Special Opportunities Fund, Inc. (''SPE'' or ''Fund'').

FILING DATES: The application was filed on December 13, 2011 and amended on November 5, 2012.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 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. Absent a request for a hearing that is granted by the Commission, the Commission intends to issue an order under Section 554(e) of the APA declaring that applicant's proxy voting procedure does not satisfy Section 12(d)(1)(F) of the Act.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicant, 615 East Michigan Street, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Adam Glazer, Senior Counsel, at (202) 551–6825, Division of Investment Management, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site at *http://www.sec.gov/rules/ic/2012/special-opportunities-fund-application.pdf* or by calling (202) 551–8090.

Applicant's Representations

1. SPE is organized as a Maryland corporation and is registered under the Act as a closed-end management investment company. Brooklyn Capital Management, LLC (''Adviser''), a Delaware limited liability company, is an investment adviser registered under the Investment Advisers Act of 1940 and currently serves as investment adviser to SPE. SPE seeks to rely on Section 12(d)(1)(F) of the Act to invest its assets in securities of other investment companies registered under the Act (''underlying funds'') that are closed-end investment companies, in excess of the limits in Section 12(d)(1)(A) of the Act.

2. On December 7, 2011, SPE's shareholders approved a proposal to ''instruct the Adviser to vote proxies received by the Fund from any [underlying fund] on any proposal (including the election of directors) in a manner which the Adviser reasonably determines is likely to favorably impact the discount of such [underlying fund's] market price as compared to its net asset value'' (''Voting Procedure''). SPE requests a declaratory order pursuant to Section 554(e) of the APA stating that the Voting Procedure ''does not cause it to be in violation of Section 12(d)(1) of the Act.''

Applicant's Legal Analysis

1. Section 12(d)(1)(A) of the Act provides, in relevant part, that it shall be unlawful for any registered investment company (''acquiring fund'') to purchase or otherwise acquire any security issued by an underlying fund if immediately after such purchase or acquisition: (i) the acquiring company owns more than 3% of the underlying fund's total outstanding voting stock; (ii) securities issued by the underlying fund have an aggregate value in excess of 5% of the value of the acquiring fund's total assets (''5% limit''); or if such securities, together with the securities of other investment companies, have an aggregate value in excess of 10% of the value of the acquiring fund's total assets (''10% limit'').

2. Section 12(d)(1)(F) of the Act provides a conditional exemption from the 5% and 10% limits in Section 12(d)(1)(A). Section 12(d)(1)(F) permits an acquiring fund to purchase or otherwise acquire shares of an underlying fund if, immediately after the purchase or acquisition, the acquiring fund and all of its affiliated persons would not own more than 3% of the underlying fund's total outstanding stock, and if certain sales load restrictions are met. Section 12(d)(1)(F) further provides that the underlying fund is not obligated to redeem, during any period of less than 30 days, securities held by the acquiring fund in an amount exceeding 1% of the underlying fund's outstanding securities. Finally, Section 12(d)(1)(F) provides that the acquiring fund ''shall exercise voting rights by proxy or otherwise with respect to any security purchased or acquired pursuant to [Section 12(d)(1)(F)] in the manner prescribed by [Section 12(d)(1)(E)].'' Section 12(d)(1)(E)(iii), in turn, provides, in relevant part, that ''the purchase or acquisition is made pursuant to an arrangement with the issuer of, or principal underwriter for, the issuer of the security whereby [the acquiring fund] is obligated either to seek instructions from its security holders with regard to the voting of all proxies with respect to such security and to vote such proxies only in accordance with such instructions, or to vote the shares held by it in the same proportion as the vote of all other holders of such security.'' The first alternative is referred to as ''Pass-Through Voting Condition.'' The second alternative is referred to as ''Mirror Voting.''

3. SPE asserts that its Voting Procedure satisfies the Pass-Through Voting Condition. SPE states that it has been ''unable to find anything in the legislative history of Section 12(d)(1) that provides any clue as to the reason for the [Pass-Through Voting Condition].'' SPE further asserts that ''there are good reasons for interpreting the [Pass-Through Voting Condition] to allow an acquiring fund to seek standing instructions to vote on proposals regarding acquired funds.'' In this regard, SPE asserts that it is not cost effective for an acquiring fund to obtain voting instructions for a particular

underlying fund after it receives a proxy. SPE also states that ''there is almost never sufficient time for an acquiring fund to seek and actually obtain instructions from its own shareholders as to how to vote a specific proxy solicited by a particular acquired fund.'' SPE further states that ''SPE has no such relationship with any fund and it would be futile for SPE to try to persuade an unrelated acquired fund to transmit its proxy materials to SPE's stockholders.''

4. SPE requests an order under section 554(e) of the APA declaring that the Voting Procedure ''does not cause it to be in violation of Section 12(d)(1) of the Act.'' Section 554(e) of the APA provides that ''[t]he agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.'' SPE states that, if the Commission issues the requested declaratory order, SPE intends to submit the Voting Procedure for shareholder approval on an annual basis ''to insure that its standing proxy voting instructions do not become stale.''

The Commission's Preliminary Views

1. Section 12(d)(1)(F) of the 1940 Act provides a conditional exemption from the restrictions in Section 12(d)(1)(A) on an acquiring fund purchasing or otherwise acquiring a security issued by an underlying fund. The legislative history of Section 12(d)(1)(A) suggests that these restrictions were designed, in part, to address the concern that an acquiring fund could be used by an investment adviser, among others, as a vehicle to control or unduly influence, through voting, threat of redemption or otherwise, an underlying fund for its own benefit and to the detriment of the shareholders of both funds.[1] The conditions contained in the exemption provided by Section 12(d)(1)(F), and in particular the condition requiring voting in accordance with Section 12(d)(1)(E)(iii), attempts to minimize the influence that an acquiring fund may exercise over an underlying fund through voting.[2]

2. Shortly after Section 12(d)(1)(F) was enacted in 1970, the Commission issued a release providing guidance on the various provisions enacted by the new legislation, including specifically the Pass-Through Voting Condition.[3] The 1971 Release stated that the Pass-Through Voting Condition in Section 12(d)(1)(F) ''in effect, requires the fund holding company to make an arrangement with the issuer or principal underwriter of the issuer whereby sufficient proxy solicitation or other material may be transmitted to the fund holding company's security holders so that their instructions may be obtained.''[4] This approach addresses the concern underlying the restrictions in Section 12(d)(1)(A)—that the fund of funds' investment adviser or another affiliate not exercise undue influence over the management or policies of an underlying fund—by placing the voting of the underlying fund's proxies in the hands of the fund of funds' shareholders (rather than its investment adviser). Consistent with the Commission's analysis in the 1971 Release, the Commission interprets Section 12(d)(1)(F), through the incorporation of the requirement in Section 12(d)(1)(E)(iii), to require SPE, if it chooses the Pass-Through Voting Condition, to have an arrangement with each underlying fund or its principal underwriter whereby SPE will pass through the proxies to SPE's shareholders and vote according to their instructions.

3. In the Commission's preliminary view, SPE's Voting Procedure does not appear to be consistent with the purposes and policies behind Section 12(d)(1)(F) of the Act, or with the guidance that the Commission articulated in the 1971 Release. The Voting Procedure gives the Adviser broad discretion in voting the underlying funds' proxies and thus presents the potential for the Adviser to exercise undue influence over the management and policies of the underlying funds. As to SPE's assertion that soliciting proxies as described in the 1971 Release is ''prohibitively expensive and logistically impractical,'' we note that Section 12(d)(1)(E) requires there to be ''an arrangement'' between the acquiring fund and an underlying fund concerning the voting of proxies, which suggests that at least the logistics of the Pass-Through Voting Condition could be addressed as part of ''the arrangement.'' We also note that funds of funds similar to SPE existed at the time the 1971 Release was issued and the Pass-Through Voting Condition was enacted as an alternative to Mirror Voting, yet Congress nevertheless determined the statutory conditions to be appropriate.[5] To the extent that SPE finds making ''an arrangement'' with an underlying fund under the Pass-Through Voting Condition ''futile,'' SPE has the option of using Mirror Voting. Therefore, absent a request for a hearing that is granted by the Commission, the Commission intends to respond to SPE's application by issuing an order under Section 554(e) of the APA declaring that the Voting Procedure does not satisfy Section 12(d)(1)(F) of the Act.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19693 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

[1] *See* U.S. Securities and Exchange Commission, Investment Trusts and Investment Companies, H.R. Doc No. 279, 76th Cong., 1st Sess., pt. 3, at 2721–95 (1939).

[2] *See Fund of Funds Investments,* Investment Company Act Release No. 27399 (June 20, 2006) at n.11 and accompanying text.

[3] *Changes in the Investment Company Act of 1940 Made by the Investment Company Amendments Act of 1970 (Pub. L. 91–547) Relating to the Repeal and Modification of Exemptions for Certain Companies; The Pyramiding of Investment Companies and the Regulation of Fund Holding Companies; and Rescission of Rule 11b-1 under the Investment Company Act,* Investment Company Act Release No. 6440 (Apr. 6, 1971) (''1971 Release'').

[4] *Id.* at 4.

[5] *See Mutual Fund Legislation of 1967: Hearings on S. 1659 Before the Senate Comm. on Banking and Currency,* 90th Cong., 1st Sess. 882–891 (1967) (statement of Milton Mound, President, First Multifund of America, Inc.).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70150]

Order Temporarily Exempting Certain Broker-Dealers and Certain Transactions From the Recordkeeping and Reporting Requirements of Rule 13h–1 Under the Securities Exchange Act of 1934

August 8, 2013.

On July 27, 2011, the Securities and Exchange Commission (''Commission'') adopted Rule 13h–1 (the ''Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'') concerning large trader reporting to assist the Commission in both identifying and obtaining trade information for market participants that conduct a substantial amount of trading activity, as measured by volume or market value, in U.S. securities (such persons are referred to as ''large traders'').[1] The Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA,'' and collectively the ''Industry Organizations''), each representing a variety of broker-dealers and other market participants, have requested that the Commission grant certain substantive relief from the broker-dealer recordkeeping and reporting

[1] *See* Securities Exchange Act Release No. 64976 (July 27, 2011), 76 FR 46960 (Aug. 3, 2011) (''Large Trader Adopting Release''). The effective date of Rule 13h–1 was October 3, 2011.

requirements of the Rule.[2] Pursuant to Section 13(h)(6) of the Exchange Act and Rule 13h–1(g) thereunder,[3] the Commission, by order, may exempt from the provisions of Rule 13h–1, upon specified terms and conditions or for stated periods, any person or class of persons or any transaction or class of transactions from the provisions of Rule 13h–1 to the extent that such exemption is consistent with the purposes of the Exchange Act.

In response to the Industry Organizations' requests and as further discussed below, the Commission extended the compliance date for the broker-dealer recordkeeping, reporting, and monitoring requirements and took a two-phased approach to implementation of the broker-dealer requirements under the Rule. Commencing on November 30, 2012, the first phase of implementation required clearing broker-dealers for large traders to keep records of and report upon Commission request data concerning: (1) proprietary trades by large traders that are U.S.-registered broker-dealers; and (2) transactions effected by large traders through a sponsored access arrangement (collectively, ''Phase One'').[4]

The second phase of implementation concerned those remaining requirements of the Rule that were not covered in Phase One. As more fully described below, the Commission is herein modifying this second phase by limiting the recordkeeping and reporting requirements of the Rule to include transactions effected by large traders through direct market access arrangements (''Phase Two''). The compliance date for Phase Two, as modified, will remain November 1, 2013.[5]

Finally, the Commission is herein establishing a new third phase for which the compliance date will be November 1, 2015. As discussed further below, this new and final phase will include all of the remaining requirements of the Rule that have not been, or will not be, implemented in either Phase One or Phase Two (collectively, ''Phase Three'').

I. Background

A. The Requirements of Rule 13h–1 and Applicable Compliance Dates for Those Requirements

Large Trader Self-Identification. Rule 13h–1 requires that large traders register with the Commission by electronically filing and periodically updating Form 13H.[6] Additionally, promptly after receiving a large trader identification number (''LTID'') assigned by the Commission,[7] a large trader must disclose its LTID to registered broker-dealers effecting transactions on its behalf and identify to each such broker-dealer each account to which the LTID number applies.[8] These requirements have been in effect since December 1, 2011.[9]

Broker-Dealer Recordkeeping and Reporting. Rule 13h–1 also requires that every registered broker-dealer maintain records of data specified in paragraphs (d)(2) and (d)(3) of the Rule (''Transaction Data''), including the applicable LTID(s) and execution time on each component trade, for all transactions effected directly or indirectly by or through: (1) an account such broker-dealer carries for a large trader or an Unidentified Large Trader;[10] or (2) if the broker-dealer is a large trader, any proprietary or other account over which such broker-dealer exercises investment discretion.[11] Additionally, where a non-broker-dealer carries an account for a large trader under the Rule, the broker-dealer effecting transactions directly or indirectly for such large trader must maintain records of all Transaction Data.[12]

Rule 13h–1 requires that, upon Commission request, every registered broker-dealer that is itself a large trader or carries an account for a large trader must electronically report Transaction Data to the Commission through the Electronic Blue Sheets (''EBS'') system for all transactions, equal to or greater than the reporting activity level, effected directly or indirectly by or through accounts carried by such broker-dealer for large traders.[13] Additionally, where a non-broker-dealer carries an account for a large trader, the broker-dealer effecting such transactions directly or indirectly for a large trader must electronically report Transaction Data to the Commission through the EBS system. The Rule requires that reporting broker-dealers submit the requested Transaction Data no later than the day and time specified in the Commission's request.[14]

Initially, the compliance date for the broker-dealer requirements was April 30, 2012.[15] To allow additional time for the Commission to examine implementation issues identified by the Industry Organizations subsequent to the Commission's adoption of the Rule, the Commission deferred the initial compliance date and established a two-phased approach to implementation of the broker-dealer requirements.[16] Specifically, the Commission postponed until November 30, 2012, the obligations of clearing brokers for large traders (including the large trader itself if it is a self-clearing broker-dealer) to keep records and report Transaction Data for such customers' transactions that are either (1) proprietary trades by a U.S. registered broker-dealer; or (2) effected through a ''sponsored access'' arrangement (*i.e.,* Phase One).[17] The

[2] *See* Letters from: Manisha Kimmel, Executive Director, FIF, to Robert Cook, Director, and David Shillman, Associate Director, Division of Trading and Markets, Commission, dated January 25, 2012 (''FIF Letter''); Ann L. Vlcek, Managing Director and Associate General Counsel, SIFMA, to David S. Shillman, Associate Director, Division of Trading and Markets, Commission, dated March 29, 2012 (''SIFMA Letter I''); and Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to David S. Shillman, Associate Director, Division of Trading and Markets, Commission, dated February 13, 2013 (''SIFMA Letter II''). These letters are available at: *http://www.sec.gov/comments/s7-10-10/s71010.shtml.*

[3] *See* 15 U.S.C. 78m and 17 CFR 240.13h–1(g), respectively.

[4] *See* Securities Exchange Act Release No. 66839 (April 20, 2012), 77 FR 25007, 25008 (April 26, 2012) (''Extension Order I'').

[5] *See infra* note 19.

[6] *See* Rule 13h–1(b)(1)(i)–(iii).

[7] When a large trader files its initial Form 13H filing through EDGAR, the system sends an automatically generated confirmation email acknowledging acceptance of the filing. That email also contains the unique 8-digit LTID number assigned to the large trader.

[8] *See* Rule 13h–1(b)(2). *See also* Large Trader Adopting Release, *supra* note 1, 76 FR at 46971 (''the requirements that a large trader provide its LTID to all registered broker-dealers who effect transactions on its behalf, and identify each account to which it applies, are ongoing responsibilities that must be discharged promptly'').

[9] *See* Large Trader Adopting Release, *supra* note 1, 76 FR at 46960.

[10] The definition of ''Unidentified Large Trader'' is discussed below. *See infra* note 20 and accompanying text. In the context of the broker-dealer recordkeeping and reporting requirements, references in this release to ''large trader'' include Unidentified Large Traders.

[11] *See* Rule 13h–1(d)(1)(i) and (ii).

[12] *See* Rule 13h–1(d)(1)(iii).

[13] Rule 13h–1(a)(8) defines the reporting activity level as: (i) Each transaction in NMS securities, effected in a single account during a calendar day, that is equal to or greater than 100 shares; (ii) any other transaction in NMS securities, effected in a single account during a calendar day, that a registered broker-dealer may deem appropriate; or (iii) such other amount that may be established by order of the Commission from time to time.

[14] The Commission will not require reporting earlier than the opening of business of the day following such request, except under unusual circumstances. *See* Rule 13h–1(e). Accordingly, while information must be available on the morning after the transaction was effected, the reporting deadline is based upon the deadline specified in the Commission's request for Transaction Data.

[15] *See* Large Trader Adopting Release, *supra* note 1, 76 FR at 46960.

[16] *See* Extension Order I, *supra* note 4.

[17] *See id.* at 25008–9. A sponsored access arrangement is one where a broker-dealer permits a customer to enter orders into a trading center without using the broker-dealer's trading system (*i.e.,* using the customer's own technology or that of a third party provider). FIF indicated that broker-dealer compliance would be easier for sponsored

Continued

Commission further deferred the compliance date for the recordkeeping and reporting of other large trader transactions until May 1, 2013 [18] and, more recently, the Commission extended that date to November 1, 2013 while it considered the industry's experience with Phase One implementation in further evaluating the requests for relief for the remainder of the Rule.[19]

Broker-Dealer Monitoring. As mentioned above, the recordkeeping and reporting requirements apply to customers that are large traders as well as Unidentified Large Traders. An ''Unidentified Large Trader'' is a person who (1) has not complied with the identification requirements of the Rule; and (2) a registered broker-dealer knows or has reason to know is a large trader based on transactions in NMS securities effected by or through such broker-dealer.[20] The Rule provides a safe harbor for broker-dealers that establish and maintain certain customer monitoring practices. For the purposes of the Rule, a registered broker-dealer is deemed not to know or have reason to know that a person is a large trader if it does not have actual knowledge that a person is a large trader and it establishes policies and procedures reasonably designed to (among other things): (1) identify persons who may be large traders but have not self-identified as required; and (2) inform those persons of the self-identification requirements of the Rule.[21] To take advantage of this safe harbor, broker-dealers are required to have appropriate policies and procedures in place by the Phase Two compliance date, which is November 1, 2013.[22]

B. Relief Requests

The Industry Organizations have requested that the Commission provide certain substantive relief with respect to the recordkeeping and reporting requirements for broker-dealers.[23] In particular, they highlight implementation challenges associated with the Rule's recordkeeping and reporting requirements that have come to light as broker-dealers focused their attention on how to comply with the Rule, in particular with respect to obtaining and reporting the execution time of individual transactions by certain large traders.[24] According to the Industry Organizations, these challenges are most pronounced when a broker-dealer effects transactions for a large trader and processes the activity through a multi-client average price account.[25] As a result of the complexity and additional cost to capture and report disaggregated trades with execution time for large traders whose trades are processed in this manner, the Industry Organizations request relief from the requirement to provide execution times on transactions processed through average price accounts.[26]

The Industry Organizations also request relief for all broker-dealers other than self-clearing and clearing broker-dealers from the recordkeeping and reporting requirements of the Rule.[27] While the Rule focuses the reporting obligation on the universe of clearing brokers that currently report data through the EBS system, the Rule also authorizes the Commission to obtain this data directly from certain non-clearing broker-dealer large traders, as well as broker-dealers that effect transactions, directly or indirectly, for large traders where a non-broker-dealer carries the account. The Industry Organizations have asked the Commission to impose the recordkeeping and reporting requirement exclusively on the clearing brokers that currently report through the EBS system.[28]

In addition, the Industry Organizations argue that the complex structure underlying execution, clearance, and settlement flows of large trader transactions, including the fact that information related to the identity of the large trader and the execution fill details often reside with different broker-dealers, presents challenges to implementation, and that these concerns are most relevant with respect to large trader institutional customers.[29] The Industry Organizations further highlight areas where the burdens as they relate to institutional large trader customers would be most extensive and impose the greatest potential cost for some broker-dealers, particularly for prime brokers, routing broker-dealers, and situations where clearing responsibility is transferred between multiple brokers, and the Industry Organizations request that the Commission provide relief from the recordkeeping and reporting obligations of the Rule for each of those areas.[30]

II. Discussion

The Commission continues to believe that implementation of the large trader reporting requirements contemplated by Rule 13h–1 is necessary to effectively assess the impact of large trader activity on the securities markets in the near term and support the Commission's investigative and enforcement activities. The Commission also believes that it is appropriate and consistent with the Exchange Act to provide exemptive relief limiting short-term compliance costs of the Rule to focus near-term compliance on the large trader information that is likely to be most useful to the Commission.

Accordingly, and as discussed more fully below, the Commission believes that it is appropriate and consistent with the purposes of the Exchange Act to extend the Phase Two November 1, 2013 compliance date for certain registered broker-dealers by temporarily exempting broker-dealers, until November 1, 2015, from the recordkeeping and reporting requirements of Rule 13h–1(d) and (e), except for:

(1) The clearing broker-dealer for a large trader,[31] with respect to [32]

(a) proprietary transactions by a large trader broker-dealer;

(b) transactions effected pursuant to a ''sponsored access'' arrangement; [33] and

access customers because those arrangements typically are distinct from all other business lines of the broker-dealer, with infrastructure that processes this order flow that is separate from the platforms that handle other client and proprietary flows. *See id.* at 25008 n.16.

[18] *See id.* at 25008.

[19] *See* Securities Exchange Act Release No. 69281 (April 3, 2013), 78 FR 20960 (April 8, 2013) (''Extension Order II'').

[20] *See* Rule 13h–1(a)(9).

[21] *See* Rule 13h–1(f).

[22] *See* Extension Order II, *supra* note 19.

[23] *See generally* FIF Letter, SIFMA Letter I, and SIFMA Letter II, *supra* note 2.

[24] *See* SIFMA Letter II, *supra* note 2 at 5. *See also* FIF Letter, *supra* note 2 at 2; and SIFMA Letter I, *supra* note 2 at 5.

[25] *See* FIF Letter, *supra* note 2 at 31–32. *See also* SIFMA Letter I, *supra* note 2 at B–1.

[26] *See, e.g.,* SIFMA Letter I, *supra* note 2 at 5.

[27] *See* FIF Letter, *supra* note 2 at 25–28. *See also* SIFMA Letter I, *supra* note 2 at B–2.

[28] *See* FIF Letter, *supra* note 2 at 26–27. *See also* SIFMA Letter I, *supra* note 2 at B–3.

[29] *See* FIF Letter, *supra* note 2 at 25–28. *See also* SIFMA Letter II, *supra* note 2 at 5–7.

[30] *See* FIF Letter, *supra* note 2 at 25–28. *See also* SIFMA Letter II, *supra* note 2 at 5–7.

[31] In its letter, FIF asked the Commission for ''relief for broker dealers involved in Large Trader transactions that do not have a direct relationship with the Large Trader. Only the self-clearing and clearing broker dealers with a direct relationship with the Large Trader would perform Large Trader Reporting.'' *See* FIF Letter, *supra* note 2, at 2. In Appendix C of its letter, FIF provides an example of the entities for whom it recommends imposing a recordkeeping and reporting obligation. *See id.* at 25. In addition, FIF recommends that the reporting of execution time should rest with the clearing broker for the originating broker, and any prime broker would be relieved from being required to report execution times.

[32] Items (a) and (b) are currently included in Phase One, which was effective beginning on November 30, 2012.

[33] *See infra* note 39 (defining ''sponsored access'' arrangement).

(c) transactions effected pursuant to a ''direct market access'' arrangement [34]; and

(2) a broker-dealer that carries an account for a large trader, with respect to transactions other than those set forth above, and for Transaction Data other than the execution time.[35]

In accordance with Phase One, clearing broker-dealers for large traders have been complying with the recordkeeping and reporting requirements of Rule 13h–1, with respect to (a) proprietary transactions by a large trader broker-dealer, and (b) transactions effected pursuant to a ''sponsored access'' arrangement, since November 30, 2012. As part of Phase Two, in accordance with this Order, clearing broker-dealers for large traders also will have to comply with the recordkeeping and reporting requirements of Rule 13h–1 with respect to transactions effected pursuant to a ''direct market access'' arrangement as of November 1, 2013. In addition, with respect to all other types of transactions, the prime broker or other carrying broker-dealer for a large trader will have to report the applicable LTID, but not the execution time, as of November 1, 2013. Finally, the recordkeeping and reporting requirements with respect to Unidentified Large Traders, and the related monitoring safe harbor provided by Rule 13h–1(f), will apply to broker-dealers that carry an account for a large trader as of November 1, 2013.

The Rule as adopted requires the following broker-dealers to obtain, keep records of, and report Transaction Data to the Commission upon request through the EBS infrastructure: (1) The broker-dealer that ''carries'' the account for the large trader (including the clearing broker for the large trader and the large trader's prime broker, if applicable); (2) broker-dealer large traders, with respect to their proprietary trades and transactions over which they exercise investment discretion; and (3) other brokers that directly or indirectly effect transactions for a large trader, including an executing broker, where a non-broker-dealer carries the large trader's account.[36] As SIFMA notes, at present, carrying brokers-dealers are the primary parties that report through the EBS infrastructure.[37] Accordingly, full compliance with the recordkeeping and reporting provisions of the Rule would require non-carrying broker-dealers to develop connectivity to the EBS system. In its initial exemption, the Commission temporarily limited the broker-dealer recordkeeping and reporting requirements to the clearing broker-dealer for a large trader.[38]

To reduce implementation burdens, the Commission believes that it is appropriate, at this time, to continue to limit the recordkeeping and reporting obligations of the Rule to broker-dealers that carry accounts for large traders, as they are already connected to the EBS system. Accordingly, the Commission is extending its temporary exemption of non-carrying brokers from the reporting requirement of the Rule until November 1, 2015. In other words, for Phase Two, a registered broker-dealer that is itself a large trader but does not self-clear, as well as a broker-dealer effecting transactions directly or indirectly for a large trader where a non-broker-dealer carries the account for the large trader, are both temporarily relieved from the reporting requirements of the Rule and, therefore, they do not need to record and electronically report Transaction Data to the Commission through the EBS system solely for purposes of the Rule. For the types of large traders and transactions subject to reporting in Phases One and Two, the Commission will obtain the Transaction Data it needs from the carrying broker for the large trader, and therefore believes that it is reasonable, at this time, to extend the temporary exemption provided to other types of broker-dealers from the recordkeeping and reporting requirements of the Rule.

With respect to the specific transactions to be recorded and reported by carrying brokers, as part of Phase One, the Commission required recordkeeping and reporting of Transaction Data of proprietary trades by broker-dealer large traders and transactions effected by a large trader through a ''sponsored access arrangement.'' [39] FIF had previously noted that the trading activity of large traders with sponsored access arrangements typically is processed by clearing brokers on infrastructure separate from that used for other customers, so that implementation of the Rule for sponsored access customers would require less effort than for other types of large trader customers.[40] According to the Industry Organizations, many broker-dealers charged with recordkeeping and reporting of Transaction Data under the Rule do not currently have ready access to all of that data for other types of large trader customers, particularly disaggregated trades with execution time, when it resides at unaffiliated broker-dealers. For example, according to the Industry Organizations, while the executing broker knows the execution time of a large trader's transaction, it typically does not have the means to pass that information to the clearing broker for the large trader in a format that is readily reportable through EBS. Accordingly, to comply with the recordkeeping and reporting requirements of the Rule, the clearing broker for the large trader in many cases must make new arrangements to obtain execution time data for large trader customers for reporting through EBS.

Phase Two, as modified herein, represents an important incremental step in the implementation of the Rule that is designed to allow the Commission to collect Transaction Data, including execution time, with respect to an additional group of large traders that are of particular interest to the Commission in fulfilling its regulatory responsibilities. Specifically, Phase Two will include Transaction Data for large trader customers that trade through a ''*direct market access arrangement,*'' which means an arrangement whereby a broker-dealer permits an institutional customer to enter orders into a trading center but such orders flow through the broker-dealer's trading systems prior to

[34] *See infra* note 41 and text following note 41 (defining ''direct market access'' arrangement).

[35] Accordingly, during Phase Two, a registered broker-dealer that is itself a large trader but does not self-clear, as well as a broker-dealer effecting transactions directly or indirectly for a large trader where a non-broker-dealer carries the account for the large trader, will continue to be temporarily relieved from the recording and reporting requirements of the Rule and therefore do not need to record and electronically report Transaction Data to the Commission through the EBS system for purposes of the Rule during Phase Two.

Neither of these temporary exemptions, however, relieves a broker-dealer from any other recordkeeping requirement that would otherwise apply under the federal securities laws, rules, or regulations, including Rules 17a-3 and 17a-4 under the Exchange Act, or any self-regulatory organization rule.

[36] *See* Rule 13h–1(d) and (e), respectively. *See also* Large Trader Adopting Release, *supra* note 1, 76 FR at 46996 (acknowledging SIFMA's comment that ''some broker-dealers do not have access to execution times in a manner that is readily reportable under the EBS infrastructure'' and would need to update their EBS infrastructure to gather that information).

[37] *See* SIFMA Letter I, *supra* note 2, at B–2.

[38] *See* Extension Order I, *supra* note 4, at 25008.

[39] In this context, a ''sponsored access arrangement'' was defined as an arrangement in which a broker-dealer permits a large trader customer to enter orders directly to a trading center where such orders are not processed through the broker-dealer's own trading system (other than any risk management controls established for purposes of compliance with Rule 15c3–5 under the Exchange Act) and where the orders are routed directly to a trading center, in some cases supported by a service bureau or other third party technology provider. *See* Extension Order I, *supra* note 4, 77 FR at 25009 n.22 (referencing the definition of the term used in the adopting release for Rule 15c3–5).

[40] *See* FIF Letter, *supra* note 2 at 5.

reaching the trading center.[41] Because large trader customers that trade through this type of direct market access arrangement have chosen to retain control over critical aspects of the handling of their orders, including the price, size, timing, and routing of individual orders, their order handling decisions are of particular interest to the Commission in conducting market reconstructions and analyses as well as investigations. Direct market access arrangements subject to recordkeeping and reporting in Phase Two, as modified, would include, for example, those where the large trader customer enters individual orders manually or through an algorithm under its control, but those orders flow through the broker-dealer's systems prior to reaching the trading center.[42] Phase Two would not include, for example, large trader customers that delegate to the broker-dealer the discretion to determine the price, size, timing, or routing of individual orders.

From the Commission's perspective, including large trader activity where the large trader retains control over the material terms of the order and uses the broker-dealer primarily as a conduit to an execution venue will capture trading activity that is similar in kind to the sponsored access activity currently captured in Phase One, and is the type of activity for which the precise time and other aspects of the large trader's execution is of substantial regulatory interest. Accordingly, clearing broker-dealers for such large traders will be required to keep records of, and report to the Commission upon request, all of the Transaction Data covered by the Rule, including both LTID number(s) and execution time, on every EBS record for the categories of large trader covered in Phase One and Phase Two.

The Commission believes that capturing all of the Transaction Data for the types of large trader transactions covered by Phases One and Two (as modified herein) is important in the near term to the Commission's enforcement and regulatory programs, and therefore the Commission is requiring the recordkeeping and reporting of this information as of November 1, 2013 (the current compliance date for Phase Two). Accordingly, as of November 1, 2013, clearing broker dealers for a large trader will be required to keep records and report to the Commission upon request all Transaction Data for: (1) Proprietary transactions by a large trader broker-dealer, (2) transactions effected pursuant to a sponsored access arrangement, and (3) transactions effected pursuant to a direct market access arrangement.

With respect to transactions other than those set forth above, broker-dealers that carry an account for a large trader must record and report, as of November 1, 2013, Transaction Data other than execution time (*e.g.,* LTID). The Commission notes that the Industry Organizations have indicated that carrying brokers can readily provide the LTID, because that information is available to them today, and the arrangements to report it to the Commission through the EBS system would not require significant technological development.[43] Given the relatively low implementation burdens, the Commission believes that including the LTID on EBS data for all large traders would be beneficial to the Commission, and help support, for example, its investigative activities and analysis of significant market events.

Finally, the recordkeeping and reporting requirements with respect to Unidentified Large Traders, and the related monitoring safe harbor provided by Rule 13h–1(f), will apply to broker-dealers that carry an account for a large trader as of November 1, 2013. The Commission believes that it is appropriate to apply the provisions that relate to Unidentified Large Traders to the broker-dealers that otherwise will be required to comply with the recordkeeping and reporting requirements as of Phase Two—namely broker-dealers that carry accounts for large traders—and that implementation of such provisions will help foster compliance with the large trader identification requirements.

III. Summary of Phased Implementation

With respect to Phase One and Phase Two, as modified, clearing broker-dealers for large traders[44] must obtain and report Transaction Data that includes *both execution time and LTID* on disaggregated trades for the following types of transactions:

(1) For *Phase One,* which began on November 30, 2012:

(a) proprietary transactions by large traders that are U.S.-registered broker-dealers;

(b) transactions effected by large traders through a sponsored access arrangement;[45] and

(2) for *Phase Two,* which will begin on November 1, 2013: transactions effected by large traders through a direct market access arrangement.[46]

Further, with respect to all other types of transactions, for *Phase Two,* the prime broker or other carrying broker-dealer for a large trader must obtain and report Transaction Data, including LTID, for all such large traders, but is not required to report execution time.

In addition, with respect to the requirements relating to Unidentified Large Traders, which will apply to carrying broker-dealers as of Phase Two, the compliance date for broker-dealers that wish to avail themselves of the monitoring safe harbor provided by Rule 13h–1(f) to establish appropriate policies and procedures is November 1, 2013.

Phase Three, which will begin November 1, 2015, covers the remaining types of large traders and transactions not covered by Phases One and Two. Specifically, all other broker-dealers subject to the recordkeeping and reporting requirements of the Rule (*i.e.,* broker-dealers that are large traders but do not self-clear, and broker-dealers effecting transactions directly or indirectly for a large trader where a non-broker-dealer carries the account for the large trader) are temporarily exempted from recording and reporting Transaction Data through the EBS system for the duration of Phase Two. Unless the Commission otherwise provides in the future, Phase Three will require all broker-dealers subject to the recordkeeping and reporting requirements of Rule 13h–1 to come into full compliance with those provisions.

[41] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792, 69793 (November 15, 2010) (File No. S7–03–10) (''Generally, direct market access refers to an arrangement whereby a broker-dealer permits customers to enter orders into a trading center but such orders flow through the broker-dealer's trading systems prior to reaching the trading center. In contrast, sponsored access generally refers to an arrangement whereby a broker-dealer permits customers to enter orders into a trading center that bypass the broker-dealer's trading system and are routed directly to a trading center, in some cases supported by a service bureau or other third party technology provider.''). The Commission notes that sponsored access arrangements and direct market access arrangements typically are entered into with the executing broker-dealer, which may or may not also be the clearing broker for the large trader.

[42] *See id.* at 69793 (discussing how a direct market access arrangement involves a broker-dealer allowing its customer to use its systems to electronically access an exchange or alternative trading system).

[43] *See, e.g.,* SIFMA Letter II, *supra* note 2 at 3.

[44] *See supra* note 31 and text accompanying note 31.

[45] *See supra* note 39 (defining sponsored access arrangements).

[46] *See supra* note 41 and text accompanying note 41 (defining direct market access arrangements).

IV. Conclusion

It is hereby ordered, pursuant to Exchange Act Section 13(h)(6) and Rule 13h–1(g) thereunder, that broker-dealers are exempted temporarily until November 1, 2015 from the recordkeeping and reporting requirements of Rule 13h–1(d) and (e), except for (1) the clearing broker-dealers for large traders, with respect to (a) Proprietary transactions by a large trader broker-dealer; (b) transactions effected pursuant to a ''sponsored access'' arrangement; [47] and (c) transactions effected pursuant to a ''direct market access'' arrangement; [48] and (2) broker-dealers that carry an account for a large trader, with respect to transactions other than those set forth above, and for Transaction Data other than the execution time.[49]

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–19650 Filed 8–13–13; 8:45 am]

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[47] *See supra* note 39 (defining sponsored access arrangements).

[48] *See supra* note 41 and text accompanying note 41 (defining direct market access arrangements).

[49] *See supra* note 35.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70134; File No. SR–EDGX–2013–26]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

August 8, 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 July 30, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to increase the fee charged from $0.0017 per share to $0.0050 per share for orders that yield Flag RW, which routes to CBOE Stock Exchange, LLC (''CBSX'') and adds liquidity. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to increase the fee charged from $0.0017 per share to $0.0050 per share for orders that yield Flag RW, which routes to CBSX and adds liquidity.

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0017 per share for Members' orders that yield Flag RW. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0050 per share for Members' orders that yield Flag RW. The proposed change represents a pass through of the rate of $0.0050 that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is charged for routing orders in select symbols to CBSX when it does not qualify for a volume tiered discount.[4] DE Route passes through this rate on CBSX to the Exchange and the Exchange, in turn, passes through this rate to its Members.

The Exchange notes that the proposed change is in response to CBSX's July 2013 fee change where CBSX exempted select symbols out of its standard fee structure.[5] Instead, CBSX amended its fee schedule to assess a fee of $0.0050 per share for maker transactions in such symbols and a rebate of $0.0045 per share for taker transactions in such symbols.[6] The Exchange notes that its internal billing system is unable to assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for orders routed to CBSX in the select symbols, it is necessary that the Exchange assess a flat fee of $0.0050 per share for all orders that yield Flag RW. The Exchange further notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Fee Change for Flag RW

The Exchange believes that its proposal to increase the charge for Members' orders that yield Flag RW from $0.0017 to $0.0050 per share represents an equitable allocation of reasonable dues, fees, and other charges

[3] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' EDGX Rule 1.5(n).

[4] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on CBSX, its rate for Flag RW will not change.

[5] Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR–CBOE–2013–065). CBSX lists these select symbols in footnote 6 to its fee schedule. CBSX, CBOE Stock Exchange Fees Schedule, *available at http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf* (last visited July 23, 2013).

[6] CBSX, CBOE Stock Exchange Fees Schedule, *available at http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf* (last visited July 23, 2013).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

among Members and other persons using its facilities because the Exchange is passing through the higher add charge levied by CBSX for orders that the Exchange routes to CBSX through DE Route. Prior to CBSX's July 2013 fee change, CBSX charged DE Route a fee of $0.0017 per share for orders yielding Flag RW, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In July 2013, CBSX increased the rate it charges its customers, such as DE Route, from a charge of $0.0017 per share to a charge of $0.0050 per share for orders in select symbols that are routed to CBSX.[9] Therefore, the Exchange believes that the proposed change in Flag RW from a fee of $0.0017 per share to a fee of $0.0050 per share is equitable and reasonable because it accounts for the pricing changes on CBSX.

In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to CBSX and add liquidity using DE Route. The Exchange notes that its internal billing system is unable assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for the select symbols, it is necessary that the Exchange assess a flat fee of $0.0050 per share for all orders that yield Flag RW. Further, the Exchange notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose. Lastly, the Exchange believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by any of the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange believes that the proposed changes would not impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that its proposal to pass through a charge of $0.0050 per share for Members' orders that yield Flag RW would increase intermarket competition because it offers customers an alternative means to route to CBSX for the same price as entering orders in select symbols on CBSX directly. The Exchange notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 [10] and Rule 19b–4(f)(2) [11] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2013–26 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–EDGX–2013–26. 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–EDGX–2013–26 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19664 Filed 8–13–13; 8:45 am]

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[9] Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR–CBOE–2013–065).

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

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70136; File No. SR–CBOE–2013–079]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule To Amend Rule 24.7 To Add Facts for Determining Whether To Halt Volatility Index Options Trading

August 8, 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 July 29, 2013, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend CBOE Rule 24.7 (Trading Halts, Suspensions, or Primary Market Closure) to add facts that may be considered when determining whether to halt trading in volatility index options.[3] 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange now has several years of experience with volatility index derivatives trading and believes that it is appropriate to continually review and revise trading rules for volatility index options. Among other things, Rule 24.7 (Trading Halts, Suspensions, or Primary Market Closure) sets forth several facts that may be considered in determining whether to halt trading in an index option class. Through this filing, CBOE proposes to amend Rule 24.7(a) to add additional facts that may be considered when determining whether to halt trading in volatility index options.

First, CBOE proposes to amend Rule 24.7(a)(i), which permits consideration to be given to ''the extent to which trading is not occurring in the stocks underlying the index[.]'' Volatility indexes are comprised of options, not stocks. Therefore, CBOE proposes to amend Rule 24.7(a)(i) to permit consideration to be given (in determining whether to halt trading in a volatility index option class) to whether the component options in a volatility index are not trading. For example, the CBOE Volatility Index (''VIX'') is comprised of S&P 500 Index (''SPX'') options. If trading in SPX options were not occurring, this fact may be given consideration in determining whether to halt trading in VIX options. Also, if SPX options are open for trading, this fact weighs in favor of not halting trading in VIX options. Similarly, the Exchange is proposing to amend Rule 24.7(b) which sets forth factors that may be considered in determining whether to resume trading of a halted class or series. The Exchange proposes to amend the factor regarding the ''extent to which trading is occurring in stocks underlying the index'' to include options.

Second, CBOE proposes to add a new fact (as subparagraph (iii) to Rule 24.7(a)) for consideration when determining whether to halt trading in volatility index options. Specifically, CBOE proposes to add a provision that would permit consideration to be given (in determining whether to halt trading in a volatility index option class) to whether the ''current index level'' for a volatility index option is not available or the spot (cash) value for a volatility index option is not available. As described below, the ''current index level'' would mean the implied forward level based on corresponding volatility index (security) futures prices, which CBOE proposes to define in new Interpretation and Policy .03 to Rule 24.7.[4]

By way of background, option prices reflect the market's expectation of the price of the underlying at expiration, which is referred to as the ''forward level.'' For stock indexes, such as the S&P 500 Index, the best estimate of the forward level is the current, or ''spot,'' price adjusted for the ''carry,'' which is the financing cost of owning the component stocks in the index less the dividends paid by those stocks. For VIX (and other volatility indexes), a better estimate than the standard ''cash and carry'' model for calculating the forward volatility index levels at each expiration is reflected in the prices of the options that will actually be used to calculate the volatility index on a given expiration day. For example, September SPX options are used to calculate the VIX settlement value on the August VIX expiration date. Likewise, November VIX options are tied to the implied volatility of December SPX options, and so on.

One important property of implied volatility is that it exhibits a ''term structure.'' In other words, the implied volatility of options expiring on different dates can trade at different levels and can move independently. Another property related to the term structure is that implied volatility tends to trend toward the market's expectation of a long-term ''average'' value. As a result, a large spike in one-month implied volatility might not affect implied volatility of longer-dated options very much at all.

Many market participants use volatility index (security) futures prices as proxies for forward volatility index levels. CBOE Futures Exchange, LLC (''CFE'') lists futures and security futures on all of the volatility indexes that underlie volatility index options trading on CBOE. Currently, volatility index (security) futures expirations correspond to each volatility index options expiration months listed on CBOE. Accordingly, CBOE believes that using these prices is an accurate and transparent method for determining the ''current index level'' for a volatility

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

[2] 17 CFR 240.19b–4.

[3] CBOE calculates and lists options on several volatility indexes comprised of broad-based index options, individual stock options and exchange-traded fund (''ETF'') options. Collectively, these products are known as ''volatility index options'' for purposes of CBOE's rules. *See* CBOE Rule 24.9(a)(5).

[4] The Exchange notes that futures prices have been used by CBOE in the past to determine the ''current index value'' for VIX options. *See* Securities Exchange Act Release No. 54192 (July 21, 2006), 71 FR 43251 (July 31, 2005) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to Strike Price Intervals for VIX Options) (SR–CBOE–2006–27).

index option and whether the corresponding (security) futures prices are not available is a fact that may be considered in determining whether to halt trading in a class of volatility index options. Also, if the corresponding (security) futures prices are available, this fact weighs in favor of not halting trading in volatility index options. As such, volatility index options trading should be permitted if the corresponding volatility index (security) futures prices are available (even if spot (cash) values are not disseminated).

Importantly, the Exchange believes that volatility index options trading should not be conditioned on the concurrent dissemination of the spot (cash) value of a volatility index. Specifically, the Exchange believes that this could be somewhat confusing as to the significance of the role that the spot (cash) value plays vis-à-vis volatility index options trading. The spot (cash) value of a volatility index is an instantaneous measure of expected volatility in *30 days.* As to a specific volatility index option contract that is listed for trading, the spot (cash) value bears little relation to the value that that contract will settle to at expiration. (However, the Exchange believes that if the spot (cash) value is not being disseminated, that is a factor that may be considered in determining whether to halt trading). Therefore, the Exchange believes that it is appropriate to permit volatility index options trading even if spot (cash) values are not being disseminated.

Finally, the Exchange is proposing to make technical changes to Rule 24.7(a), Rule 24.7(d) and Rule 24.7.01 to make numbering changes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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.

The proposed rule change will protect the integrity of the Exchange's marketplace by permitting the Exchange to consider additional facts when determining whether to halt trading in volatility indexes options. Rule 24.7 is currently predicated on indexes being comprised of stocks and includes facts that may be considered by the Exchange when determining whether to halt trading based on the index components being stocks. The current filing amends Rule 24.7(a) to account for indexes comprised of options and allows the Exchange to consider the following facts when determining whether to halt trading: (1) Whether the component options are not trading, (2) whether the ''current index level'' (as measured by the implied forward level based on volatility index (security) futures prices) is not available, or (3) whether the spot (cash) value for a volatility index is not available.

The Exchange believes that the proposal will lessen investor confusion because it will not condition volatility index option trading on the dissemination of the spot (cash) value of a volatility index.[7] Because the spot (cash) value of a volatility index is an instantaneous measure of implied volatility in 30 days, that value is not a good estimate of where the market's expectation of the prices of the options that will actually be used to calculate the settlement value for a volatility index option. The Exchange believes that a better estimate is reflected in the prices of the corresponding volatility index (security) futures. Accordingly, the Exchange believes that investor confusion would be lessened if: (1) volatility index options are permitted to trade even if the spot (cash) value is not disseminated; and (2) the Exchange is permitted to consider whether the ''current index level'' (as measured by the implied forward level based on volatility index (security) futures prices) or the spot (cash) value is not available in determining whether to halt trading.

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 not necessary or appropriate in furtherance of the purposes of the Act. Specifically, CBOE believes that the ability to consider additional facts that are relevant to volatility index options trading when determining whether to halt trading will benefit all volatility index market participants and does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–079 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–2013–079. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] The Commission notes that CBOE Rule 24.7 does not currently, by its terms, require the Exchange to halt trading in volatility index options when the current index level or the spot (cash) value for the volatility index option is not available.

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 CBOE. 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–2013–079 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19671 Filed 8–13–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70141; File No. SR-Phlx-2013–83]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of the Options Floor Broker Management System Until the End of September 2013

August 8, 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 August 1, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of its new Options Floor Broker Management System.

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 proposal is to delay the implementation of the Exchange's enhancements to the Options Floor Broker Management System (''FBMS''). The Exchange received approval to implement the enhancements as of June 1, 2013,[3] and delayed implementation until July 2013.[4] At this time, the Exchange needs additional time in order to complete the applicable technology work. Accordingly, the Exchange seeks to be able to implement the changes by the end of September 2013; the Exchange will announce the specific date in advance through an Options Trader Alert.

Today, FBMS enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can use FBMS to submit orders to Phlx XL, rather than executing the orders in the trading crowd.

With the new FBMS, all options transactions on the Exchange involving at least one Floor Broker would be required to be executed through FBMS. In connection with order execution, the Exchange will allow FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the Floor Broker has represented the orders in the trading crowd. FBMS will also provide Floor Brokers with an enhanced functionality called the complex calculator that will calculate and display a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.

The Exchange still intends to implement these enhancements with a trial period of two to four weeks, to be determined by the Exchange, during which the new FBMS enhancements and related rules would operate along with the existing FBMS and rules. The Exchange will announce the beginning and end of the trial period in advance.

2. Statutory Basis

The Exchange believes that its proposal 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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing FBMS to make the Exchange's markets more efficient, to the benefit of the investing public. Although the Exchange needs additional time to finalize the enhancements, the delay is expected to be short and will involve advance notice to the Exchange membership.

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 continues to believe, as it stated when proposing these enhancements, that these enhancements to FBMS should result in the Exchange's trading floor operating in a more efficient way, which should help it compete with other floor-based exchanges and help the Exchange's Floor Brokers compete with floor brokers on other options exchanges.

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69471 (April 29, 2013), 78 FR 26096 (May 3, 2013) (SR–Phlx–2013–09).

[4] Securities Exchange Act Release No. 69811 (June 20, 2013), 78 FR 38422 (June 26, 2013) (SR–Phlx–2013–67).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the filing.[9] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such time is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can implement the enhancements once they are ready from a technology perspective. The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will clarify that the delayed implementation of the FBMS will be effective and operative immediately. In addition, because the proposal only delays the implementation date of the FBMS and does not make any additional changes to the FBMS itself, it does not raise any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.[10]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–83 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–2013–83. 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 available publicly. All submissions should refer to File Number SR–Phlx–2013–83 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19673 Filed 8–13–13; 8:45 am]

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[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70143; File No. SR–NASDAQ–2013–098]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Waive the Subscription Fee for New Subscribers to Latency Optics for a Limited Period

August 8, 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 August 01, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to adopt a time-limited waiver of the monthly subscription fee for new subscribers to the Latency Optics add-on service to QView under Rule 7058(b). NASDAQ will offer the fee waiver to new subscriptions for the month of August 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, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those

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

[2] 17 CFR 240.19b–4.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to waive subscription fees for the Latency Optics add on service to QView under Rule 7058(b) for new subscribers to the service during the month of August 2013. Latency Optics provides a subscribing member firm with real-time order latency and analytical tools to measure the historical latency of the member firm's order messages sent to and from the NASDAQ Market Center through the member firm's OUCH ports and received on ITCH ports. NASDAQ adopted Latency Optics in February 2013, and offered the service at no cost to subscribers from February 4, 2013 to April 1, 2013.[3] There have been no new subscribers since the prior free period ended on April 1, so NASDAQ is now proposing an additional free period to encourage new customers to subscribe. NASDAQ has also added new functionality to the service, including more in depth order-level data and enhanced export capabilities. NASDAQ is offering the service at no cost to new subscribers for the month of August 2013 to encourage member firms that have not yet subscribed to subscribe. Normal fees will apply to all subscribers, new and existing, thereafter. In amending the rule text, NASDAQ is deleting references to the expired free period and timing of the service's launch.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and with Sections 6(b)(4) and (5)[5] of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed fee waiver is reasonable because it will result in a reduction of fees during the month of August 2013 for new subscribers, thereby reducing the fees that they will ultimately pay for the service this year. The proposed fee waiver is equitable and not unfairly discriminatory because, as discussed above, all existing subscribers benefitted from a similar fee waiver that was in effect earlier this year, and there have been no new subscribers since April 1, 2013. Accordingly, existing subscribers will not be disadvantaged by the introduction of a fee waiver for new subscribers. NASDAQ further notes that it has enhanced the service and believes that more member firms would find it beneficial once subscribed. Moreover, as more subscribers sign up for the service, NASDAQ is able to spread the fixed costs of the service among a larger number of subscribers, which in turn reduces the likelihood of future fee increases in response to future increases in fixed costs. Accordingly, NASDAQ believes that efforts to garner additional subscribers for the service are equitable because they may be beneficial to all subscribers.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Waiver of the subscription fee for new subscribers will promote broader subscription to the service, thus allowing NASDAQ to allocate the fixed costs of the subscription among a larger pool of subscribers and reduce the likelihood of future fee increases as the result of any future increases in fixed costs. In addition, the waiver will result in lower fees, which are generally seen as indicative of the presence of competition. Finally, by providing a service that allows members to evaluate latency of order messages, NASDAQ hopes to enhance its competitiveness vis-à-vis other trading centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[6] and paragraph (f)(2)[7] of Rule 19b–4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–098 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–2013–098. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only

[3] Securities Exchange Act Release No. 68617 (January 10, 2013), 78 FR 3480 (January 16, 2013)(SR–NASDAQ–2013–005).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4), (5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–098, and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19667 Filed 8–13–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70135; File No. SR–EDGA–2013–19]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

August 8, 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 July 30, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to increase the fee charged from $0.0017 per share to $0.0050 per share for orders that yield Flag RW, which routes to CBOE Stock Exchange, LLC (''CBSX'') and adds liquidity. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to increase the fee charged from $0.0017 per share to $0.0050 per share for orders that yield Flag RW, which routes to CBSX and adds liquidity.

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0017 per share for Members' orders that yield Flag RW. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0050 per share for Members' orders that yield Flag RW. The proposed change represents a pass through of the rate of $0.0050 that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is charged for routing orders in select symbols to CBSX when it does not qualify for a volume tiered discount.[4] DE Route passes through this rate on CBSX to the Exchange and the Exchange, in turn, passes through this rate to its Members.

The Exchange notes that the proposed change is in response to CBSX's July 2013 fee change where CBSX exempted select symbols out of its standard fee structure.[5] Instead, CBSX amended its fee schedule to assess a fee of $0.0050 per share for maker transactions in such symbols and a rebate of $0.0045 per share for taker transactions in such symbols.[6] The Exchange notes that its internal billing system is unable to assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for orders routed to CBSX in the select symbols, it is necessary that the Exchange assess a flat fee of $0.0050 per share for all orders that yield Flag RW. The Exchange further notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Fee Change for Flag RW

The Exchange believes that its proposal to increase the charge for Members' orders that yield Flag RW from $0.0017 to $0.0050 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange is passing through the higher add charge levied by CBSX for orders that the Exchange routes to CBSX through DE Route. Prior to CBSX's July 2013 fee change, CBSX charged DE Route a fee of $0.0017 per share for orders yielding Flag RW, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In July 2013, CBSX increased the rate it charges its customers, such as DE Route, from a charge of $0.0017 per share to a charge of $0.0050 per share for orders in select symbols that are routed to CBSX.[9] Therefore, the Exchange believes that the proposed change in Flag RW from a fee of $0.0017

[8] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' EDGA Rule 1.5(n).

[4] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on CBSX, its rate for Flag RW will not change.

[5] Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR–CBOE–2013–065). CBSX lists these select symbols in footnote 6 to its fee schedule. CBSX, CBOE Stock Exchange Fees Schedule, *available at, http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf* (last visited July 23, 2013).

[6] CBSX, CBOE Stock Exchange Fees Schedule, *available at, http://www.cboe.com/publish/cbsxfeeschedule/cbsxfeeschedule.pdf* (last visited July 23, 2013).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] Securities Exchange Act Release No. 69916 (July 2, 2013), 78 FR 41158 (July 9, 2013) (SR–CBOE–2013–065).

per share to a fee of $0.0050 per share is equitable and reasonable because it accounts for the pricing changes on CBSX.

In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to CBSX and add liquidity using DE Route. The Exchange notes that its internal billing system is unable assign different rates by symbols. Therefore, due to internal system limitations and to protect the Exchange from potentially significant financial loss for the select symbols, it is necessary that the Exchange assess a flat fee of $0.0050 per share for all orders that yield Flag RW. Further, the Exchange notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose. Lastly, the Exchange believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by any of the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange believes that the proposed changes would not impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange believes that its proposal to pass through a charge of $0.0050 per share for Members' orders that yield Flag RW would increase intermarket competition because it offers customers an alternative means to route to CBSX for the same price as entering orders in select symbols on CBSX directly. The Exchange notes that routing through DE Route is voluntary and that Members would continue to be able to send orders in symbols that CBSX does not subject to the $0.0050 per share fee directly to CBSX if they so choose. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from its Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(2) [11] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2013–19 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–EDGA–2013–19. 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–EDGA–2013–19 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19740 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

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

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70147; File No. SR–EDGX–2013–30]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

August 8, 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 August 5, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Amend the rates for flags BY and RY and (ii) amend the rates for flags RA and RR. All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to: (i) Amend the rates for flags BY and RY and (ii) amend the rates for flags RA and RR.

Fee/Rebate Changes for Flags BY and RY

In securities priced at or above $1.00, the Exchange currently does not charge a fee or provide a rebate (free) for Members' orders that yield Flag BY, which routes to BATS Y-Exchange, Inc. (''BYX'') using routing strategies ROUC, ROUE or ROBY. The Exchange proposes to amend its Fee Schedule to provide a rebate of $0.0001 per share for Members' orders that yield Flag BY. The proposed change represents a pass through of the rate that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is rebated for routing orders to BYX and do not qualify for a volume tiered discount. When DE Route routes to BYX, it is rebated a standard rate of $0.0001 per share.[4] DE Route will pass through this rate on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to BYX's August 2013 fee change where BYX updated the default rebate with no volume requirement it provides its customers, such as DE Route, from free to $0.0001 per share for orders that are routed to BYX.[5]

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0007 per share for Members' orders that yield Flag RY, which routes to BYX and adds liquidity. The Exchange proposes to amend its Fee Schedule to decrease this fee to $0.0003 per share for Members' orders that yield Flag RY. The proposed change represents a pass through of the rate that DE Route, the Exchange's affiliated routing broker-dealer, is charged for routing orders to BYX that do not qualify for a volume tiered discount. When DE Route routes to BYX, it is charged a standard rate of $0.0003 per share.[6] DE Route will pass through this rate on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to BYX's August 2013 fee change where BYX decreased the fee it charges its customers, such as DE Route, from a fee of $0.0007 per share to a fee of $0.0003 per share for orders that are routed to BYX.[7]

Fee/Rebate Changes for Flags RA and RR

In securities priced at or above $1.00, the Exchange currently charges a fee of $0.0006 per share for Members' orders that yield Flag RA, which routes to EDGA Exchange, Inc. (''EGDA'') and adds liquidity. The Exchange proposes to amend its Fee Schedule to decrease this fee to $0.0005 per share for Members' orders that yield Flag RA. The proposed change represents a pass through of the rate that DE Route, the Exchange's affiliated routing broker-dealer, is rebated for routing orders to EDGA and do not qualify for a volume tiered discount. When DE Route routes to EDGA, it is charged a standard rate of $0.0005 per share.[8] DE Route will pass through this rate on EDGA to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to EDGA's August 2013 fee change where EDGA decreased the fee it charges its customers, such as DE Route, from a fee of $0.0006 per share to a fee of $0.0005 per share for orders that are routed to EDGA and add liquidity.[9]

In securities priced at or above $1.00, the Exchange currently provides a rebate of $0.0004 per share for Members' orders that yield Flag RR, which routes to EDGA using routing strategies IOCX or IOCT. The Exchange proposes to amend its Fee Schedule to decrease this rebate to $0.0002 per share for Members' orders that yield Flag RR. The proposed change represents a pass through of the rate that DE Route is rebated for routing orders to EDGA and do not qualify for a volume tiered discount. When DE Route routes to EDGA, it is rebated a standard rate of $0.0002 per share.[10] DE Route will pass through this rate on EDGA to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to EDGA's August 2013 fee change where EDGA decreased the rebate it provides its customers, such as DE Route, from a rebate of $0.0003 per share to a rebate of $0.0002 per share for orders that are routed to EDGA.[11]

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 5, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(4),[13] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

[3] As defined in Exchange Rule 1.5(n).

[4] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on BYX, its rate for Flag BY will not change.

[5] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[6] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on BYX, its rate for Flag RY will not change.

[7] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[8] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on RA, its rate for Flag RA will not change.

[9] *See* SR–EDGA–2013–21 (August 1, 2013).

[10] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on RR, its rate for Flag RR will not change.

[11] *See* SR–EDGA–2013–21 (August 1, 2013).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

Fee/Rebate Changes for Flags BY and RY

The Exchange believes that its proposal to provide a pass through rebate for Members' orders that yield Flag BY of $0.0001 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Prior to BYX's August 2013 fee change, BYX did not charge DE Route for orders yielding Flag BY, which DE Route passed through to the Exchange and the Exchange passed through to its Members in the form of no fee or rebate (free). In August 2013, BYX updated the default rebate it provides its customers, such as DE Route, from free to a rebate of $0.0001 per share for orders that are routed to BYX.[14] Therefore, the Exchange believes that the proposed change in Flag BY to provide a rebate of $0.0001 per share is equitable and reasonable because it accounts for the pricing changes on BYX. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to BYX using routing strategies ROUC, ROUE or ROBY using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to decrease the pass through rate for Members' orders that yield Flag RY from $0.0007 to $0.0003 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Prior to BYX's August 2013 fee change, BYX charged DE Route a fee of $0.0007 per share for orders yielding Flag RY, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In August 2013, BYX decreased the fee it charges its customers, such as DE Route, from a fee of $0.0007 per share to a fee of $0.0003 per share for orders that are routed to BYX.[15] Therefore, the Exchange believes that the proposed change in Flag RY from a fee of $0.0007 per share to a fee of $0.0003 per share is equitable and reasonable because it accounts for the pricing changes on BYX. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to BYX and add liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Fee/Rebate Changes for Flags RA and RR

The Exchange believes that its proposal to decrease the pass through rate for Members' orders that yield Flag RA from $0.0006 to $0.0005 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to EDGA through DE Route. Prior to EDGA's August 2013 fee change, EDGA charged DE Route a fee of $0.0006 per share for orders yielding Flag RA, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In August 2013, EDGA decreased the fee it charges its customers, such as DE Route, from a fee of $0.0006 per share to a fee of $0.0005 per share for orders that are routed to EDGA.[16] Therefore, the Exchange believes that the proposed change in Flag RA from a fee of $0.0006 per share to a fee of $0.0005 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to EDGA and add liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to decrease the rebate for Members' orders that yield Flag RR from $0.0004 to $0.0002 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to EDGA through DE Route. In August 2013, EDGA decreased the rebate it provides its customers, such as DE Route, from a rebate of $0.0003 per share to a rebate of $0.0002 per share for orders that are routed to EDGA.[17] Therefore, the Exchange believes that the proposed change in Flag RR from a rebate of $0.0004 per share to a rebate of $0.0002 per share is equitable and reasonable because it accounts for the pricing changes on EDGA. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to EDGA using routing strategies IOCX or IOCT using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, EDGX does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Fee/Rebate Changes for Flags BY and RY

The Exchange believes that its proposal to pass through a rebate of $0.0001 per share for Members' orders that yield Flag BY would increase intermarket competition because it

[14] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[15] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[16] *See* SR–EDGA–2013–21 (August 1, 2013).

[17] *See* SR–EDGA–2013–21 (August 1, 2013).

offers customers an alternative means to route to BYX for the same price as entering orders on BYX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

The Exchange believes that its proposal to pass through a fee of $0.0003 per share for Members' orders that yield Flag RY would increase intermarket competition because it offers customers an alternative means to route to BYX for the same price as entering orders on BYX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

Fee/Rebate Changes for Flags RA and RR

The Exchange believes that its proposal to pass through a fee of $0.0005 per share for Members' orders that yield Flag RA would increase intermarket competition because it offers customers an alternative means to route to EDGA for the same price as entering orders on EDGA directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

The Exchange believes that its proposal to pass through a rebate of $0.0002 per share for Members' orders that yield Flag RR would increase intermarket competition because it offers customers an alternative means to route to EDGA for the same price as entering orders on EDGA directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 [18] and Rule 19b–4(f)(2) [19] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2013–30 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–EDGX–2013–30. 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–EDGX–2013–30 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19741 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4 (f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70142; File No. SR–Phlx–2013–81]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rule 1015 Regarding Accommodation Claims

DATED:

August 8, 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 July 26, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and I, 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 Rule 1015 (Accommodations) which would create a limited set of exceptions to the Exchange's existing limitation of liability rules. The text of the proposed rule change is below. Proposed additions are *underlined.*

NASDAQ OMX PHLX LLC Rules

* * * * *

Options Rules

Rule 1015. *Accommodations*

[Reserved]

Notwithstanding the limitations of liability set forth in Exchange Rules 652, 1102A, 1011B, and 3226, the Exchange, subject to the express limits set forth below, may compensate users of NASDAQ OMX PHLX for losses directly resulting from the actual failure of Phlx XL II, or any other Exchange quotation,

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

[2] 17 CFR 240.19b–4.

transaction reporting, execution, order routing or other systems or facility to correctly process an order, Quote/Order, message, or other data, provided that NASDAQ OMX PHLX has acknowledged receipt of the order, Quote/Order, message, or data.

(1) For the aggregate of all claims made by all market participants related to the use of NASDAQ OMX PHLX during a single calendar month, the Exchange's liability shall not exceed the larger of $500,000, or the amount of the recovery obtained by the Exchange under any applicable insurance policy.

(2) In the event all of the claims arising out of the use of NASDAQ OMX PHLX cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in this Rule, then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

(3) All claims for compensation pursuant to this Rule shall be in writing and must be submitted no later than 12:00 p.m. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Nothing in this rule shall obligate the Exchange to seek recovery under any applicable insurance policy.

* * * * *

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 this proposed rule change is to adopt Rule 1015, a rule that on a voluntary basis creates an exception to the Exchange's limitation of liability rules under specified circumstances for the trading of standardized options listed and traded on the Exchange. Proposed Rule 1015, entitled ''Accommodations,'' is substantially similar to Exchange Rule 3226, the Accommodations provision currently applicable to the trading of equities on PSX, the Exchange's equities trading facility.[3]

Proposed Rule 1015 states that the Exchange may compensate members for claims in certain circumstances notwithstanding that Exchange Rules 652, 1102A and 1011B, state that the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the actual failure of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Rules 652(c), 1102A and 1011B currently (1) limit the Exchange's liability for the trading of options and (2) establish the Exchange's ability to obtain reimbursement for the costs of defending liability actions (Rule 652), for the trading of certain index options (1102A), and for the trading of certain cash index participations (1011B). Rule 3226 contains a limitation of liability provision and an accommodations provision, but it applies only to equities trading. By placing the Accommodation Policy within the Rule 1000 Series, the Exchange makes the Accommodation rule applicable generally to the trading of all options issued by the Options Clearing Corporation and traded on the Exchange, and not applicable to the trading of equities which are governed by Exchange Rule 3226.

Subsection (1) of the proposed rule states that the Exchange may compensate members for claims made by all market participants related to the use of Phlx XL II, or any other Exchange quotation, transaction reporting, execution, order routing or other systems or facility. Under the proposal, the aggregate of payments for all claims during a single calendar month shall not exceed the larger of $500,000, or the amount of the recovery obtained by PHLX under any applicable insurance policy.

Proposed subsection (2) specifies how accommodation funds shall be allocated in the event all of the claims submitted during a single calendar month exceed the $500,000 limit. Specifically, if claims cannot be fully satisfied because in the aggregate they exceed the maximum amount of liability provided for in the Rule ($500,000), then the maximum amount will be proportionally allocated among all such claims arising during a single calendar month.

Finally, proposed subsection (b)(3) specifies the requirements and procedures applicable to the submission of accommodation claims. Specifically, claims for compensation must be submitted in writing and must be submitted no later than 12:00 p.m. ET on the next business day following the day on which the use of NASDAQ OMX PHLX gave rise to such claims. Subsection (3) also states that nothing in the proposed rule obligates the Exchange to seek recovery under any applicable insurance policy. If the Exchange does seek recovery and does receive an insurance recovery, the amount of that recovery limits the accommodation funds available for the incident supporting the recovery.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposal supports this policy by establishing a fair and transparent process by which the Exchange can accommodate claims for reimbursement for the failure of specified systems in specified facilities and under specified conditions. The Exchange believes that its proposal to adopt Rule 1015 (Accommodations) under specified circumstances will promote fairness in the marketplace in situations where one or more firm's claim results from a problem in a function performed by the Exchange's trading system that is solely the fault of the Exchange.

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. Specifically, the Exchange believes that the proposed rule imposes no burden on competition because accommodations policies are not the subject of competition among exchanges. In other words, exchanges, PHLX included, do not compete based on the size or scope of accommodations policies. If such competition existed, the proposed rule change would actually be pro-competitive by making the accommodation process more transparent and fair.

[3] *See* Securities Exchange Act Release No. 62877 (Sept. 9, 2010), 75 FR 56633 (Sept. 14, 2010) (approving SR–PHLX–2010–79).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

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) of the Act [6] and Rule 19b–4(f)(6) [7] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, 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.[8]

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.[9]

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-2013–81 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-2013–81. 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 available publicly. All submissions should refer to File Number SR-Phlx-2013–81 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19666 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 15 U.S.C. 78s(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70146; File No. SR–EDGA–2013–21]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

August 8, 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 August 1, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Amend its standard rates; (ii) amend the rates for flags BY and RY; and (iii) amend the reduced rates provided by the tiers in Footnote 4. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to: (i) amend its standard rates; (ii) amend the rates for flags BY and RY; and (iii) amend the reduced rates provided by the tiers in Footnote 4.

Standard Rate Changes

The Exchange currently charges Members a standard [4] rate of $0.0006

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

[2] 17 CFR 240.19b–4.

[3] As defined in Exchange Rule 1.5(n).

[4] Where ''standard'' refers to the standard rate that the Exchange charges its Members for orders that add, remove, or route liquidity from the Exchange absent Members qualifying for additional volume tiered pricing. The Exchange maintains standard rates for securities at or above $1.00 and

per share for Members' orders that add liquidity for securities priced at or above $1.00. The Exchange proposes to decrease the standard rate from $0.0006 per share to $0.0005 per share for Members' orders that add liquidity and make conforming changes to flags that add liquidity (flags B, V, Y, 3 and 4). The Exchange will continue to assess no charge for Members' orders that add liquidity in securities priced below $1.00. The Exchange notes that flags B, V, Y, 3 and 4 will remain subject to volume tiered pricing.

The Exchange currently offers Members a standard rebate of $0.0003 per share for Members' orders that remove liquidity for securities priced at or above $1.00. The Exchange proposes to decrease the standard rebate from $0.0003 per share to $0.0002 per share for Members' orders that remove liquidity and make conforming changes to flags that remove liquidity (flags N, W, 6, BB, CR, PR, and XR). The Exchange will continue to assess no charge for Members' orders that remove liquidity in securities priced below $1.00. The Exchange notes that flags N, W, 6, BB, CR, PR, and XR will also remain subject to volume tiered pricing.

Fee/Rebate Changes for Flags BY and RY

In securities priced at or above $1.00, the Exchange currently provides a rebate of $0.0005 per share for Members' orders that yield Flag BY, which routes to BATS Y-Exchange, Inc. (''BYX'') using routing strategies ROUC, ROUE, ROBY, ROBB or ROCO. The Exchange proposes to amend its Fee Schedule to decrease this rebate to $0.0001 per share for Members' orders that yield Flag BY. The proposed change represents a pass through of the rate that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is rebated for routing orders to BYX and do not qualify for a volume tiered discount. When DE Route routes to BYX, it is rebated a standard rate of $0.0001 per share.[5] DE Route will pass through this rate on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to BYX's August 2013 fee change where BYX decreased the rebate it provides its customers, such as DE Route, from a rebate of $0.0005 per share to a rebate of $0.0001 per share for orders that are routed to BYX.[6]

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0007 per share for Members' orders that yield Flag RY, which routes to BYX and adds liquidity. The Exchange proposes to amend its Fee Schedule to decrease this fee to $0.0003 per share for Members' orders that yield Flag RY. The proposed change represents a pass through of the rate that DE Route, the Exchange's affiliated routing broker-dealer, is charged for routing orders to BYX and do not qualify for a volume tiered discount. When DE Route routes to BYX, it is charged a standard rate of $0.0003 per share.[7] DE Route will pass through this rate on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to BYX's August 2013 fee change where BYX decreased the fee it charges its customers, such as DE Route, from a fee of $0.0007 per share to a fee of $0.0003 per share for orders that are routed to BYX.[8]

Changes to Tiers in Footnote 4

The Exchange proposes to amend the Step-up Tier in Footnote 4 of its Fee Schedule. Currently, a Member, at a Market Participant Identifier (''MPID'') level, will qualify for the ''Step-up Tier'' by posting more than 0.10% of the Total Consolidated Volume (''TCV'') on EDGA, on a daily basis, measured monthly, more than that MPID's December 2012 added TCV (the ''December Baseline''). The volume generated from non-displayed flags that add liquidity will count towards the Step-up Tier. If the MPID meets this criterion, then the Exchange will assess that MPID a reduced charge of $0.0004 per share for Flags B, V, Y, 3 and 4. The Exchange notes that where a MPID's December Baseline is zero, the Exchange will apply a default baseline of 10 million shares. The Exchange proposes to amend the reduced charge provided by this tier from $0.0004 per share to $0.0003 per share to move in lock step and be $0.0002 less than the proposed standard rate of $0.0005 per share for adding liquidity for securities priced at or above $1.00.

The Exchange proposes to make conforming changes to the other tiers in Footnote 4 of the Fee Schedule since the standard rate for adding liquidity is now proposed to be $0.0005 per share and therefore, the rates for Volume Tiers 1 and 2 in Footnote 4, as described below, are proposed to move in lock step and continue to be $0.0002 less than the proposed standard rate of $0.0005 per share.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[9] in general, and furthers the objectives of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Standard Rate Changes

The Exchange believes that its proposal to assess a charge of $0.0005 per share for Members' orders that add liquidity, yielding flags B, V, Y, 3 and 4, is an equitable allocation of reasonable dues, fees and other charges. The Exchange believes its proposal to decrease the rate it charges Members to add liquidity by $0.0001 per share will incentivize Members to add liquidity to the Exchange, which will support the quality of price discovery and promote market transparency. The Exchange's proposed standard rate of $0.0005 per share for adding liquidity is reasonable because it is comparable to BYX's standard rate of 0.0003 per share for adding liquidity.[11] In addition, the Exchange's proposals do not modify the Exchange's taker/maker spread of $0.0003 per share, which the Exchange believes is reasonable because it is comparable to BYX's taker/maker spread range of $0.0002 per share to

securities priced below $1.00 for orders that add, remove, and route liquidity. The Exchange notes that a Member may qualify for a higher rebate if the Member satisfies the volume tier requirements outlined in Footnotes 1, 2, 3 and 4 of the Fee Schedule for securities priced at or above $1.00. The Exchange notes that the volume from securities priced below $1.00 contributes toward volume tiered requirements for securities priced at or above $1.00 as outlined in Footnotes 1, 2, 3 and 4 of the Fee Schedule. Unless otherwise stated in Footnotes 1 and 2 of the Fee Schedule, the Exchange does not offer volume tiered pricing for securities priced below $1.00.

[5] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on BYX, its rate for Flag BY will not change.

[6] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[7] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on BYX, its rate for Flag RY will not change.

[8] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

(−$0.0002 per share).[12] The Exchange will allocate the revenue generated from the spread of $0.0003 per share to offset its administrative and infrastructure costs associated with operating a national securities exchange. Lastly, the Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

The Exchange believes that its proposal to offer a rebate of $0.0002 per share for Members' orders that remove liquidity, yielding flags N, W, 6, BB, CR, PR, and XR, is an equitable allocation of reasonable dues, fees and other charges because it enables the Exchange to retain additional funds to offset increased administrative, regulatory, and other infrastructure costs associated with operating an exchange. The Exchange's proposed standard rebate of $0.0002 per share for removing liquidity is reasonable because it is comparable to BATS BYX's standard rebate of 0.0001 for removing liquidity and NASDASQ OMX BX's (''BX'') standard rebate of $0.0004 per share for removing liquidity.[13] In addition, the Exchange's proposals do not modify the Exchange's taker/maker spread of $0.0003 per share, which the Exchange believes is reasonable because it is comparable to BYX's taker/maker spread range of $0.0002 per share to (-$0.0002 per share).[14] The Exchange will allocate the revenue generated from the spread of $0.0003 per share to offset its administrative and infrastructure costs associated with operating a national securities exchange. Lastly, the Exchange believes that the proposed amendment is non-discriminatory in that it applies uniformly to all Members.

Fee/Rebate Changes for Flags BY and RY

The Exchange believes that its proposal to decrease the pass through rebate for Members' orders that yield Flag BY from $0.0005 to $0.0001 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Prior to BYX's August 2013 fee change, BYX provided DE Route a rebate of $0.0005 per share for orders yielding Flag BY, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In August 2013, BYX decreased the rebate it provides its customers, such as DE Route, from a rebate of $0.0005 per share to a rebate of $0.0001 per share for orders that are routed to BYX.[15] Therefore, the Exchange believes that the proposed change in Flag BY from a rebate of $0.0005 per share to a rebate of $0.0001 per share is equitable and reasonable because it accounts for the pricing changes on BYX. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to BYX using routing strategies ROUC, ROUE, ROBY, ROBB or ROCO using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to decrease the pass through rate for Members' orders that yield Flag RY from $0.0007 to $0.0003 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Prior to BYX's August 2013 fee change, BYX charged DE Route a fee of $0.0007 per share for orders yielding Flag RY, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In August 2013, BYX decreased the fee it charges its customers, such as DE Route, from a fee of $0.0007 per share to a fee of $0.0003 per share for orders that are routed to BYX.[16] Therefore, the Exchange believes that the proposed change in Flag RY from a fee of $0.0007 per share to a fee of $0.0003 per share is equitable and reasonable because it accounts for the pricing changes on BYX. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to BYX and add liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Changes to Tiers in Footnote 4

The reduction in fees from $0.0004 per share to $0.0003 per share for all tiers in Footnote 4 of the Exchange's Fee Schedule are an equitable allocation of reasonable dues, fees, and other charges since the rates are designed to move in lock-step and be $0.0002 per share less than the proposed standard rate for adding liquidity of $0.0005 per share. These proposed rates are designed to increase volume on the Exchange and increase potential revenue to the Exchange, and allows the Exchange to spread its administrative and infrastructure costs over a greater number of shares, leading to lower per share costs. These lower per share costs in turn would allow the Exchange to pass on the savings to Members in the form of lower fees. The increased liquidity benefits all investors by deepening EDGA's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based incentives such as the ones herein have been widely adopted in the cash equities markets, and are equitable because they are open to all Members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes.

The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

[12] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.* The Exchange also notes that because it proposes to amend the rate for adding liquidity to $0.0005 per share and the rebate for removing liquidity to $0.0002 per share, the Exchange's maker/taker spread remains $0.0003 per share. Therefore, since the Exchange's overall maker/taker spread remains constant, the Exchange's rates for internalization remain unchanged.

[13] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf; see also* NASDAQ OMX BX, NASDAQ OMX BX Price List—Trading & Connectivity, *http://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.*

[14] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[15] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

[16] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf.*

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, EDGA does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Standard Rate Changes

Regarding the Exchange's proposal to decrease the standard rate to $0.0005 per share for Members' orders that add liquidity, the Exchange believes its proposal increases competition because the proposed rate is comparable to the rates charged by BYX and BX [sic] for orders that add liquidity. The Exchange believes that its proposal will have no burden on intramarket competition as the rates apply uniformly to all Members.

Regarding the Exchange's proposal to decrease the standard rebate to $0.0002 per share for Members' orders that remove liquidity, the Exchange believes its proposal increases competition because the proposed rate is comparable to the rates charged by BATS BYX for orders that remove liquidity.[17] The Exchange believes that its proposal will have no burden on intramarket competition as the rates apply uniformly to all Members.

Fee/Rebate Changes for Flags BY and RY

The Exchange believes that its proposal to pass through a rebate of $0.0001 per share for Members' orders that yield Flag BY would increase intermarket competition because it offers customers an alternative means to route to BYX for the same price as entering orders on BYX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

The Exchange believes that its proposal to pass through a fee of $0.0003 per share for Members' orders that yield Flag RY would increase intermarket competition because it offers customers an alternative means to route to BYX for the same price as entering orders on BYX directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

Changes to Tiers in Footnote 4

Regarding the Exchange's proposal to make conforming pricing changes to all tiers in Footnote 4 of the Fee Schedule, the Exchange believes its proposal increases competition because the proposed rate is comparable to the rates charged by BATS BYX for orders that add liquidity. The Exchange believes that its proposal will have no burden on intramarket competition as the rates apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 [18] and Rule 19b–4(f)(2) [19] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2013–21 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–EDGA–2013–21. 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–EDGA–2013–21 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19692 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

[17] *See* BATS BYX Exchange Fee Schedule, *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf; see also* NASDAQ OMX BX, NASDAQ OMX BX Price List—Trading & Connectivity, *http://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.*

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4 (f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70139; File No. SR–NASDAQ–2013–105]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate the Exchange's Routable Order Program

August 8, 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 August 5, 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing changes to eliminate the Exchange's Routable Order Program (''ROP''). The changes pursuant to this proposal are effective upon filing, and the Exchange will implement the proposed rule changes on August 5, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://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.

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

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In February 2013, NASDAQ introduced the Routable Order Program in an effort to encourage greater participation by members representing retail customers in NASDAQ.[3] The program was premised on the propensity of members representing retail customers to make more extensive use of exchange-provided routing facilities and pre- and post-market trading sessions, as compared with proprietary traders.

To be eligible for the Routable Order Program, a member was required to have a market participant identifier (''MPID'') through which it provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies, including an average daily volume of at least 2 million shares that are provided prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross.[4] During recent months, no members have qualified for the program.

With respect to SCAN and LIST orders in securities priced at $1 or more per share entered through an MPID that qualified for the ROP, NASDAQ charged a fee of $0.0029 per share executed with respect to such orders when accessing liquidity in the Nasdaq Market Center.[5] If such orders were designated for display in the Nasdaq Market Center and provided liquidity after posting to the book, NASDAQ provided a credit of $0.0037 per share executed. With respect to SCAN and LIST orders in securities priced less than $1 per share entered through an MPID that qualified for the ROP, NASDAQ charged a fee of 0.30% of the total transaction cost with respect to such orders when accessing liquidity in the Nasdaq Market Center,[6] and provided a credit of $0.00003 per share executed if they were designated for display and provided liquidity after posting to the book. These fees and credits would be in lieu of the fees and credits otherwise charged or provided under Rule 7018. Moreover, orders that qualified for these fees and credits were not eligible to receive additional credits under NASDAQ's Investor Support Program (the ''ISP''),[7] but were included in calculations with regard to eligibility to participate in the ISP and other incentive programs under Rule 7014.

The program has not been successful in achieving its goal of encouraging members with retail order flow to increase their participation in NASDAQ. Accordingly, NASDAQ has decided to terminate the program, such that a member that might qualify for the program in the future would receive credits and pay fees otherwise applicable under Rule 7018 and 7014.[8]

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

NASDAQ believes that the proposed elimination of the ROP is consistent with the requirements of the Act. Specifically, although the goal of the program was to provide meaningful incentives for members that represent significant numbers of retail customers to increase their participation in NASDAQ, the program has not had that effect; accordingly, elimination of the program is reasonable because it will not result in a change to the fees and rebates applicable to members in August

[3] Securities Exchange Act Release No. 68905 (February 12, 2013), 78 FR 11716 (February 29 [sic], 2013) (SR–NASDAQ–2013–023).

[4] SCAN is a basic routing strategy that is widely used by firms that represent retail customers. SCAN orders check the Nasdaq Market Center System for available shares, while remaining shares are simultaneously routed to destinations on the applicable routing table. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center. LIST is a routing strategy that is used by firms that wish for their orders to participate in the opening and closing processes of each security's primary listing exchange, to access liquidity on all exchanges if marketable, and otherwise to post to the NASDAQ book. Members, including those that represent retail customers, use the LIST strategy to offload on the Exchange and its routing broker the technical complexity associated with routing orders to participate in the market open and/or close.

[5] When such orders executed at other market centers, the routing fees provided for in Rule 7018 would apply.

[6] When such orders executed at other market centers, the routing fees provided for in Rule 7018 would apply.

[7] Rule 7014(a)–(c).

[8] Because this proposed rule change is effective as of August 5, 2013, ROP pricing would apply on August 1–2, 2013 to any member that qualifies for the ROP during August 2013.

In addition to deleting the relevant paragraphs from Rule 7014, NASDAQ is also making conforming changes to the rest of that rule.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

2013, based on their level of participation in recent months. In addition, the change is reasonable because the fees and rebates applicable in the absence of the program are the fees and rebates that are otherwise in effect for members not qualifying for the program under Rules 7014 and 7018, all of which have been established and described in prior proposed rule changes. In addition, another pricing incentive program aimed at members representing retail customers, the ISP, remains in effect. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because although NASDAQ believes that it is equitable to use fee reductions as a means to encourage greater retail participation in NASDAQ, such reductions are not required under the Act, and the change will eliminate a provision that could result in a very high rebate being paid to only certain members. Moreover, since the program has not applied to any members in recent months, its elimination will not have a direct effect on the allocation of fees. Similarly, its elimination is not discriminatory because it will have no direct effect on members based on their current levels of participation. Finally, the change will not result in unfair discrimination against firms that represent retail customers, since providing financial incentives to such members, while not inconsistent with the Act, is also not required by the Act, and because the incentives provided by the ISP remain in place.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[11] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges, while also seeking to recoup its costs of operation and earn a return. Accordingly, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this case, NASDAQ is eliminating an incentive program aimed at members representing retail customers, but in which such members were not currently participating. Accordingly, NASDAQ does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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) of the Act[12] and paragraph (f) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–105 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–2013–105. 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–2013–105 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

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[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70145; File No. SR–EDGX–2013–27]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

August 8, 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 August 1, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III

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

[2] 17 CFR 240.19b–4.

below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to: (1) Increase the fee charged from $0.0029 per share to $0.0030 per share for orders that yield Flag U, which routes to LavaFlow, Inc. (''LavaFlow''); (2) eliminate underutilized pricing tiers from its Fee Schedule; and (3) make a number of non-substantive amendments and clarifications. All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to: (1) Increase the fee charged from $0.0029 per share to $0.0030 per share for orders that yield Flag U, which routes to LavaFlow; (2) eliminate underutilized pricing tiers from its Fee Schedule; and (3) make a number of non-substantive amendments and clarifications.

Fee Change for Flag U

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0029 per share for Members' orders that yield Flag U, which routes to LavaFlow. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0030 per share for Members' orders that yield Flag U. The proposed change represents a pass through of the rate that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to LavaFlow and do not qualify for a volume tiered discount. When DE Route routes to LavaFlow, it is charged a default fee of $0.0030 per share.[4] DE Route will pass through this rate on LavaFlow to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to LavaFlow's July 2013 fee change where LavaFlow increased the rate it charges its customers, such as DE Route, from a charge of $0.0029 per share to a charge of $0.0030 per share for orders that are routed to LavaFlow and add liquidity.[5]

Elimination of the Tier Under Footnote 6 [6]

Currently, under Footnote 6, Members can qualify for a decreased fee of $0.0023 per share for orders yielding Flag U where they post an average of 100,000 shares or more per day using routing strategy ROLF (yielding Flag M). The Exchange proposes to amend its Fee Schedule to remove this pricing tier under Footnote 6. This pricing tier represented a pass through of the rate that DE Route was charged for routing orders to LavaFlow that qualify for an identical volume tiered discount provided by LavaFlow. When DE Route routed to LavaFlow and satisfied its tier, it was charged a reduced fee of $0.0023 per share. DE Route passed through this rate on LavaFlow to the Exchange and the Exchange, in turn, passed through this rate to its Members. The Exchange notes that the proposed change is in response to LavaFlow's recent fee change where LavaFlow eliminated its equivalent pricing tier from its fee schedule.[7] The Exchange also proposes to remove references to Footnote 6 from the list of ''Liquidity Flags'' and insert the word ''Reserved'' into Footnote 6. Lastly, the Exchange notes that with the deletion of this tier, Members will continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Elimination of Tiers Under Footnotes 1, 2 and 13

The final paragraph in Footnote 1 currently contains a tier that provides for reimbursement of the difference between the rebate received and the rebate potentially received for Members that meet the following criteria: (i) Add 10,000,000 shares or more of ADV of liquidity to EDGX; (ii) where such added liquidity on EDGX is at least 5,000,000 shares of ADV greater than the previous calendar month; (iii) but for the liquidity added on EDGX, such Member would have qualified for a better rebate with respect to liquidity added on another exchange or ECN that the Member previously qualified for in the three calendar months prior to meeting the above-described criteria in (i) and (ii); and (iii) provide source documentation evidencing the above to the Exchange within fifteen (15) calendar days from the end of the relevant month.

Footnote 2 currently contains the Step-up Take Tier, which provides Members with a rebate of $0.0030 per share for orders that add liquidity and yield Flags B, V, Y, 3 and 4, and assesses a fee of $0.0028 per share for orders that remove liquidity and yield Flags N, W, BB, PI, 6, and ZR if a Member (i) adds an ADV of at least 2 million shares on a daily basis, measured monthly, more than that Member's September 2012 added ADV; and (ii) removes at least 0.40% TCV on a daily basis, measured monthly more than that Member's September 2012 removed ADV.

The Exchange notes that no Member has qualified for these tiers during the previous three months, nor does the Exchange anticipate a Member to qualify for these tiers in the near future. Therefore, the Exchange proposes to remove these tiers from its Fee Schedule and replace the text of Footnote 2 with the word ''Reserved.'' The Exchange also proposes to remove references to Footnote 2 from the list of ''Liquidity Flags.'' Lastly, the Exchange notes that with the deletion of these tiers,

[3] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' EDGX Rule 1.5(n).

[4] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on LavaFlow, its rate for Flag U will not change.

[5] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (charging a fee of $0.0030 per share for removing liquidity in shares priced at or above $1.00) (last visited July 19, 2013).

[6] References herein to ''footnotes'' refer only to footnotes on the Exchange's Fee Schedule and not to footnotes within the current filing.

[7] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (no longer charging a fee of $0.0023 per share for members that post an average of 100,000 shares or more per day) (last visited July 19, 2013).

Members will continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Footnote 13 currently contains tiers that provide a rebate of $0.0032 for Members that (i) add a minimum of 0.15% of the TCV on a daily basis measured monthly; and (ii) have an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85% (the ''$0.0032 Investor Tier'') and a rebate of $0.0030 for Members that (i) on a daily basis, measured monthly, posts an ADV of at least 8 million shares on EDGX where added flags are defined as B, HA, V, Y, MM, RP, ZA, 3, or 4; (ii) have an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 60% (the ''$0.0030 Investor Tier''). Since the addition of the $0.0032 Investor Tier, the Exchange believes that those Members that achieved the $0.0030 Investor Tier in the previous three months will achieve the $0.0032 Investor Tier from July 1, 2013 onward. Therefore, the Exchange proposes to remove the $0.0030 Investor Tier from its Fee Schedule. Lastly, the Exchange notes that with the deletion of these tiers, Members will continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Non-Substantive Clarifying Changes

The Exchange also proposes to make a number of clarifying, non-substantive changes to its Fee Schedule to provide greater transparency to Members on how the Exchange assesses fees and calculates rebates. The Exchange notes that none of these changes substantively amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. These proposed changes are outlined below:

- Amend ''EDGX Exchange'' at the top of the Fee Schedule to read ''EDGX Exchange, Inc.'' and make a similar change to the last sentence of the ''EdgeBook AttributedSM Fees'' section.
- Amend the sentence at the top of the Fee Schedule from ''Rebates & Charges for Adding, Removing or Routing Liquidity per Share for Tape A, B, & C Securities'' to ''Rebates & Charges for Adding, Removing or Routing Liquidity per share for Tape A, B, & C securities.
- Add language to the beginning of the Fee Schedule to clarify that the rates listed in the ''Standard Rates'' table apply unless a Member is assigned a liquidity flag other than a standard flag. If a Member is assigned a liquidity flag other than a standard flag, the rates listed in the ''Liquidity Flags'' table will apply.
- Title the first section of the Fee Schedule as ''Standard Rates'' and the second section ''Liquidity Flags'' by deleting current text ''Liquidity Flags and Associated Fees.''
- Add a row to the ''Standard Rates'' section of the Fee Schedule specifying to which flags the standard rates apply. These flags are B, V, Y, 3 and 4 for adding liquidity, N, W, 6, BB, PI and ZR for removing liquidity, and X for routing and removing liquidity. The Exchange notes that the flags listed in this row are also listed as ''Liquidity Flags'' indicating a rate equal to the standard rate. The Exchange believes adding a row indicating which flags provide the standard rate would add clarity to its Fee Schedule.
- Make grammatical changes to the ''Liquidity Flags'' section. These proposed changes are the following: (i) Replacing ''Add'' with ''Adds'' under flags B, V, Y, 3 and 4; (ii) replacing ''Remove'' with ''Removes'' under flags N, W, 6, BB, MT, PI and PR; (iii) replace ''primary'' with ''listing'' under Flag O; (iv) delete ''order'' from Flag S as it is repetitive; (v) conform spelling of ''MidPoint Match'' under flags AA, HA, MM, MT and PI; (vi) add the word ''away'' to Flag R to clarify that the flag is referring to an away exchange and not the Exchange; and (vii) remove instances of ''book'' from footnotes B, N, V, W, Y, BB, PI and PR.
- Add a section titled ''Definitions,'' which would consist of terms that are currently defined within the footnotes of the Fee Schedule. This section would consist of definitions for ''Added Flags,'' ''Removal Flags,'' ''Routed Flags,'' ''Average Daily Volume'' and ''Total Consolidated Volume.'' ''Added Flags'' would be defined as the following flags that are counted towards tiers, where applicable: B, V, Y, 3, 4, HA, MM, RP, and ZA. ''Removal Flags'' would be defined as the following flags that are counted towards tiers, where applicable: N, W, 6, BB, MT, PI, PR, and ZR. In addition, the following Routed Flag is counted towards tiers prior to 9:30 a.m. or after 4:00 p.m., where applicable: 7. ADV would be defined as the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated. TCV would be defined as the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated. Where these terms appear in the footnotes, such terms would be abbreviated to match the ''Definitions'' section. The Exchange notes that these terms were previously defined within the footnotes. The Exchange does not propose any substantive changes to the definitions; it is simply moving the definitions from the footnotes and consolidating them under the new ''Definitions'' section.
- Add a section entitled ''General Notes'' to help clarify the application of the footnotes. First, the ''General Notes'' section would clarify that, to the extent a Member: (i) Does not qualify for any of the tiers included in the footnotes, the rates listed in the ''Liquidity Flags'' section will apply; or (ii) qualifies for higher rebates and/or lower fees than those provided by a tier for which such Member qualifies, the higher rebates and/or lower fees shall apply. The Exchange notes that the language in (ii) is similar to that currently contained in footnotes 2 and 4 of the Fee Schedule. Second, the section will incorporate text currently located in footnotes ''a'' and ''b'' that (i) trading activity on days when the market closes early does not count toward volume tiers and (ii) upon a Member's request, EDGX will aggregate share volume calculations for wholly owned affiliates on a prospective basis. Lastly, the section will clarify that variable rates provided by tiers apply only to executions in securities priced at or above $1.00.
- Convert the tiers in Footnote 1 into table format and provide a name for each tier. The Exchange does not propose to alter the fees or rebates offered under these tiers or the requirements of the tiers; it simply seeks to reformat the tiers as a table to make them easier to read and understand. The Exchange also proposes to name the tiers under Footnote 1 as the ''Add Volume Tiers.'' In addition, the Exchange proposes to clarify that the rebate to add for meeting any of these tiers is applicable to flags B, V, Y, 3, 4 and ZA and that the fee to remove for meeting any of these tiers is applicable to flags N, W, 6, BB, PI and ZR.
- Convert the tier in Footnote 3 into table format and rename the tier the ''MidPoint Match Volume Tier.'' The Exchange does not propose to alter the reduced rate offered under the tier or the requirements of the tier; it simply seeks to reformat the tier as a table to make it easier to read and understand.
- Rename Footnote 4 as ''Retail Orders.'' The Exchange also proposes to convert the tier in Footnote 4 into table format and rename the tier the ''Retail Order Tier.'' The Exchange does not propose to alter the reduced rate offered under the tier or the requirements of the tier; it simply seeks to reformat the tier as a table to make it easier to read and understand.
- Delete the language ''Intentionally omitted'' from Footnote 7 and replace it with the exact content from Footnote 11. Conforming changes are proposed to be

made to references to the footnotes in the ''Liquidity Flags'' section.

• Amend footnotes 8 and 9 to simplify the language of the footnotes. The rates offered by the footnotes and the criteria necessary to obtain the rates would remain unchanged. In addition, pricing information would be removed from Footnote 9 because such information is redundant and its removal would simplify the Fee Schedule.

• Move the $0.0032 Investor Tier from Footnote 13 into the table of tiers in Footnote 1 and rename the tier the ''Investor Tier.'' The Exchange does not propose to alter the rebate offered under the tier or the requirements of the tier; it simply seeks to relocate and reformat the tier in a table to make it easier to read and understand.

• Delete footnotes 10–13 and ''a''—''c'' as well as references to the footnotes in the ''Liquidity Flags'' section.

• Delete Footnote ''d'' and rename it as a new section entitled, ''Late Fees.'' The Exchange does not propose to amend the text of Footnote ''d,'' which will now be included under the new ''Late Fees'' section. References to Footnote ''d'' would be removed from the ''Liquidity Flags'' section.

• Amend the section ''Port Fees'' to replace the word ''Edge'' with ''EDGE'' and add the word ''Ports'' after ''EdgeRisk.''

• Remove references to the effective date of a rule filing where such filing has become effective (i.e., Port Fees, EdgeRisk Gateway, Physical Connectivity Fees, Membership Fees, EdgeBook Attributed Fees, Edge Attribution Incentive Program and Edge Routed Liquidity Report).

• Conform titles of products in the sections following the footnotes to read first as product name followed by ''Fees'' rather than ''Pricing,'' where applicable. Furthermore, the titles of columns would be amended to conform to a common format.

• Insert and remove trademark symbols where applicable throughout the Fee Schedule (i.e., EDGA®, EDGX®, EDGE XPRS®, EdgeRisk PortsSM, EdgeRisk GatewaySM, EdgeBook DepthSM, EdgeBook AttributedSM, Edge Routed Liquidity ReportSM, and EdgeBook Cloud®).

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Fee Change for Flag U

The Exchange believes that its proposal to increase the pass through charge for Members' orders that yield Flag U from $0.0029 to $0.0030 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to LavaFlow through DE Route. Prior to LavaFlow's July 2013 fee change, LavaFlow charged DE Route a fee of $0.0029 per share for orders yielding Flag U, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In July 2013, LavaFlow increased the rate it charges its customers, such as DE Route, from a charge of $0.0029 per share to a charge of $0.0030 per share for orders that are routed to LavaFlow.[11] Therefore, the Exchange believes that the proposed change in Flag U from a fee of $0.0029 per share to a fee of $0.0030 per share is equitable and reasonable because it accounts for the pricing changes on LavaFlow. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to LavaFlow and remove liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Elimination of the Tier Under Footnote 6

The Exchange believes that its proposal to eliminate the pricing tier under Footnote 6 represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to LavaFlow through DE Route. Prior to LavaFlow's recent fee change, LavaFlow charged DE Route a fee of $ 0.0023 per share when volume criteria identical to that contained in Footnote 6 were met. DE Route, in turn, passed through this rate to the Exchange and the Exchange passed it through to its Members. Recently, LavaFlow eliminated this pricing tier from its fee schedule.[12] Therefore, the Exchange believes that removing the related pricing tier under Footnote 6 is equitable and reasonable because it accounts for the pricing changes on LavaFlow. The Exchange notes that routing through DE Route is voluntary. The Exchange also believes the elimination of unnecessary and obsolete tiers simplifies its Fee Schedule. Removal of the tiers under Footnote 6 is also equitable and not unfairly discriminatory because those tiers would be eliminated and no longer be available to any Member. Lastly, the Exchange notes that with the deletion of this tier, Members would continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Elimination of Tiers Under Footnotes 1, 2 and 13

The Exchange believes that the proposal to eliminate certain tiers under footnotes 1 and 2 from its Fee Schedule is reasonable because these tiers are underutilized and have generally not incentivized Members to add liquidity to the Exchange. The Exchange notes that no Member has qualified for these tiers during the past three months, nor does the Exchange anticipate a Member to qualify for these tiers in the near future. Therefore, the Exchange believes eliminating the tiers would clarify its Fee Schedule.

The Exchange also believes that the proposal to eliminate the $0.0030 Investor Tier under Footnote 13 from its Fee Schedule is reasonable because the

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (charging a fee of $0.0030 per share for removing liquidity in shares priced at or above $1.00).

[12] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (eliminating a fee of $0.0023 per share for orders yielding Flag U where they post an average of 100,000 shares or more per day).

Exchange anticipates that Members that previously achieved the tier will now achieve the $0.0032 Investor Tier located in Footnote 1. Therefore, the Exchange believes eliminating the tier would clarify its Fee Schedule.

The Exchange also believes the elimination of unnecessary and obsolete tiers simplifies its Fee Schedule. Removal of these tiers is also equitable and not unfairly discriminatory because those tiers would be eliminated and no longer be available to any Member. Lastly, the Exchange notes that with the deletion of these tiers, Members would continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Non-Substantive Clarifying Changes

The Exchange believes that the non-substantive clarifying changes to its Fee Schedule are reasonable because they are designed to provide greater transparency to Members with regard to how the Exchange assesses fees and provides rebates. The Exchange notes that none of the proposed non-substantive clarifying changes are designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that Members would benefit from clear guidance in its Fee Schedule that describes the manner in which the Exchange would assess fees and calculate rebates. These non-substantive, technical changes to the Fee Schedule as intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by any of the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange believes that the proposed changes would not impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Fee Change for Flag U

The Exchange believes that its proposal to pass through a charge of $0.0030 per share for Members' orders that yield Flag U would increase intermarket competition because it offers customers an alternative means to route to LavaFlow for the same price as entering orders on LavaFlow directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

Elimination of the Tier Under Footnote 6

The Exchange believes that its proposal to eliminate the pricing tier under Footnote 6 would not impact intermarket competition because the change is in response to LavaFlow removing an identical corresponding tier from its fee schedule. The Exchange believes that its proposal would not burden intramarket competition because the pricing tier would no longer be available to any Members.

Elimination of Tiers Under Footnotes 1, 2 and 13

The Exchange believes that elimination of the tiers under footnotes 1, 2 and 13 would not affect intermarket nor intramarket competition because the tiers in footnotes 1 and 2 have generally not incentivized Members to add liquidity to the Exchange and the Exchange anticipates that Members that previously achieved the $0.0030 Investor Tier in Footnote 13 will now achieve the $0.0032 Investor Tier.

Non-Substantive Clarifying Changes

The Exchange believes that non-substantive, clarifying changes to the Fee Schedule would not affect intermarket nor intramarket competition because none of these changes are designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. These changes are intended to provide greater transparency to Members with regard to how the Exchange access fees and provides rebates.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 [13] and Rule 19b–4(f)(2) [14] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2013–27 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–EDGX–2013–27. 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

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

[14] 17 CFR 240.19b–4 (f)(2).

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–EDGX–2013–27 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19669 Filed 8–13–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70138; File No. SR–BOX–2013–40

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Fees for Jumbo SPY Option Transactions

August 8, 2013.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2013, BOX Options Exchange LLC (the ''Exchange'') 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to amend fees for Jumbo SPY Option transactions on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on August 1, 2013. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

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.

Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange began listing and trading a new options product, Jumbo SPY Options,[5] on May 10, 2013.[6] Except for the difference in the number of deliverable shares, Jumbo SPY Options have the same terms and contract characteristics as regular-sized options contracts (''standard options''), including exercise style. The purpose of this filing is to amend the transaction fees to further promote trading in Jumbo SPY Options.

Section I. Exchange Fees

The Exchange proposes to remove the Exchange Fees for Jumbo SPY Option transactions. Currently the Exchange assesses a distinct fee for both Auction and Non-Auction Transactions in Jumbo SPY Options based on account type. The Exchange proposes to amend this category and assess a $0.00 per Jumbo SPY Option contract fee for all account types. Specifically, the Exchange proposes to lower the per-contract fee for Professional Customers and Broker-Dealers from $0.25 to $0.00. For Market Makers, the Exchange proposes to lower the per-contract fee from $0.25 or the tiered per-contract execution fee based upon the Participant's monthly average daily volume (''ADV'') to $0.00. The $0.00 per contract fee for Public Customers will not change.

Jumbo SPY Options transactions will continue to count the same as standard options transactions for the purposes of ADV under Section I.A. and I.B. For example, a Broker-Dealer initiating a Jumbo SPY Option Primary Improvement Order would be charged according to the proposed Jumbo SPY Options transaction sub-section outlined above, or $0.00. However, this transaction would count toward that Broker-Dealer's ADV in Auction Transactions under Section I.A.

Section II. Liquidity Fees and Credits

The Exchange currently assesses liquidity fees and credits for all options classes traded on BOX (unless explicitly stated otherwise) that are applied in addition to any applicable Exchange Fees as described above. The Exchange proposes to amend Section II. (Liquidity Fees and Credits) to adopt a pricing model for Jumbo SPY Options where the Exchange will credit liquidity providers and assess a fee on liquidity takers. Specifically, the Exchange proposes to assess a $0.30 credit for Jumbo SPY Options transactions that add liquidity and charge a $0.50 fee for Jumbo SPY Options transactions that remove liquidity. These fees and credits would apply to both Auction and Non-Auction transactions in Jumbo SPY Options.

The Exchange notes that the liquidity pricing proposed for Jumbo SPY Options is different from the liquidity pricing currently in place under Section II. The pricing model proposed above for Jumbo SPY Options is commonly known as a ''Make/Take'' model; for all other options classes the Exchange has adopted a ''Take/Make'' model whereby orders that add liquidity to the BOX Book are charged a fee, and orders that remove liquidity receive a credit. The Exchange believes the ''Make/Take'' model is more appropriate to promote liquidity for the Jumbo SPY Options product. Jumbo SPY Options were designed to help institutional investors mitigate the risks inherent in managing large portfolios,[7] and these investors are more familiar with being rewarded for providing liquidity.[8]

[15] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

[5] Option contracts overlying 1,000 shares of the SPDR® S&P® 500 Exchange-Traded Funds. ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

[6] *See* Securities Exchange Act Release No. 69511 (May 03, 2013) 78 FR 27271 (May 9, 2013) (Order Approving SR–BOX–2013–06).

[7] *Id.*

[8] The ''Make/Take'' model is currently used by the Chicago Board Options Exchange Incorporated

Accordingly, the Exchange also proposes to remove the statement in Section II.E. (Exempt Transactions) which exempts Jumbo SPY Options transactions from liquidity fees and credits.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Exchange Fees

The Exchange believes it is reasonable and equitable to lower all Exchange Fees for Jumbo SPY Options to $0.00. This is a new options product and assessing a lower fee than would otherwise apply will help generate additional trading in Jumbo SPY Options. The Exchange also believes it is equitable and not unfairly discriminatory to charge no Exchange Fees for Jumbo SPY Options as this applies equally to all Participants on the Exchange.

Liquidity Fees and Credits

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to adopt liquidity fees and credits for Jumbo SPY Options because pricing by symbol is a common practice on many U.S. options [sic] as a means to incentivize order flow.[11]

The Exchange's proposed Jumbo SPY Options fees and credits, which are commonly known as a ''Make/Take'' pricing model, are reasonable because the Exchange desires to incentivize market participants to transact a greater number of Jumbo SPY Options. The Exchange is offering pricing specific to Jumbo SPY Options because this is a new options product offered only on the Exchange, and the Exchange believes adopting this type of pricing model will increase liquidity in Jumbo SPY Options by incentivizing participants to provide more order flow in this product, ultimately benefiting all market participants through increased liquidity, tighter markets and increased order interaction.

The Exchange believes it is reasonable for Participants to be charged a higher fee for orders removing liquidity in Jumbo SPY Options transactions when compared to the credit they will receive for orders that add liquidity. As stated above, this is a common model in the options industry. Further, the Exchange's proposed pricing model for Jumbo SPY Options is equitable and not unfairly discriminatory as these liquidity fees and credits apply equally to all Participants and across all account types on the Exchange.

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 believes that removing all Exchange fees and adopting a ''Make/Take'' pricing model for Jumbo SPY Options will encourage order flow to be directed to the Exchange, which will benefit all market participants by increasing liquidity on the Exchange. Specifically, the Exchange believes this will incentivize market participants to trade this new product and will not impose a burden on competition among various market participants on the Exchange but rather will continue to promote competition on the Exchange.

The Exchange believes that the adopting of the proposed fees for Jumbo SPY Options will not impose any unnecessary burden on intermarket competition because even though Jumbo SPY Options are currently only listed on the Exchange, the Exchange operates in a highly competitive market compromised of eleven exchanges, any of which may determine to trade a similar product. Also, Jumbo SPY Options should result in increased options volume and greater trading opportunities for all market participants.

The Exchange also believes that adopting fees on Jumbo SPY Options will not impose a burden on competition among various market participants on the Exchange. The proposed fees apply equally to all Participants and across all account types on the Exchange.

Accordingly, the fees that are assessed by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues for other products, and therefore must continue to be reasonable and equitably allocated.

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 Exchange Act[12] and Rule 19b–4(f)(2) thereunder,[13] because it establishes or changes a due, or fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–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–BOX–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

(''CBOE''), the International Securities Exchange LLC.(''ISE') and NASDAQ OMX PHLX LLC. (''PHLX'').

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

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See supra,* note 8.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2013–40 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19672 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70137; File No. SR–MIAX–2013–39]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Options Fee Schedule

August 8, 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 August 1, 2013, Miami International Securities Exchange LLC (''Exchange'' or ''MIAX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to reflect the addition of a new category of connectivity to the MIAX System by way of MIAX Express Interface (''MEI'') Ports (defined below).

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, 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 Exchange proposes to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to add a new category of MIAX Express Interface (''MEI'') Port,[3] known as a Limited Service MEI Port, to the System Connectivity Fees section of the Fee Schedule. The new Limited Service MEI Port enhances the existing MEI Port connectivity made available to Market Makers. The Exchange is proposing no additional charge for the additional category of connectivity.

Currently, MIAX assesses monthly MEI Port Fees on Market Makers based upon the number of MIAX matching engines [4] used by the Market Maker. MEI Port users are allocated two Full Service MEI Ports [5] per matching engine to which they connect. The Exchange currently assesses a fee of $1,000 per month on Market Makers for the first matching engine they use; $500 per month for each of matching engines 2 through 5; and $250 per month for each of matching engines 6 and above. For example, a Market Maker that wishes to make markets in just one symbol would require the two MEI Ports in a single matching engine; a Market Maker wishing to make markets in all symbols traded on MIAX would require the two MEI Ports in each of the Exchange's matching engines. The MEI Port includes access to MIAX's primary and secondary data centers and its disaster recovery center.

The Exchange proposes to allocate to each Market Maker two Limited Service MEI Ports per matching engine in addition to the current two Full Service MEI Ports. In order to distinguish the Limited Service MEI Port from the existing MEI Port, the existing MEI Port will be referred to as a Full Service MEI Port.

Full Service MEI Port

The current MEI Port, now known as a Full Service MEI Port, provides Market Makers with the ability to send Market Maker Standard quotes, eQuotes,[6] and quote purge messages to the MIAX System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine.

Limited Service MEI Port

The new Limited Service MEI Ports provide Market Makers with the ability to send eQuotes and quote purge messages only, but not Market Maker Standard quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Limited Service MEI Ports per matching engine.

Under the proposal, Market Makers that establish connectivity through MEI Ports will be allocated two Full Service

[3] MEI is a connection to MIAX systems that enables Market Makers to submit electronic quotes to MIAX.

[4] A ''matching engine'' is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

[5] In order to distinguish the Limited Service MEI Port from the existing MEI Port, the existing MEI Port will be referred to as a Full Service MEI Port.

[6] An eQuote is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote. *See* Exchange Rule 517(a)(2).

MEI Ports and two Limited Service MEI Ports per matching engine at no additional cost. The Fee Schedule is being amended to reflect that the monthly fees paid for MEI Ports will result in the allocation of four MEI Ports to Market Makers. Accordingly, Market Makers will continue to be assessed $1,000 per month for the first matching engine they use; $500 per month for matching engines 2 through 5; and $250 per month for matching engines 6 and above, and they now will be allocated two additional Limited Service MEI Ports at the same monthly price for which they currently pay for two MEI Ports; they will receive four MEI Ports at the same monthly price they currently pay for two.

The purpose of this amendment to the Fee Schedule, offering of added value to the Exchange's MEI connectivity, is to provide Market Makers with the technical flexibility to connect the Limited Service Ports to independent servers that host their eQuote and purge functionality. The Exchange believes that the additional ports will help Market Makers mitigate the risk of using the same server for all of their Market Maker quoting activity. Currently, Market Makers in the MIAX System must use the MEI Ports (to be referred to now as the Full Service MEI Ports) to submit quotations, to purge quotations, and to submit eQuotes. By using the Limited Service MEI Ports for risk purposes, Market Makers can place purge functionality on a different server than the Market Maker quoting server (via the Limited Service MEI Ports), which provides them a failsafe for getting out of the market in case they have an issue with the quote server. Additionally, Market Makers may opt to use the Limited Service MEI Ports to submit eQuotes. Because eQuotes are frequently generated by a different algorithm that determines when to respond to an auction message, the additional ports enable Market Makers to connect to a different server that processes auctions and eQuotes rather than forcing them to use their Market Maker Standard quote server as a gateway for communicating eQuotes to MIAX.

Because of the technology changes associated with this rule proposal, the Exchange will announce the implementation date of the proposal in an Exchange Circular to be published no later than 30 days after the publication of the notice in the **Federal Register**. The implementation date will be no later than 30 days following publication of the Exchange Circular announcing publication of the notice in the **Federal Register**.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(4) of the Act [8] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is reasonable and not unfairly discriminatory because all Market Makers that subscribe to the MIAX System will pay the same monthly fee for two Full Service and Two Limited Service MEI Ports per matching engine.

The Exchange further believes that the no-cost addition of Limited Service MEI Ports to the Fee Schedule are equitable and not unfairly discriminatory because it enhances the MIAX System and marketplace by helping Market Makers to better manage risk, thus preserving the integrity of the MIAX markets, all to the benefit of and protection of investors and the public as a whole.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX 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.

On the contrary, MIAX believes that the additional cost-free protection provided to Market Makers and the investing public should enhance competition by attracting liquidity and order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] 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–MIAX–2013–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–39. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official 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–MIAX–2013–39 and should be submitted on or before September 4, 2013.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19665 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70144; File No. SR–EDGA–2013–23]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

August 8, 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 August 5, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to: (1) Increase the fee charged from $0.0029 per share to $0.0030 per share for orders that yield Flag U, which routes to LavaFlow, Inc. (''LavaFlow''); (2) eliminate underutilized pricing tiers from its Fee Schedule; and (3) make a number of non-substantive amendments and clarifications. All of the changes described herein are applicable to EDGA Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The Exchange proposes to amend its Fee Schedule to: (1) Increase the fee charged from $0.0029 per share to $0.0030 per share for orders that yield Flag U, which routes to LavaFlow; (2) eliminate underutilized pricing tiers from its Fee Schedule; and (3) make a number of non-substantive amendments and clarifications.

Fee Change for Flag U

In securities priced at or above $1.00, the Exchange currently assesses a fee of $0.0029 per share for Members' orders that yield Flag U, which routes to LavaFlow. The Exchange proposes to amend its Fee Schedule to increase this fee to $0.0030 per share for Members' orders that yield Flag U. The proposed change represents a pass through of the rate that Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is charged for routing orders to LavaFlow and do not qualify for a volume tiered discount. When DE Route routes to LavaFlow, it is charged a default fee of $0.0030 per share.[4] DE Route will pass through this rate on LavaFlow to the Exchange and the Exchange, in turn, will pass through this rate to its Members. The Exchange notes that the proposed change is in response to LavaFlow's July 2013 fee change where LavaFlow increased the rate it charges its customers, such as DE Route, from a charge of $0.0029 per share to a charge of $0.0030 per share for orders that are routed to LavaFlow and add liquidity.[5]

Elimination of the Tier Under Footnote 6 [6]

Currently, under Footnote 6, Members can qualify for a decreased fee of $0.0023 per share for orders yielding Flag U where they post an average of 100,000 shares or more per day using routing strategy ROLF (yielding Flag M). The Exchange proposes to amend its Fee Schedule to remove this pricing tier under Footnote 6. This pricing tier represented a pass through of the rate that DE Route was charged for routing orders to LavaFlow that qualify for an identical volume tiered discount provided by LavaFlow. When DE Route routed to LavaFlow and satisfied its tier, it was charged a reduced fee of $0.0023 per share. DE Route passed through this rate on LavaFlow to the Exchange and the Exchange, in turn, passed through this rate to its Members. The Exchange notes that the proposed change is in response to LavaFlow's recent fee change where LavaFlow eliminated its equivalent pricing tier from its fee schedule.[7] The Exchange also proposes to remove references to Footnote 6 from Flag U in the list of ''Liquidity Flags.'' Lastly, the Exchange notes that with the deletion of this tier, Members will continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Elimination of Tiers Under Footnote 16

The Exchange proposes to eliminate the pricing tiers included under Footnote 16 because they are underutilized by Members. Currently, the Exchange offers the following pricing tiers for Flag Q under Footnote 16:

- $0.0015 per share where the Member posts greater than or equal to 0.30% of the total consolidated volume (''TCV'') [8] in average daily volume (''ADV'') [9] on the Exchange and routes

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' EDGA Rule 1.5(n).

[4] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered discount on LavaFlow, its rate for Flag U will not change.

[5] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (charging a fee of $0.0030 per share for removing liquidity in shares priced at or above $1.00) (last visited July 19, 2013).

[6] References herein to ''footnotes'' refer only to footnotes on the Exchange's Fee Schedule and not to footnotes within the current filing.

[7] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (no longer charging a fee of $0.0023 per share for members that post an average of 100,000 shares or more per day) (last visited July 19, 2013).

[8] TCV is defined as the volume reported by all exchanges and the trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B, and C securities for the month in which fees are calculated.

[9] ADV is defined as the average daily trading volume of shares that a Member executed on the Exchange.

2.5 million shares through the use of Flag Q;

• $0.0015 per share where the Member executes greater than or equal to an ADV of 12 million shares using the ROUC routing strategy and yielding Flags C, D, I, K, Q, X, BY, CR and MT; and

• $0.0010 per share where the Member posts greater than or equal to 0.30% of the TCV in ADV on EDGA and routes 5 million shares through the use of Flag Q.

The Exchange notes that no Member has qualified for these tiers during the previous three months, nor does the Exchange anticipate a Member to qualify for these tiers in the near future. Therefore, the Exchange proposes to remove these tiers from its Fee Schedule. The Exchange also proposes to remove references to Footnote 16 from the list of ''Liquidity Flags.'' Lastly, the Exchange notes that with the deletion of these tiers, Members will continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Non-Substantive Clarifying Changes

The Exchange also proposes to make a number of clarifying, non-substantive changes to its Fee Schedule to provide greater transparency to Members on how the Exchange assesses fees and calculates rebates. The Exchange notes that none of these changes substantively amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. These proposed changes are outlined below:

• Amend ''EDGA Exchange'' at the top of the Fee Schedule to read ''EDGA Exchange, Inc.'' and make a similar change to the last sentence of the ''EdgeBook AttributedSM Fees'' section.

• Amend the sentence at the top of the Fee Schedule from ''Rebates & Charges for Adding, Removing or Routing Liquidity per Share for Tape A, B, & C Securities'' to ''Rebates & Charges for Adding, Removing or Routing Liquidity per share for Tape A, B, & C securities.

• Add language to the beginning of the Fee Schedule to clarify that the rates listed in the ''Standard Rates'' table apply unless a Member is assigned a liquidity flag other than a standard flag. If a Member is assigned a liquidity flag other than a standard flag, the rates listed in the ''Liquidity Flags'' table will apply.

• Title the first section of the Fee Schedule as ''Standard Rates'' and the second section ''Liquidity Flags'' by deleting current text ''Liquidity Flags and Associated Fees.''

• Add a row to the ''Standard Rates'' section of the Fee Schedule specifying to which flags the standard rates apply. These flags are B, V, Y, 3 and 4 for adding liquidity, N, W, 6, BB, CR, PR and XR for removing liquidity, and X for routing and removing liquidity. The Exchange notes that the flags listed in this row are also listed as ''Liquidity Flags'' indicating a rate equal to the standard rate. The Exchange believes adding a row indicating which flags provide the standard rate would add clarity to its Fee Schedule.

• Make grammatical changes to the ''Liquidity Flags'' section. These proposed changes are the following: (i) Replacing ''Add'' with ''Adds'' under flags B, V, Y, 3 and 4; (ii) replacing ''Remove'' with ''Removes'' under flags N, W, 6, BB and CR; (iii) replace ''primary'' with ''listing'' under Flag O; (iv) delete ''order'' from Flag S as it is repetitive; (v) replace ''MPM'' with ''MidPoint Match'' under Flag MT; (vi) replace ''Mid Point'' with ''Midpoint'' under Flags PA and PX; (vii) add the word ''away'' to Flag R to clarify that the flag is referring to an away exchange and not the Exchange; and (viii) remove instances of ''book'' from footnotes B, N, V, W, Y and BB.

• Add a section titled ''Definitions,'' which would consist of terms that are currently defined within the footnotes of the Fee Schedule. This section would consist of definitions for ''Added Flags,'' ''Removal Flags,'' ''Routed Flags,'' ''Average Daily Volume'' and ''Total Consolidated Volume.'' ''Added Flags'' would be defined as the following flags that are counted towards tiers, where applicable: B, V, Y, DM, HA, PA, RP, 3, and 4. ''Removal Flags'' would be defined as the following flags that are counted towards tiers, where applicable: BB, N, W, CR, DT, HR, PR, PT, XR and 6. ''Routed Flags'' would be defined as the following flags that are counted towards tiers, where applicable: A, C, D, F, G, I, J, K, L, M, O, P, Q, R, S, T, U, X, Z, 2, 7, 8, 9, 10, BY, CL, PX, RA, RB, RC, RM, RR, RS, RT, RW, RX, RY, RZ, and SW. ADV would be defined as the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated. TCV would be defined as the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated. Where these terms appear in the footnotes, such terms would be abbreviated to match the ''Definitions'' section. The Exchange notes that these terms were previously defined within the footnotes. The Exchange does not propose any substantive changes to the definitions; it is simply moving the definitions from the footnotes and consolidating them under the ''Definitions'' section.

• Add a section entitled ''General Notes'' to help clarify the application of the footnotes. First, the ''General Notes'' section would clarify that, to the extent a Member: (i) does not qualify for any of the tiers included in the footnotes, the rates listed in the ''Liquidity Flags'' section will apply; or (ii) qualifies for higher rebates and/or lower fees than those provided by a tier for which such Member qualifies, the higher rebates and/or lower fees shall apply.[10] Second, the section will incorporate text currently located in footnotes ''a'' and ''b'' that (i) trading activity on days when the market closes early does not count toward volume tiers and (ii) upon a Member's request, EDGA will aggregate share volume calculations for wholly owned affiliates on a prospective basis. Lastly, the section will clarify that variable rates provided by tiers apply only to executions in securities priced at or above $1.00.

• Add text to Footnote 2 to clarify that both displayed and non-displayed liquidity count towards the 8,000,000 share posting requirement to qualify for the rates for flags HA and HR listed in the ''Liquidity Flags'' table.

• Delete the language ''Intentionally omitted'' from Footnote 3 and replace it with the content from Footnote 17, which would be provided in table format. The Exchange does not propose to alter the fees or rebates offered under this tier or the requirements of the tier; it simply seeks to reformat the tier as a table to make it easier to read and understand. The Exchange also proposes to name the tier as the ''RPMT Tier.'' Conforming changes are proposed to be made to references to the footnotes in the ''Liquidity Flags'' section.

• Convert the tiers in Footnote 4 into table format and provide a name for each tier. The Exchange does not propose to alter the fees or rebates offered under these tiers or the requirements of the tiers; it simply seeks to reformat the tiers as a table to make them easier to read and understand. The Exchange also proposes to name the tiers under Footnote 4 as the ''Add Volume Tiers.'' In addition, the Exchange proposes to clarify that the fee to add for meeting any of these tiers is applicable to flags B, V, Y, 3 and 4.

[10] These clarifications are similar to text included in footnotes 2 and 4 of the EDGX Exchange, Inc. Fee Schedule. *See* EDGX Exchange, Inc., Fee Schedule, *available at https://www.directedge.com/Membership/FeeSchedule/EDGXFeeSchedule.aspx* (July 1, 2013).

• As discussed above, the Exchange proposes to delete the content of Footnote 6. In its place, the Exchange proposes to move the text, unchanged, from Footnote 15. Conforming changes are proposed to be made to references to the footnotes in the ''Liquidity Flags'' section.

• Delete the language ''Intentionally omitted'' from Footnote 7 and replace it with the exact content from Footnote 14. Conforming changes are proposed to be made to references to the footnotes in the ''Liquidity Flags'' section.

• Amend footnotes 8, 9, 10, and 11 to include similar language when stating which flag would be yielded when an order is routed using a particular routing strategy or to a specific trading center as contained in each footnote. In addition, pricing information in the footnotes would also be removed because such information is redundant and its removal would simplify the Fee Schedule.

• Delete the language ''Intentionally omitted'' from Footnote 12 and replace it with the exact content from Footnote 13. Conforming changes are proposed to be made to references to the footnotes in the ''Liquidity Flags'' section.

• Delete footnotes 13—17 and ''a''—''c'' as well as references to the footnotes in the ''Liquidity Flags'' section.

• Delete Footnote ''d'' and rename it as a new section entitled, ''Late Fees.'' The Exchange does not propose to amend the text of Footnote ''d,'' which will now be included under the new ''Late Fees'' section. References to Footnote ''d'' would be removed from the ''Liquidity Flags'' section.

• Amend the section ''Port Fees'' to replace the word ''Edge'' with ''EDGE'' and add the word ''Ports'' after ''EdgeRisk.''

• Remove references to the effective date of a rule filing where such filing has become effective (i.e., Port Fees, EdgeRisk Gateway, Physical Connectivity Fees, Membership Fees, EdgeBook Attributed Fees, Edge Attribution Incentive Program and Edge Routed Liquidity Report).

• Conform titles of products in the sections following the footnotes to read first as product name followed by ''Fees'' rather than ''Pricing,'' where applicable. Furthermore, the titles of columns would be amended to conform to a common format.

• Insert and remove trademark symbols where applicable throughout the Fee Schedule (i.e., EDGA®, EDGX®, EDGE XPRS®, EdgeRisk PortsSM, EdgeRisk GatewaySM, EdgeBook DepthSM, EdgeBook AttributedSM, Edge Routed Liquidity ReportSM, and EdgeBook Cloud®).

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 5, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Fee Change for Flag U

The Exchange believes that its proposal to increase the pass through charge for Members' orders that yield Flag U from $0.0029 to $0.0030 per share represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to LavaFlow through DE Route. Prior to LavaFlow's July 2013 fee change, LavaFlow charged DE Route a fee of $0.0029 per share for orders yielding Flag U, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In July 2013, LavaFlow increased the rate it charges its customers, such as DE Route, from a charge of $0.0029 per share to a charge of $0.0030 per share for orders that are routed to LavaFlow.[14] Therefore, the Exchange believes that the proposed change in Flag U from a fee of $0.0029 per share to a fee of $0.0030 per share is equitable and reasonable because it accounts for the pricing changes on LavaFlow. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to LavaFlow and remove liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

Elimination of the Tier Under Footnote 6

The Exchange believes that its proposal to eliminate the pricing tier under Footnote 6 represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to LavaFlow through DE Route. Prior to LavaFlow's recent fee change, LavaFlow charged DE Route a fee of $ 0.0023 per share when volume criteria identical to that contained in Footnote 6 were met. DE Route, in turn, passed through this rate to the Exchange and the Exchange passed it through to its Members. Recently, LavaFlow eliminated this pricing tier from its fee schedule.[15] Therefore, the Exchange believes that removing the related pricing tier under Footnote 6 is equitable and reasonable because it accounts for the pricing changes on LavaFlow. The Exchange notes that routing through DE Route is voluntary. The Exchange also believes the elimination of unnecessary and obsolete tiers simplifies its Fee Schedule. Removal of the tiers under Footnote 6 is also equitable and not unfairly discriminatory because those tiers would be eliminated and no longer be available to any Member. Lastly, the Exchange notes that with the deletion of this tier, Members would continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Elimination of Tiers Under Footnote 16

The Exchange believes that the proposal to eliminate the tiers under Footnote 16 from its Fee Schedule is reasonable because these tiers are underutilized and have generally not incentivized Members to add liquidity to the Exchange. The Exchange notes that no Member has qualified for these tiers during the past three months, nor does the Exchange anticipate a Member to qualify for these tiers in the near

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (charging a fee of $0.0030 per share for removing liquidity in shares priced at or above $1.00).

[15] *See* LavaFlow Pricing, *available at https://www.lavatrading.com/solutions/pricing.php* (July 1, 2013) (eliminating a fee of $0.0023 per share for orders yielding Flag U where they post an average of 100,000 shares or more per day).

future. Therefore, the Exchange believes eliminating the tiers under Footnote 16 would clarify its Fee Schedule. The Exchange also believes the elimination of unnecessary and obsolete tiers simplifies its Fee Schedule. Removal of the tiers under Footnote 16 is also equitable and not unfairly discriminatory because those tiers would be eliminated and no longer be available to any Member. Lastly, the Exchange notes that with the deletion of these tiers, Members would continue to be subject to the other fees and tiers listed on the Exchange's Fee Schedule.

Non-Substantive Clarifying Changes

The Exchange believes that the non-substantive clarifying changes to its Fee Schedule are reasonable because they are designed to provide greater transparency to Members with regard to how the Exchange assesses fees and provides rebates. The Exchange notes that none of the proposed non-substantive clarifying changes are designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that Members would benefit from clear guidance in its Fee Schedule that describes the manner in which the Exchange would assess fees and calculate rebates. These non-substantive, technical changes to the Fee Schedule as intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not 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 any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by any of the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange believes that the proposed changes would not impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Fee Change for Flag U

The Exchange believes that its proposal to pass through a charge of $0.0030 per share for Members' orders that yield Flag U would increase intermarket competition because it offers customers an alternative means to route to LavaFlow for the same price as entering orders on LavaFlow directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

Elimination of the Tier Under Footnote 6

The Exchange believes that its proposal to eliminate the pricing tier under Footnote 6 would not impact intermarket competition because the change is in response to LavaFlow removing an identical corresponding tier from its fee schedule. The Exchange believes that its proposal would not burden intramarket competition because the pricing tier would no longer be available to any Members.

Elimination of Tiers Under Footnote 16

The Exchange believes that elimination of the tiers under Footnote 16 would not affect intermarket nor intramarket competition because the tiers have generally not incentivized Members to add liquidity to the Exchange.

Non-Substantive Clarifying Changes

The Exchange believes that non-substantive, clarifying changes to the Fee Schedule would not affect intermarket nor intramarket competition because none of these changes are designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. These changes are intended to provide greater transparency to Members with regard to how the Exchange access fees and provides rebates.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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[16] and Rule 19b–4(f)(2)[17] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2013–23 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–EDGA–2013–23. 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

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4 (f)(2).

should refer to File Number SR–EDGA–2013–23 and should be submitted on or before September 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19668 Filed 8–13–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13674 and # 13675]

Missouri Disaster Number MO–00066

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–4130–DR), dated 07/18/2013.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 05/29/2013 through 06/10/2013.

Effective Date: 08/05/2013.

Physical Loan Application Deadline Date: 09/16/2013.

Economic Injury (EIDL) *Loan Application Deadline Date:* 04/18/2014.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of MISSOURI, dated 07/18/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Scotland.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–19678 Filed 8–13–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a new information collection, and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 15, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Request for Corrections of Earnings Record—20 CFR 404.820 and 20 CFR 422.125—0960–0029.* Individuals alleging their earnings records in SSA's files are inaccurate use Form SSA–7008 to provide the information SSA needs to check earnings posted, and as necessary, initiate development to resolve any inaccuracies. The respondents are individuals who request correction of earnings posted to their Social Security earnings record.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Paper form	37,500	1	10	6,250
In-person or telephone interview	337,500	1	10	56,250
Totals	375,000			62,500

2. *Protection and Advocacy for Beneficiaries of Social Security (PABSS)—20 CFR 435.51–435.52—0960–0768.* In March of 2013, Social Security announced its intention to award grants to reestablish community-based protection and advocacy projects in every State, U.S. Territories, and the Hopi and Navajo tribal nations, as authorized under Section 1150 of the Social Security Act (Act). Awardees are the 57 Protection & Advocacy (P&A) organizations established under Title I of the Developmental Disabilities Assistance and Bill of Rights Act. The PABSS projects are part of Social Security's strategy to increase the number of Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) recipients who return to work and achieve financial independence and self-sufficiency as the result of receiving support, representation, advocacy, or other services. The overarching objective of the PABSS program is to provide information and advice about obtaining vocational rehabilitation and employment services, and to provide advocacy or other services a beneficiary with a disability may need to secure, maintain, or regain gainful employment. The PABSS Annual Program Performance Report collects statistical information from each of the PABSS projects in an effort to manage and

[18] 17 CFR 200.30–3(a)(12).

capture program performance and quantitative data. Social Security uses the information to evaluate the efficacy of the program, and to ensure beneficiaries are receiving quality services. The project data is valuable to Social Security in its analysis of and future planning for the SSDI and SSI programs. The respondents are the 57 PABSS project sites, and recipients of SSDI and SSI programs.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
PABSS Program Grantees	57	1	60	57
SSDI and SSI Recipients	5,000	1	30	2,500
Totals	5,057			2,557

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 13, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Promoting Readiness of Minors in Supplemental Security Income (SSI) (PROMISE) Evaluation—Preliminary Activities—0960–NEW.*

Background

The Promoting Readiness of Minors in SSI (PROMISE) program pursues positive outcomes for children with disabilities who receive SSI and their families by reducing dependency on SSI. The Department of Education is awarding grants to States to improve the provision and coordination of services and support for children with disabilities who receive SSI and their families to achieve improved outcomes.

PROMISE Evaluation

With support from the Department of Labor and the Department of Health and Human Services, SSA will evaluate the PROMISE program. SSA will contract with an evaluator to conduct the evaluation. The assessment will require a process evaluation of the PROMISE projects, an impact analysis of important outcomes, and a cost-benefit analysis. This will be a multi-site project conducted in four States. The evaluation contractor and the local PROMISE projects will collect data on project participants.

Current Information Collection Request

SSA will pursue OMB approval for subsequent project surveys and focus group interviews at a later date. In this information collection request, SSA is only seeking OMB clearance for one pre-project activity: an initial intake interview including a request for consent from the participants, documented on a demonstration enrollment form. Local project staff will conduct these interviews at the local project sites, or in areas convenient for the families. The demonstration enrollment form will provide contact information for purposes of project administration, as well as work and education history, and health status, for baseline measurement purposes. The demonstration enrollment form will also allow SSA to obtain informed consent from the participants and their parents or guardians. The respondents are minors receiving SSI who will eventually participate in the PROMISE project, their parents or guardians, and, if applicable, additional household members.

Type of Request: This is a new information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Demonstration Enrollment Form	8,000	1*	7	933

* Each respondent will complete this forms only once for the duration of the PROMISE project.

This is a correction notice: When SSA published the 60-day **Federal Register** Notice for this information collection at 78 FR 22935, on April 17, 2013, we included two forms: a demonstration enrollment form, and a consent form. Since then we have combined the two forms into a single form, and updated our burden chart accordingly. In addition, we decided local project staff will conduct the intake interviews and help the respondents fill out the form, rather than hiring a contractor to do this initial task for the PROMISE project.

2. *Application for Child's Insurance Benefits—20 CFR 404.350–404.368, 404.603, & 416.350—0960–0010.* Title II of the Act provides for the payment of monthly benefits to children of an insured retired, disabled, or deceased worker. Section 202(d) of the Act discloses the conditions and requirements the applicant must meet when filing an application. SSA uses the information on Form SSA–4–BK to determine entitlement for children of living and deceased workers to monthly Social Security payments. Respondents are guardians completing the form on behalf of the children of living or deceased workers, or the children of living or deceased workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Life Claims (paper)	18,500	1	12	3,700
Life Claims—Modernized Claims System (MCS)	351,500	1	12	70,300
Life Claims—Signature Proxy	351,500	1	11	64,442
Death Claims (paper)	6,000	1	12	1,200
Death Claims (MCS)	114,000	1	12	22,800
Death Claims—Signature Proxy	114,000	1	11	20,900
Totals	955,500			183,342

3. *Certificate of Coverage Request—20 CFR 404.1913—0960–0554.* The United States has agreements with 24 foreign countries to eliminate double Social Security coverage and taxation where, except for the provisions of the agreement, a worker would be subject to coverage and taxes in both countries. These agreements contain rules for determining the country under whose laws the worker's period of employment is covered, and to which country the worker will pay taxes. The agreements further dictate that, upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information we collect assists us in determining a worker's coverage and in issuing a U.S. certificate of coverage as appropriate. Per our agreements, we ask a set number of questions to the workers and employers prior to issuing a certificate of coverage; however, our agreements with Denmark, Netherlands, Norway, and Sweden require us to ask more questions in those countries. Respondents are workers and employers wishing to establish exemption from foreign Social Security taxes.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Requests via Letter—Individuals (minus Denmark, Netherlands, Norway, & Sweden)	5,320	1	40	3,547
Requests via Internet—Individuals (minus Denmark, Netherlands, Norway, & Sweden)	7,979	1	40	5,319
Requests via Letter—Individuals in Denmark, Netherlands, Norway, & Sweden	280	1	44	205
Requests via Internet—Individuals in Denmark, Netherlands, Norway, & Sweden	421	1	44	309
Requests via Letter—Employers (minus Denmark, Netherlands, Norway, & Sweden)	21,279	1	40	14,186
Requests via Internet—Employers (minus Denmark, Netherlands, Norway, & Sweden)	31,920	1	40	21,280
Requests via Letter—Employers in Denmark, Netherlands, Norway, & Sweden	1,121	1	44	822
Requests via Internet—Employers in Denmark, Netherlands, Norway, & Sweden	1,680	1	44	1,232
Totals	70,000			46,900

4. Application Status—20 CFR 401.45—0960–0763. Application Status provides users with the capability to check the status of their pending Social Security claims either via the Internet or the National 800 Number Automated Telephone Service. Users need their Social Security number and a confirmation number to access this information. The Application Status shows users when SSA received the application, if we requested additional documents (e.g., military discharge papers, W–2s, birth records, etc.), and provides the address for the office processing the application. Once SSA makes a decision on a claim, we post a copy of the decision notice online for the user to view. There are some exceptions to posting a copy online, such as disability denial notices (even if filed electronically) or claims users did not file via the Internet, as we may not have those notices available for online review. Respondents are current Social Security claimants who wish to check the status of their claims either through the Internet or the National 800 Number.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Automated Telephone Services	498,477	1	2	16,616
Internet Services	6,032,016	1	1	100,534

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Totals	6,530,493			117,150

Dated: August 9, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–19701 Filed 8–13–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee (ARAC) a new task to provide recommendations regarding the outdated Advisory Circular (AC) 120–17A, Maintenance Control by Reliability Methods guidance material. The FAA needs to provide its employees and the aviation industry with current information for developing, implementing, maintaining and overseeing air carrier's maintenance reliability programs. This notice informs the public of the new ARAC activity and solicits membership for the Maintenance Reliability Program Working Group.

FOR FURTHER INFORMATION CONTACT: Paul K. Pitts, Federal Aviation Administration, AFS–330 Air Carrier Maintenance Branch, 800 Independence Avenue SW., Washington, DC 20591; email: *Paul.K.Pitts@faa.gov,* telephone: (202) 385–6818, facsimile: (202) 385–6474.

SUPPLEMENTARY INFORMATION:

ARAC Acceptance of Task

As a result of the June 2013 ARAC meeting, the FAA has assigned and ARAC has accepted this task and will establish the Maintenance Reliability Program Working Group. The working group will serve as staff to ARAC and provide it advice and recommendations on the assigned task. ARAC will review and approve the recommendation report that will be sent to the FAA.

Background

The FAA established ARAC to provide advice and recommendations to the FAA Administrator, through the Associate Administrator of Aviation Safety, on the FAA's rulemaking activities. ARAC's objective is to improve the development of the FAA's regulations and guidance material by providing information, advice, and recommendations related to aviation issues.

The National Transportation Safety Board (NTSB) issued safety recommendation, A–09–110, which identified contradictory philosophy regarding on-condition maintenance in reliability program control mechanisms recognized by the FAA. Specifically, it requested the FAA to:

> Resolve the differences between Advisory Circular (AC) 120–17A and AC 120–16E (now revised to AC 120–16F) in regard to Federal Aviation Administration philosophy and use of on-condition maintenance programs.

Currently, AC 120–17A refers to the Maintenance Steering Group 2 (MSG–2) logic for developing maintenance programs, which dates from the 1970's. AC 120–16F, dated November 15, 2012, provides guidance for the implementation of an air carriers maintenance program. Air carriers consider the maintenance requirements for identifying tasks and intervals when establishing maintenance programs. These considerations address corrective and preventive maintenance on airframes, engines, rotors, propellers, appliances, and emergency equipment. Recognizing the experience gained from MSG–2, we now use MSG 3 logic, which replaced MSC–2 logic in 1980, for developing a more effective set of procedures through analysis of aircraft functions, rather than components. In response to the NTSB safety recommendation, the FAA is requesting ARAC assistance to evaluate the guidance contained in the AC's that are associated with methods for establishing, monitoring, maintaining and overseeing air carrier reliability programs.

The Maintenance Reliability Program Working Group will provide advice and recommendations on the concepts and standards for maintenance reliability methods for ARAC review and approval.

The Task

The Maintenance Reliability Program Working Group is to complete the following:

1. Review the NTSB Recommendation A–09–110. *http://www.ntsb.gov/doclib/recletters/2009/A09_108_111.pdf*
2. Review AC 120–17A, ''Maintenance Control by Reliability Methods'' *http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/22744,* and AC 120–16F ''Air Carrier Maintenance Programs''. *http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%20120-16F.pdf*
3. Gather and review all internal and external guidance documents that reference or provide information on establishing, monitoring, maintaining and overseeing air carrier reliability programs.
4. Determine whether updated guidance material is appropriate and if so, develop draft internal and external guidance based on modern concepts, which ensure a standardized methodology for establishing, monitoring, maintaining and overseeing air carrier's aircraft maintenance reliability programs.
5. Develop and submit a report that contains recommendations for ensuring consistent establishment, monitoring, maintaining and overseeing an air carrier reliability program that explains the decisions made in developing the recommendation and any corresponding documents.
6. The working group may be reinstated to assist the ARAC by responding to FAA's questions or concerns after the recommendation has been submitted.

The report should document both majority and minority positions on the findings and the rationale for each position. Any disagreements should be documented, including the rationale for each position and the reasons for the disagreement.

Schedule

The recommendation report must be submitted to the FAA for review and acceptance no later than September 30, 2014.

Working Group Activity

The Maintenance Reliability Program Working Group must comply with the

procedures adopted by ARAC. As part of the procedures, the working group must:

1. Conduct a review and analysis of the assigned tasks and the related materials or documents.
2. Draft and submit a work plan for completion of the task, including the rationale supporting such a plan, for consideration by ARAC.
3. Provide a status report on the work plan at each ARAC meeting.
4. Draft and submit the recommendation report based on the review and analysis of the assigned tasks.
5. Present the recommendation report to the ARAC at a regularly scheduled meeting.

Participation in the Working Group

The Maintenance Reliability Program Working Group will be comprised of technical experts having an interest in the assigned task. A working group member need not be a member representative of ARAC. The FAA would like a wide range of members to ensure all aspects of the tasks are considered in development of the recommendations.

The June 18, 2010 Presidential memorandum ''Lobbyists on Agency Boards and Commissions,'' states that a member must not be a federally registered lobbyist, who is subject to the registration and reporting requirements of the Lobbying Disclosure Act of 1995 (LDA) as amended, 2 U.S.C 1603, 1604, and 1605, at the time of appointment or reappointment to the ARAC, and has not served in such a role for a two-year period prior to appointment. For further information see OMB final guidance on appointment of lobbyists to federal boards and commissions (76 FR 61756, October 5, 2011.) Therefore, the FAA will not select any person that is a registered lobbyist.

If you wish to become a member of the Maintenance Reliability Program Working Group, write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire. Describe your interest in the task and state the expertise you would bring to the working group. We must receive all requests by September 3, 2013. ARAC and the FAA will review the requests and advise you whether or not your request is approved.

If you are chosen for membership on the working group, you must actively participate in the working group by attending all meetings, and providing written comments when requested to do so. You must devote the resources necessary to support the working group in meeting any assigned deadlines. You must keep your management chain and those you may represent advised of working group activities and decisions to ensure the proposed technical solutions do not conflict with the position of those you represent. Once the working group has begun deliberations, members will not be added or substituted without the approval of the ARAC Chair, the FAA, including the Designated Federal Officer, and the Working Group Chair.

The Secretary of Transportation determined the formation and use of ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

ARAC meetings are open to the public. However, meetings of the Maintenance Reliability Program Working Group are not open to the public, except to the extent individuals with an interest and expertise are selected to participate. The FAA will make no public announcement of working group meetings.

Issued in Washington, DC, on August 9, 2013.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2013–19739 Filed 8–13–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Order 1050.1F Environmental Impact: Policies and Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice; request for public comment.

SUMMARY: The Federal Aviation Administration (FAA) proposes to update, reorganize, and revise its order that contains policies and procedures for implementing the National Environmental Policy Act (NEPA), in accordance with regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508). The order additionally provides direction on using the NEPA review process to ensure compliance with other environmental laws, regulations, and executive orders that may be applicable to proposed FAA actions. Order 1050.1E Environmental Impact: Policies and Procedures will be replaced with Order 1050.1F Environmental Impact: Policies and Procedures. FAA Order 1050.1F, Environmental Impact: Policies and Procedures is available at *http://www.faa.gov/about/office_org/headquarters_ offices/apl/environ_policy_guidance/policy/.* This notice provides the public opportunity to comment on the revised Order. All comments on the proposed changes will be considered in preparing the final version of Order 1050.1F.

DATES: Comments should be received by September 30, 2013.

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

Federal eRulemaking Docket: Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.

Fax: 202–493–2251.

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

Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may examine the docket, including comments received, on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Scata, Office of Environment and Energy (AEE–400), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9890; email *donald.scata@faa.gov.*

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act (NEPA) establishes a broad national policy to protect the quality of the human environment and ensures that environmental considerations are given careful attention and appropriate weight in decisions of the Federal Government. Regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) implement Section 102(2) of NEPA, which contains the ''action-forcing'' provisions to ensure that Federal agencies act according to the letter and spirit of NEPA. 40 CFR 1505.1 requires Federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations.

The FAA's current Order 1050.1E, Environmental Impact: Policies and Procedures, provides FAA's policy and procedures for complying with the requirements of: (a) The CEQ

regulations for implementing the procedural provisions of NEPA; (b) Department of Transportation (DOT) Order DOT 5610.1C, Procedures for Considering Environmental Impacts, and (c) other applicable environmental laws, regulations, and executive orders and policies. The FAA is proposing to replace Order 1050.1E with Order 1050.1F.

Request for Comment

As part of revising its environmental order, the FAA is seeking comment regarding the proposed changes described below.

Synopsis of Proposed Changes

The proposed FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, includes 29 additions or changes to the current version of FAA Order 1050.1E which may be of interest to the public and other government agencies and organizations. In general, Order 1050.1E has been reorganized to be more clear and concise. In addition, updates to policy and guidance since the publication of 1050.1E Change 1 in 2006 have been incorporated into proposed FAA Order 1050.1F. The following descriptions provide more details on the proposed changes.

Change 1 moves the information in Appendix A of FAA Order 1050.1E, *Analysis of Environmental Impact Categories,* to the 1050.1F Desk Reference, which can be easily updated as necessary. FAA specific analysis, modeling, and documentation requirements that were contained in Appendix A of FAA Order 1050.1E have been moved to a new Appendix B of FAA Order 1050.1F. These include requirements such as using an FAA approved model for noise analysis.

Change 2 restructures the Order to streamline and focus the discussion, reduce redundancies, and improve the clarity of guidance for NEPA practitioners. Order 1050.1F is divided into eleven chapters as opposed to the five chapters of 1050.1E. The numbering and structure are changed to more closely follow FAA Order 1320.1, *FAA Directives Management.* In addition, systematic editorial changes have been applied to ensure 1050.1F is consistent with the FAA's plain language guidelines as established in FAA Order 1000.36, *FAA Writing Standards* (e.g., changes use of the term ''shall'' to ''should'' or ''must'').

Change 3 expands and updates the FAA's policy statement to include the FAA's goals of ensuring timely, effective, and efficient environmental reviews of proposed Next Generation Air Transportation System (also known as NextGen) improvements, consistent with Executive Order 13604, *Improving Performance of Federal Permitting and Review of Infrastructure Projects,* 77 **Federal Register** 18887 (March 28, 2012) (see Paragraph 1–8). The updated policy also includes an environmental management system (EMS) approach that is being used to improve the integration of environmental performance into the planning, decision-making, and operation of NextGen in furtherance of the goal of environmental protection that allows sustained aviation growth. Finally, the policy reflects legislative provisions in FAA reauthorization to expedite the environmental review process for certain air traffic procedures.

Change 4 updates the titles and roles of FAA Lines of Businesses and Staff Offices (LOB/SOs) to reflect changes to the FAA's organizational structure and responsibilities since publication of FAA Order 1050.1E (see Paragraph 2–2.1.b). These revisions include removal of Aviation Policy, Planning, and Environment (AEP) and International Aviation (API), since these divisions have been combined to form a new office known as Policy, International Affairs and Environment (APL). In addition, Financial Services (ABA) is now known as Finance and Management (AFN), and Regulation and Certification (AVR) is now Aviation Safety (AVS). The Region and Center Operations (ARC) is now located under Human Resource Management (AHR). FAA has added two staff offices: NextGen (ANG) and Office of Communications (AOC).

Change 5 clarifies and explains in more detail the FAA's responsibilities (see Paragraph 2–2.1) and the role of applicants and contractors in the FAA's NEPA process (see paragraphs 2–2.2 and 2–2.3). Order 1050.1E did not break out the roles of contractors and applicants, and thus it was difficult for practitioners to clearly understand roles and responsibilities that applicants and contractors may have as the FAA carries out its NEPA requirements.

Change 6 clarifies the similarities and differences between environmental assessments and environmental impact statements throughout the Order. The terminology EIS or EA has been replaced with NEPA documentation when guidance would apply to either type of document to help clarify section 206a of 1050.1E which states that requirements that apply to EIS's may also be used for the preparation of EA's. Alternatively, when guidance is specific to an EA or to an EIS, but not to both, the appropriate type of document is stated. Specifically, Order 1050.1F explains in more detail than 1050.1E paragraphs 405 d, e, and f the requirement to consider connected actions in environmental assessments.

Change 7 reorganizes and clarifies provisions relating to mitigation including updating the guidance to be consistent with CEQ's guidance on *Appropriate use of Mitigation and Monitoring and Clarifying the Appropriate use of Mitigated Finding of No Significant Impacts* (January 24, 2011) (see Paragraphs 2–3.6, 4–4, 6–2.3, and 7–1.1.h). The proposed changes also clarify which projects may warrant environmental monitoring and the type and extent of monitoring.

Change 8 adds a discussion of Environmental Management System (EMS) to highlight the importance of EMS and the potential benefit of aligning NEPA with the elements of EMS (see Paragraph 2–3.3).

Change 9 revises the list of actions normally requiring an EA to align more clearly and accurately with the FAA's experience of actions which normally involve the preparation of an EA.

Actions newly identified as normally requiring an EA are in Paragraph 3–1.2b(14): Establishment or modification of an Instrument Flight Rules Military Training Route (IR MTRs); and Paragraph 3–1.2b(17): Formal and informal runway use programs that may significantly increase noise over noise-sensitive areas.

Actions normally requiring an EA that are amended include Paragraphs 3–1.2b(2), 10–13, 15, and 16.

Paragraph 3–1.2b(2) modifies the language of 401b of 1050.1E to include all types of certificates for aircraft types for which environmental regulations have not been issued, and new amended engine types for which emission regulations have not been issued where an environmental analysis has not been prepared with a regulatory action.

Paragraph 3–1.2b(10), formally 401k of 1050.1E, was changed to limit the typical EA to new commercial service airport locations that would not be located in a Metropolitan Statistical Area (MSA). In addition, the description of a new runway was limited by stating that the new runway is at an existing airport that is not located in an MSA. Major runway extension projects were removed from this list and added to the list of actions that typically require an environmental impact statement.

Paragraph 3–1.2b(11) changes 401l of 1050.1E to provide more clarity when the issuance of operations specifications normally requires an EA; specifically any approval of operations specifications that may change the character of the operational

environment when authorizing passenger or cargo service, or authorizing an operator to serve an airport with different aircraft when that service may significantly increase noise, air, or other environmental impacts.

Paragraphs 3–1.2b(12) and (13) amend 401m and 401n of 1050.1E, respectively, to include a caveat that certain procedures may be categorically excluded under new legislative categorical exclusions in the FAA Modernization and Reform Act of 2012. Paragraph 3.1.2b(12) describes as normally requiring an EA: New instrument approach procedures, departure procedures, en route procedures, and modifications to currently approved instrument procedures which routinely route aircraft over noise sensitive areas at less than 3,000 feet above ground level (AGL) (unless otherwise categorically excluded under Paragraphs 5–6.5q or 5–6.5r). Paragraph 3.1.2b(13) describes as normally requiring an EA: New or revised air traffic control procedures which routinely route air traffic over noise sensitive areas at less than 3,000 feet AGL (unless otherwise categorically excluded under Paragraphs 5–6.5q or 5.6.5r).

Paragraph 3–1.2b(15) modifies 401p of 1050.1E to remove the four requirements for the notice of proposed rulemaking for Special Use Airspace projects since these criteria are not based on environmental impact, but on the process for establishing special use airspace. The proposed paragraph describes actions normally requiring an EA: Special Use Airspace (unless otherwise explicitly listed as an advisory action (see Paragraph 2–1.2b, Advisory Actions) or categorically excluded under Paragraph 5–6, the FAA's List of Approved CATEXs).

Paragraph 3–1.2b(16) modifies 401c of 1050.1E to clarify the type of commercial space launch actions that normally require an EA. The proposed paragraph states issuance of any of the following requires an EA: (a) A commercial space launch site operator license for operation of a launch site at an existing facility on disturbed ground where little to no infrastructure would be constructed (e.g., co-located with a federal range or municipal airport); or (b) A commercial space launch license, reentry license, or experimental permit to operate a vehicle to/from an existing site.

Change 10 modifies and re-organizes the text in Paragraph 501 of FAA Order 1050.1E on EIS and adds the following specific examples of actions normally requiring an EIS (see Paragraphs 3–1.3.b). (1) Federal financial participation in, or unconditional ALP approval of, the following categories of airport actions: (a) Location of a new commercial service airport in an MSA; (b) A new runway to accommodate air carrier aircraft at a commercial service airport in an MSA; and (c) major runway extension; and (2) issuance of a commercial space launch site operator license, launch license, or experimental permit to support activities requiring the construction of a new commercial space launch site on largely undisturbed ground.

Change 11 combines the discussion of programmatic NEPA documents and tiering and revises the text to more closely align with CEQ Regulations and guidance (see Paragraph 3–2).

Change 12 adds a new Chapter 4 to describe environmental impact categories, significance thresholds, and factors to consider in determining the significance of environmental impacts. These details were previously discussed in Appendix A of FAA Order 1050.1E. There are additions and modifications to the list of impact categories. Climate has been added to the list of impact categories to be considered in FAA NEPA documents, consistent with CEQ's 2010 *Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions* and FAA Order 1050.1E Guidance Memo #3, *Considering Greenhouse Gases and Climate under the National Environmental Policy Act (NEPA): Interim Guidance.* Noise and noise-compatible land use have been combined into a single impact category to provide better context and clarity. The remaining land use topics are discussed as a separate category. Water Resource impacts have been combined to include water quality, wetlands, floodplains, surface waters, groundwater, and wild and scenic rivers. Construction and secondary impacts have been removed as separate categories, and instead are to be analyzed within each applicable environmental impact category. Further guidance on impact category analysis is contained within the 1050.1F Desk Reference.

Change 13 provides a table in paragraph 4–3.3 that summarizes the significance thresholds that were formerly described under individual environmental impact categories in Appendix A of FAA Order 1050.1E. This table also includes Factors to Consider in making determinations of significant impact. There are modifications to significance thresholds: (1) Surface Waters now includes ''contaminate a public drinking water supply such that public health may be adversely affected'' as a threshold and (2) Groundwater contains ''contaminate an aquifer used for public water supply such that public health may be adversely affected'' as a threshold. (See Exhibit 4–1, Significance Determination for FAA Actions).

Change 14 revises the list of extraordinary circumstances (see Paragraph 5–2.b). National marine sanctuaries and wilderness areas have been added to the list of resources that must be considered in evaluating actions for extraordinary circumstances that would preclude the use of a categorical exclusion for a proposed action. Makes other text revisions, including modifying (1) the description of wild and scenic rivers [EME: Deleted b/c use of word ''modifying'' before sentence] to be consistent with CEQ's August 10, 1980, *Memorandum on Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory; and* (2) the description of hazardous materials likely to cause environmental contamination by hazardous materials, or likely to disturb an existing hazardous material contamination site such that new environmental contamination risks are created.

Change 15 updates the FAA's guidance regarding CATEX documentation to be consistent with CEQ's 2010 Guidance on *Establishing, Applying, and Revising Categorical Exclusions under National Environmental Policy Act [NEPA] (November 23, 2010)* (see Paragraph 5–3). These updates include: clarifying when and what level of documentation is needed in the application of a CATEX and explaining what to include in CATEX documentation. In addition, there is a new section providing information on combining a decision document with a CATEX (CATEX/RODs). CATEX/RODs are not commonly used, but may be advisable in unique circumstances.

Change 16 adds guidance on public notification of CATEX use, consistent with CEQ's 2010 Guidance on *Establishing, Applying, and Revising Categorical Exclusions under National Environmental Policy Act (November 23, 2010)* (see Paragraph 5–4).

Change 17 adds new CATEXs and revises existing CATEXs to accommodate actions that do not have the potential to significantly affect the environment, absent extraordinary circumstances. A categorical exclusion justification package is available at *http://www.faa.gov/about/office_org/headquarters_offices/apl/environ_policy_guidance/policy/.* New CATEXs are the following:

Paragraph 5–6.3i adds a categorical exclusion for the unconditional approval of an Airport Layout Plan (ALP), federal financial assistance, or FAA projects for the installation of solar or wind powered energy, provided the installation does not involve more than three total acres.

Paragraph 5–6.4bb adds a categorical exclusion for an unconditional ALP approval or federal financial assistance for actions related to a purchase of land for a runway protection zone or other aeronautical purpose, provided there is no land disturbance.

Paragraph 5–6.4cc adds a categorical exclusion for an unconditional ALP approval or federal financial assistance to permanently close a runway and use it as a taxiway at small, low activity airports provided any changes to lights or pavement would be on previously developed airport land.

Paragraph 5–6.4dd adds a categorical exclusion for FAA construction, reconstruction or relocation of a non-Radar, Level 1 air traffic control tower at an existing visual flight rule airport, or FAA unconditional approval of an ALP and/or federal funding provided the action would occur on a previously disturbed area of the airport and not: (1) cause an increase in the number of aircraft operations, a change in the time of aircraft operations, or a change in the type of aircraft operating at the airport; (2) cause a significant noise increase in noise sensitive areas; or (3) cause significant air quality impacts.

Paragraph 5–6.4ee adds a categorical exclusion for environmental investigation of hazardous waste or hazardous substance contamination on previously developed land provided the work plan or Sampling and Analysis Plan (SAP) for the project integrates current industry best practices and address, as applicable, surface restoration, well and soil boring decommissioning and the collection, storage, handling, transportation, minimization, and disposal of investigation derived wastes and other federal or state regulated wastes generated by the investigation. The work plan or SAP must be coordinated with and, if required, approved by the appropriate or relevant governmental agency or agencies prior to commencement of work.

Paragraph 5–6.4ff adds a categorical exclusion for remediation of hazardous wastes or hazardous substances impacting approximately one acre in aggregate surface area provided remedial or corrective actions must be performed in accordance with an approved work plan (i.e., remedial action plan, corrective action plan, or similar document) that documents applicable current industry best practices and addresses, as applicable, permitting requirements, surface restoration, well and soil boring decommissioning, and the minimization, collection, storage, handling, transportation, and disposal of federal or state regulated wastes. The work plan must be coordinated with, and if required, approved by, the appropriate governmental agency or agencies prior to the commencement of work.

As a matter of policy, actions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and corrective actions under the Resource Conservation and Recovery Act (RCRA) generally do not require separate analysis under NEPA or the preparation of a NEPA document. FAA will rely on CERCLA processes for environmental review of actions to be taken under CERCLA, and will address NEPA values to the extent practicable. As a matter of law, there is a statutory conflict between NEPA and CERCLA; NEPA, therefore, does not apply to CERCLA cleanup actions. FAA may rely on the CERCLA process for RCRA corrective actions if the action is to be taken under a compliance agreement for an FAA site on the CERCLA National Priorities List that integrates the requirements of RCRA and CERCLA to such an extent that the requirements are largely inseparable in a practical sense.

Paragraph 5–6.5f adds a categorical exclusion for actions to increase the altitude of special use airspace.

In addition, two legislative CATEXs, provided in section 213(c) of the *FAA Modernization and Reform Act of 2012,* are added (see Paragraphs 5–6.5q and 5–6.5r). One allows for a categorical exclusion for Area Navigation/Required Navigation Performance (RNP) procedures proposed for core airports and any medium or small hub airports located within the same metroplex area, and for RNP procedures proposed at 35 non-core airports selected by the Administrator, subject to extraordinary circumstances. The second provides a categorical exclusion for any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise on a per flight basis as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace irrespective of the altitude.

CATEXs that are amended include the following:

Paragraph 5–6.4e (formerly 310e), is modified to include widening of a taxiway, apron, loading ramp, or runway safety area (RSA) including an RSA using Engineered Material Arresting System (EMAS), or widening of an existing runway.

Paragraph 5–6.4i (formerly 310i) is modified to allow for financial assistance for or unconditional approval of an ALP for the demolition or removal of non-FAA owned buildings and structures on airports except those of historic archeological or architectural significance. This CATEX also adds the expansion of a facility or structure where no hazardous substance contamination or contaminated equipment is present on the site.

Paragraph 5–6.4u (formerly 310u) is expanded to include unconditional approval of an ALP for the installation, repair or replacement of on-airport aboveground storage tanks or underground storage tanks. The CATEX further clarifies that the closure and removal applies to the fuel storage tank, and remediation applies to the contaminants resulting from the use of the fuel storage tank. It also clarifies that distribution systems are not within the scope of the CATEX.

Paragraph 5–6.5l (formerly 311l) is modified to allow for Federal financial assistance, unconditional ALP approval, or other FAA action to establish a displaced threshold on an existing runway. It further states that removal or establishment of a displaced threshold is allowed within the scope of the categorical exclusion provided the action does not require establishing or relocating an approach light system that is not on airport property or an instrument landing system.

CATEXs that are slightly modified are as follows:

Paragraph 5–6.2c (formerly 308c) is modified to include operating certificates. This is a clarification since these certificates are the same as the previously mentioned certificates.

Paragraph 5–6.3h (formerly 309h) is revised for clarity. The terminology ''launch facility'' is changed to ''commercial space launch site.''14 CFR part 107, Airport Security, no longer exists and has been removed.

Paragraph 5–6.4f (formerly 310f) is modified to include hangers and t-hangers as long as any increase in aircraft does not contribute to significant noise increases in noise sensitive areas or significant increases in air emissions.

Paragraph 5–6.4h (formerly 310h) has been clarified to include non-

aeronautical uses at existing airports or commercial space launch sites.

Paragraph 5–6.5b (formerly 311b) adds clarification that this applies to establishment of jet routes as they are one type of federal airway.

Paragraph 5–6.5c (formerly 311c) adds the example ''reduction in times of use (e.g., from continuous to intermittent, or use by a Notice to Airmen (NOTAM)'' to the list of ''such as'' actions. This clarifies that actions to return all or part of special use airspace (SUA) to the National Airspace System (NAS) includes reduction in times of use.

Paragraph 5–6.5g (formerly 311g) is slightly modified to include ''Required Navigation Performance'' (RNP). It also specifies that a Noise Screening Tool or other FAA-approved environmental screening methodology should be used.

Paragraph 5–6.5h (formerly 311h) is slightly modified to include ''modification'' of helicopter routes to clarify that establishment of helicopter routes also includes modification of these routes as long as they channel helicopter activity over major thoroughfares.

Paragraph 5–6.5i (formerly 311i) updates reference to a Noise Screening Tool (NST) or other FAA approved environmental screening methodology.

Paragraph 5–6.6b is modified to provide clarity that the categorical exclusion applies to an aerobatic practice area containing one aerobatic practice box in accordance with 1050.1E Guidance Memo #5, *Clarification of FAA Order 1050.1E CATEX 312b to Aerobatic Actions.*

Change 18 revises the discussion of EA format and process to streamline the explanation of each element and clarify that an EA should be concise and focused and should not be as detailed as an EIS (see Paragraph 6–2). Since this section has been reduced in detail, there are cross-references to the corresponding EIS sections for environmental assessments that may need to be more substantial.

Change 19 revises the language in notices soliciting public comment on draft EAs and draft EISs, stating that personal information provided by commenters (e.g., addresses, phone numbers, and email addresses) may be made publicly available (see Paragraphs 6–2.2.e and 7–1.2.d(1)(a)).

Change 20 adds a new paragraph to explain the conditions under which the FAA may choose to terminate preparation of an EIS and clarifies what steps the FAA should take when this situation occurs (see Paragraph 7–1.3).

Change 21 adds a discussion of FAA policy with respect to consideration of transboundary impacts resulting from FAA actions (see Paragraph 8–3).

Change 22 updates the discussion of international actions to be consistent with DOT Order 5610.1, including guidance on coordination within the FAA/DOT and U.S. State Department when communication with foreign governments is needed (see Paragraph 8–4).

Change 23 clarifies the alternative process to consider environmental impacts before taking emergency actions necessary to protect the lives and safety of the public in emergency circumstances. These alternative arrangements are limited to actions necessary to control the immediate impacts of an emergency. Order 1050.1F expands this section to provide for emergency procedures when a CATEX or EA would be the appropriate level of NEPA review (see Paragraph 8–5).

Change 24 clarifies and expands on requirements relating to FAA adoption of other agencies' NEPA documents (see Paragraph 8–7). Clarifies requirements for legal sufficiency review of adopted documents and when this review is required (see Paragraph 8–7.d). Also adds a discussion of recirculation requirements for EISs to highlight that there are some circumstances in which adopted documents must be re-circulated (see Paragraph 8–7.f).

Change 25 clarifies that there is no specified format for written re-evaluations. It also adds a statement to explain that written re-evaluations may be prepared even when they are not required. In addition, this section also adds a discussion of combining decision documents with written re-evaluations (i.e., a ''WR/ROD'') (see Paragraph 9–2).

Change 26 streamlines, consolidates, and clarifies provisions relating to review, approval, and signature authority for FAA NEPA documents (see Chapter 10).

Change 27 revises text in Paragraph 11–2 to clarify the authority of various parties and to be consistent with other FAA Orders (see Paragraph 11–2).

Change 28 clarifies provisions relating to explanatory guidance (see Paragraph 11–4).

Change 29 adds definitions of ''NEPA lead'' and ''special purpose laws and requirements.'' It deletes the definition of ''Environmental Due Diligence Audit'' because this term is no longer used in FAA Order 1050.1F. Definitions of ''environmental studies'', ''approving official'', and ''decisionmaker'' are revised to reflect current practice. The definition of ''launch facility'' is changed to ''commercial space launch site'' to be consistent with 14 CFR part 420. The definition of ''noise sensitive area'' is revised to include a reference to Table 1 of 14 CFR part 150 rather than Appendix A of FAA Order 1050.1E, to provide context in light of the removal of Appendix A from proposed Order 1050.1F. (See Paragraph 11–5.b).

Issued in Washington, DC, on August 9, 2013.

Lourdes Q. Maurice,

Executive Director, Office of Environment and Energy.

[FR Doc. 2013–19734 Filed 8–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Intent To Prepare an Environmental Impact Statement for the Virginia Beach Transit Extension Study, Virginia

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and Hampton Roads Transit (HRT) are planning to prepare an Environmental Impact Statement (EIS) for the Virginia Beach Transit Extension Study (VBTES). The VBTES will examine extending transit service from the eastern terminus of Norfolk's existing Light Rail Transit (LRT) system, ''The Tide,'' at Newtown Road to the Virginia Beach Oceanfront either along the former Norfolk Southern Railroad right-of-way (NSRR ROW) that runs from Newtown Road to Birdneck Road or along the NSRR ROW to Laskin Road then onto Birdneck Road. From Birdneck Road, both alignments would extend onto 19th Street terminating at the Virginia Beach Oceanfront.

In 2000, FTA and HRT prepared the Norfolk-Virginia Beach East/West Light Rail Transit System Final EIS. This document looked at an 18-mile transit system connecting downtown Norfolk to the Pavilion area of Virginia Beach. In 2009, FTA and HRT began a Supplemental EIS for the VBTES that intended to evaluate changes in the project corridor since the 2000 EIS. As the Supplemental EIS progressed, FTA and HRT began studying an additional alternative alignment along Laskin Road. This alternative alignment and the additional amount of time that elapsed since work began on the Supplemental EIS led FTA to determine that a Supplemental EIS was no longer appropriate for the VBTES and instead a new EIS should be prepared. Pursuant

to 23 CFR 771.123(a), FTA and HRT now issue this Notice of Intent (NOI) for an EIS for the VBTES. Although the VBTES has been under consideration in some form since the 1980's, and was included in the 2000 Final EIS, this EIS will specifically rely on relevant information that has been developed over the last several years since the 2009 Supplemental EIS was proposed.

The EIS for the VBTES will be prepared in accordance with the National Environmental Policy Act (NEPA). This NOI initiates formal scoping for the EIS, invites interested parties to participate in the process, provides information about the purpose and need for the study, includes the alternatives being considered for evaluation in the EIS, and identifies potential environmental effects to be considered.

HRT began its VBTES public involvement process in 2009. It held frequent public meetings in 2010, 2012, and 2013, and continues to receive public comments on the study today. HRT plans additional public meetings for September 2013 and November 2013. These continued opportunities for public involvement in the VBTES means no formal public scoping meetings are planned to be held for this EIS.

In 2009 and 2013, HRT, in coordination with FTA, contacted interested party agencies for the VBTES. As such, agencies that have previously responded to invitations to engage in the VBTES process will remain as interested parties on the study and are not required to formally respond to this notice.

DATES: Written comments on the scope of reasonable alternatives and impacts to be considered in the EIS must be sent to HRT as indicated below. Written comments must be received no later than September 13, 2013.

ADDRESSES: Written comments should be sent to Ms. Marie Arnt, Public Outreach Coordinator, Hampton Roads Transit, 509 E. 18th Street, Norfolk, VA 23504, by email to *marnt@hrtransit.org,* or through HRT's Web site at *www.gohrt.com/about/development/vbtes.*

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Long, FTA Community Planner, phone: (215) 656–7051.

SUPPLEMENTARY INFORMATION:

The Proposed Project: HRT is proposing to extend transit service from the eastern terminus of Norfolk's existing LRT system, ''The Tide,'' at Newtown Road to the Virginia Beach Oceanfront. The service extension will operate as a fixed guideway transit system within the primary east-west transportation corridor in the City of Virginia Beach, Virginia. A fixed guideway transit system operates on a separate right-of-way that is exclusive for transit or other high-occupancy vehicles. The VBTES will evaluate alternatives for this service extension, including LRT and Bus Rapid Transit (BRT). The final alignment, number of stations and their locations, and specific eastern and western termini will be determined through the EIS process.

HRT is intending to seek Capital Investment Grant (CIG) program funding from FTA for one or more of the alternatives that will be examined in the EIS. The CIG program, more commonly known as the New Starts, Small Starts, and Core Capacity program, involves a multi-year, multi-step process that project sponsors must complete before a project is eligible for funding. The steps in the process and the basic requirements of the program can be found on FTA's Web site at *www.fta.dot.gov.*

Purposes of and Need for the Project: The purpose of the VBTES is to provide an efficient, integrated, and multimodal system of public transit that:

- Provides an efficient transportation option independent of traffic congestion;
- Supports a dynamic local and regional economy by responding to existing and future travel needs;
- Maintains or enhances livable communities within the project study corridor; and
- Complements planned local growth initiatives and strategies.

The City of Virginia Beach and the region need VBTES to improve personal mobility and to reduce traffic congestion in ways that are safe and reliable and that support future planned growth. Four decades of significant growth in population, employment, and tourism in the City of Virginia Beach has led to increased traffic and congestion on existing roadways serving the study area. Daily and commute trips by motorists and transit users have grown longer resulting in congestion and delays in both morning and evening peak periods in the primary east-west transportation corridor through the City of Virginia Beach. This corridor is defined by I–264, Virginia Beach Boulevard, Laskin Road, and the former NSRR ROW.

The area within the corridor is largely developed. There are limited transit opportunities with the existing bus system which shares these congested roadways. In addition, the Virginia Beach Oceanfront resort area is a primary vacation destination for the entire Commonwealth of Virginia and the mid-Atlantic region. Non-work trips to access the Virginia Beach Oceanfront area during the period of May through September lead to increased congestion and travel delays for visitors as well as for residents making work and non-work trips. These recreational trips originate from both within and outside the region.

Numerous transportation system planning studies have been completed for the Hampton Roads Region and the City of Virginia Beach that have examined the feasibility of providing additional transit service in the east-west corridor. These studies were conducted with full public participation. Each study identified the need to provide an efficient, safe, economical, and balanced transportation system (with auto, transit, and non-motorized modes of travel) that would minimize the impact to the environment and would complement the community's development patterns. Development of a fixed-guideway transit system through Virginia Beach's east-west corridor is discussed in the following studies:

HRT/Hampton Roads Regional Planning District Commission Plans:

- HRTPO Hampton Roads 2034 Long Range Transportation Plan (2012)
- Hampton Roads Regional Transit Vision Plan (2011)
- HRPDC Hampton Roads 2030 Long Range Transportation Plan (2006)
- Norfolk to Virginia Beach Light Rail Transit Final EIS (2000)
- Virginia Beach Corridor Major Investment Study (1995)
- The Rail Systems Analysis and Fixed Guideway Service Plan (1991)
- Planning for Restoration of Rail Passenger Service (1988)
- Study of the Cost Effectiveness of Restoring Rail Passenger Service (1986)

City of Virginia Beach Plans:

- Hilltop Strategic Growth Area (SGA) Master Plan (2012)
- Lynnhaven SGA Master Plan (2012)
- Rosemont SGA Master Plan (2011)
- Newtown SGA Master Plan (2010)
- Pembroke SGA Implementation Plan (2009)
- Virginia Beach Comprehensive Plan (2009)
- Virginia Beach Oceanfront Resort Area Plan (2005)
- Virginia Beach Central Business District Final Master Plan (1991)

The HRT/Hampton Roads Regional Planning District Commission long-range plans are available for review at the HRT Web site (*www.gohrt.com*) and the Hampton Roads Planning District

Commission Web site (*www.hrpdc.org*). The City of Virginia Beach's plans are available on its Web site (*www.vbgov.com*).

Alternatives: The EIS will consider build and no-build alternatives to determine which would best serve the study area. The EIS will also include descriptions of alternatives considered for evaluation but which were determined not to be reasonable and therefore will not be carried forward for evaluation in detail in the EIS. The build alternatives being carried into the EIS will include LRT and BRT technologies.

In the VBTES, the fixed guideway alignment options for the build alternative(s) are:

- Newtown Road to the Rosemont area;
- Newtown Road to the Oceanfront along the former NSRR ROW; and
- Newtown Road to the Oceanfront partially along Laskin and Birdneck Roads.

The implementation of a fixed guideway alternative would require the location and construction of stations and park-and-ride facilities and may require a vehicle storage and maintenance facility. Stations would be located at intervals that provide service to key activity centers in the study corridor. The EIS will consider reasonable and feasible alternative locations and configurations identified for each of these facilities during the study process.

The EIS will collect and assess information for each alternative in order to evaluate and compare potential benefits and impacts. This will include such information as:

- Station locations;
- Ridership Forecasts;
- Construction and Operation Costs (including utility relocations);
- Impacts to natural resources (including wetlands, protected species, air quality); and
- Impacts to the community and historic resources (including traffic, noise, businesses, residences, community resources).

No Build Alternative: The No-Build Alternative serves as the NEPA baseline against which environmental effects of other alternatives, including the proposed project once one is identified, will be measured. The No-Build Alternative will include roadway and transit facility and service improvements (other than the Build Alternatives) planned, programmed and included in the Financially Constrained Regional Transportation Plan to be implemented by the Year 2040. The No Build Alternative will include minor transit service expansions and/or adjustments that reflect a continuation of existing service policies as identified by HRT.

Probable Effects/Potential Impacts for Analysis: HRT anticipates the VBTES will result in a preferred build alternative with beneficial travel and economic development effects but may have some adverse environmental effects. The proposed build alternative would result in travel time savings for existing transit patrons and gain new transit users who switch from automobiles, while offering a broader range of transportation options for Virginia Beach and the region. It will also support economic development and land use goals of the City of Virginia Beach as identified in its Comprehensive Plan and Strategic Growth Area plans. The proposed build alternative would also contribute to goals of reducing growth in vehicle miles traveled and emissions, including greenhouse gases.

The purpose of the EIS is to explore in a public setting the effects of the proposed project and its alternatives on the human and natural environment. FTA and HRT will evaluate the potential social, economic, and environmental impacts of the construction and operation of the proposed project. Impact areas to be addressed include: transportation; land use, zoning, and economic development; secondary development; land acquisition, visual impacts, displacements and relocations; cultural resources, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; natural resource impacts including air quality, wetlands, and water resources; noise and vibration; energy use; safety and security; and wildlife and ecosystems, including endangered species. Reasonable measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated.

Potential impacts are likely to be limited primarily to social and economic impacts associated with development of a fixed guideway transit project. These impacts include enhanced development opportunities and changes in zoning and local plans related to station area development. Such changes will be coordinated with the City of Virginia Beach's comprehensive plan and Strategic Growth Area plans. Property acquisition and displacement may occur because of the development of park-and-ride facilities, alignments utilizing city street rights-of-way, and/or placement of traction power substations (if needed). Minimal, primarily short-term (e.g., construction), impacts may occur to wetlands and/or surface waters. Construction impacts may disrupt travel and access to businesses and/or residences on a short term basis.

Role of Agencies and the Public: NEPA, and FTA's regulations implementing NEPA, calls for public involvement in the EIS process. FTA and HRT will continue to provide a substantial level of public involvement throughout the EIS process, including open house meetings, newsletters, and outreach to city civic leagues and businesses. However, no formal public meetings are planned for the scoping period associated with this NOI due to the extensive previous public meetings hosted by HRT. Specifically related to public and agency involvement, FTA and HRT will (1) extend an invitation to other Federal and non-Federal agencies and Indian tribes that may have an interest in the proposed project to become ''participating agencies''; (2) provide an opportunity for involvement by participating agencies and the public in helping to define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the EIS; and (3) establish a plan for coordinating public and agency participation in, and comment on, the environmental review process.

A comprehensive public involvement program has been developed for the VBTES and is posted on the project Web site at www.gohrt.com. The public involvement program includes a full range of involvement activities including the project Web site; outreach to local officials, community and civic groups, and the public; and development and distribution of project newsletters. Specific mechanisms for involvement are detailed in the public involvement program.

The public and participating agencies are invited to consider and comment on this preliminary statement of the purpose and need for the proposed Virginia Beach alternatives. Suggestions for modifications to the statement of purpose and need for the proposed project are welcome and will be given serious consideration. Comments on potential environmental impacts that may be associated with the proposed alternatives are also welcome. There will be additional opportunities to participate in the study process at future public meetings.

FTA and HRT will comply with all applicable Federal environmental laws, regulations, and executive orders during the environmental review process.

These requirements include, but are not limited to, the regulations of the Council on Environmental Quality implementing NEPA (40 CFR parts 1500–1508) and FTA's own NEPA regulations (23 CFR part 771); the air quality conformity regulations of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the Section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulations implementing Section 106 of the National Historic Preservation Act (36 CFR part 800); the regulations implementing Section 7 of the Endangered Species Act (50 CFR part 402); Section 4(f) of the Department of Transportation Act (23 CFR part 774); Executive Order 12898 on Environmental Justice, 11988 on floodplain management, and 11990 on wetlands; and DOT Order 5610.2(a) on Environmental Justice.

Paperwork Reduction: The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit insofar as possible distribution of complete printed sets of NEPA documents. Accordingly, unless a specific request for a complete printed set of the NEPA document is received before the document is printed, FTA and HRT will distribute only electronic copies of the NEPA document. A complete printed set of the environmental document will be available for review at HRT's offices; an electronic copy of the complete environmental document will be available on the HRT's Web site (*www.gohrt.com*).

Brigid Hynes-Cherin,

Regional Administrator.

[FR Doc. 2013–19623 Filed 8–13–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2003–14294]

Gulf Gateway Deepwater Port Decommissioning and License Termination

AGENCY: Maritime Administration, DOT.

ACTION: Public Notice; Final Agency Approval of the Gulf Gateway Deepwater Port Decommissioning and License Termination.

SUMMARY: The Maritime Administration (MARAD) announces its final clearance and authorization of the decommissioning of the Gulf Gateway Deepwater Port and termination of the Gulf Gateway Deepwater Port License (License), effective as of June 28, 2013. Pursuant to Section 1503(h) of the Deepwater Port Act of 1974, as amended, a License may remain in effect until such time as it is either suspended or revoked by the Secretary of Transportation or surrendered by the licensee. For purposes of this agency action, MARAD has granted as of June 28, 2013, final clearance of the completed decommissioning of the Gulf Gateway Deepwater Port facility, and approved termination of the official License and all other conditions and obligations set forth by the License.

DATES: The date of termination of the License and all actions related to this action is effective as of June 28, 2013.

ADDRESSES: The Docket Management Facility maintains the public docket for this project. The docket may be viewed electronically at *http://www.regulations.gov* under docket number USCG–2003–14294, or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: If you have questions about the Gulf Gateway Deepwater Port project, contact Ms. Tracey Ford, Acting Office Director, Office of Deepwater Ports and Offshore Activities at (202) 366–0321 or *Tracey.Ford@dot.gov.*

SUPPLEMENTARY INFORMATION: By letter dated February 21, 2011, Excelerate Energy LP (Excelerate) notified MARAD and the U.S. Coast Guard (USCG) of its intention to decommission the Gulf Gateway Deepwater Port, located 116 miles off the coast of Louisiana. Excelerate's decision to decommission the Gulf Gateway Deepwater Port was due primarily to declining pipeline capacity issues, significant operational challenges, and changes in the global natural gas market. In accordance with Article 20 of the License, Excelerate is required to decommission its deepwater port in compliance with the decommissioning plans approved by the Maritime Administrator and in accordance with applicable Federal regulations and guidelines in place at the time of decommissioning. The License further requires that MARAD approval be granted in concurrence with other relevant Federal agencies. This requirement was satisfied on April 14, 2012, and Excelerate was granted authorization by MARAD to proceed with its planned decommissioning activities. Excelerate completed the final decommissioning process on March 14, 2013. At the end of the decommissioning process, all components of the Gulf Gateway facility were removed and the connecting pipelines were decommissioned in-place, in accordance with applicable Federal regulations.

As of the date of this notice, MARAD concurred that all decommissioning activities for the Gulf Gateway Deepwater Port have been completed, and approved termination of the official License and other related License obligations.

This **Federal Register** Notice completes the final close-out and termination procedures for the Gulf Gateway Deepwater Port and License. No further action will be undertaken by MARAD.

Additional information pertaining to the Gulf Gateway Deepwater Port project may be found in the public docket at *www.regulations.gov* under docket number USCG–2003–14294.

Authority: 49 CFR 1.66

By order of the Maritime Administrator

Dated: August 8, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–19687 Filed 8–13–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 347X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Marengo County, Ala

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 0.8 miles of rail line between milepost 241.3 N (east of the line's crossing of the mouth of Devil's Run Slough where the slough joins the Black Warrior River) and milepost 242.1 N (near the intersection of Nash Ave. and E. Franklin St., in Demopolis), in Marengo County, Ala.[1] The line traverses United States Postal Service Zip Code 36925.

NSR has certified that: (1) No local traffic has moved over the line for at least two years; (2) no overhead traffic

[1] NSR states that it is seeking abandonment to permit the removal of the remaining portion of the railroad bridge over the mouth of Devil's Run Slough at the request of the United States Coast Guard (USCG), because USCG views the bridge structure as an impediment to waterway navigation.

has moved over the line for at least two years, and if there were any overhead traffic, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 13, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 26, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 3, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 19, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by August 14, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: August 9, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–19688 Filed 8–13–13; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 353X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Clinton and Howard Counties, IN

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 22.1-mile rail line extending from milepost TS–183.7 near Kokomo, IN., to milepost TS–205.8 in Frankfort, IN., in Clinton and Howard Counties, IN. The line traverses United States Postal Service Zip Codes 46039, 46041, 46057, 46901, and 46979.

NSR has certified that: (1) No local traffic has moved over the line for at least two years; (2) no overhead traffic has moved over the line for at least two years, and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on September 13, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by August 26, 2013.[2] Petitions to reopen must be filed by September 3, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because NSR is seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 9, 2013.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

[FR Doc. 2013–19716 Filed 8–13–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 356X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Ontario, Seneca, and Wayne Counties, NY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 11.5 miles of rail line from milepost GL 0.0 near Lyons, NY, to milepost GL 11.5 near Geneva, NY (the Line). The Line traverses United States Postal Service Zip Codes 14456, 14489, and 14532.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on September 13, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by August 26, 2013.[2] Petitions to reopen must be filed by September 3, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 9, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–19708 Filed 8–13–13; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6 (c) and 49 CFR 1105.8 (b), respectively.

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Part II

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Test Procedures for Residential Clothes Dryers; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2011–BT–TP–0054]

RIN 1904–AC63

Energy Conservation Program: Test Procedures for Residential Clothes Dryers

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

ACTION: Final rule.

SUMMARY: On January 2, 2013, the U.S. Department of Energy (DOE) issued a notice of proposed rulemaking (NOPR) to amend the test procedures for residential clothes dryers. DOE also published a supplemental NOPR (SNOPR) on February 7, 2013, to propose additional amendments to the clothes dryer test procedure. Those proposed rulemakings serve as the basis for today's action. This final rule updates the reference to the latest edition of the International Electrotechnical Commission (IEC) Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0 2011–01. For the test procedures at both appendix D and appendix D1 to the same subpart, DOE is adopting amendments to clarify the cycle settings used for the test cycle, the requirements for the gas supply for gas clothes dryers, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable weighing scale range, and the allowable use of a relative humidity meter. This final rule also amends the DOE clothes dryer test procedure to create a new appendix D2 that includes the amendments discussed above and testing methods for more accurately measuring the effects of automatic cycle termination.

DATES: *Effective date:* The effective date of this rule is September 13, 2013.

Compliance date: Compliance with the amended test procedure in appendix D for the purposes of compliance with current energy conservation standards, as well as representations, is required beginning February 10, 2014 until January 1, 2015. Compliance with the amended test procedure in appendix D1 for the purpose of compliance with the January 1, 2015 energy conservation standards, as well as representations, is required beginning January 1, 2015. Appendix D2 may be used for informational purposes and compliance with the provisions in appendix D2 may be required at a later date. Voluntary early compliance with appendix D1 or appendix D2 is permitted.

Incorporation by reference: The incorporation by reference of certain publications listed in this rule was approved by the Director of the **Federal Register** September 13, 2013.

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=10;po=0;D=EERE-2011-BT-TP-0054.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Email: *clothes_dryers@ee.doe.gov.*

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Authority and Background

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* ''EPCA'' or, ''the Act'') sets forth a variety of provisions designed to

improve energy efficiency. (All references to EPCA refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012)). Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' These include residential clothes dryers, the subject of today's notice. (42 U.S.C. 6292(a)(8))

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to the U.S. Department of Energy (DOE) that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

A. General Test Procedure Rulemaking Process

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

EPCA also requires DOE to amend the test procedures for all residential covered products to include measures of standby mode and off mode energy consumption. Specifically, EPCA provides definitions of ''standby mode'' and ''off mode'' (42 U.S.C. 6295(gg)(1)(A)) and permits DOE to amend these definitions in the context of a given product (42 U.S.C. 6295(gg)(1)(B)). The statute requires integration of such energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless DOE determines that—

(i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or

(ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A))

In any test procedure amendment, DOE must consider the most current versions of International Electrotechnical Commission (IEC) Standard 62301, ''Household electrical appliances—Measurement of standby power,'' and IEC Standard 62087, ''Methods of measurement for the power consumption of audio, video, and related equipment.'' *Id.*

B. DOE Clothes Dryer Test Procedure

DOE's test procedures for clothes dryers are codified in appendix D and appendix D1 to subpart B of Title 10 of the Code of Federal Regulations (CFR). DOE established its test procedure for clothes dryers at appendix D in a final rule published in the **Federal Register** on September 14, 1977 (the September 1977 Final Rule). 42 FR 46145. On May 19, 1981, DOE published a final rule to amend the test procedure by establishing a field-use factor for clothes dryers with automatic termination controls, clarifying the test cloth specifications and clothes dryer preconditioning, and making editorial and minor technical changes. 46 FR 27324. The test procedure includes provisions for determining the energy factor (EF) for clothes dryers, which is a measure of the total energy required to dry a standard test load of laundry to a ''bone dry'' [1] state.

1. January 2011 Final Rule

On January 6, 2011, DOE published in the **Federal Register** a final rule for the residential clothes dryer and room air conditioner test procedure rulemaking (76 FR 972) (January 2011 Final Rule), in which it (1) adopted the provisions for the measurement of standby mode and off mode energy use for those products; and (2) adopted several amendments to the clothes dryer and room air conditioner test procedures concerning the active mode for these products. 76 FR 972 (Jan. 6, 2011). DOE created a new appendix D1 in 10 CFR part 430 subpart B that contained the amended test procedure for clothes dryers. Manufacturers must use the test procedures in appendix D1 to demonstrate compliance with energy conservation standards for clothes dryers as of January 1, 2015. (76 FR 52852 (Aug. 24, 2011), 76 FR 52854 (Aug. 24, 2011))

For clothes dryer standby mode and off mode, the January 2011 Final Rule amended the DOE clothes dryer test procedure to incorporate by reference specific clauses from the IEC Standard 62301, ''Household electrical appliances—Measurement of standby power,'' (first edition June 2005) (IEC Standard 62301 First Edition) regarding test conditions and test procedures for measuring standby mode and off mode power consumption, as well as language to clarify application of these provisions for measuring standby mode and off mode power consumption in clothes dryers. In addition, DOE adopted definitions of modes based on the relevant provisions from IEC Standard 62301 Second Edition Committee Draft for Vote (IEC Standard 62301 CDV). DOE established the Combined Energy Factor (CEF) for clothes dryers to integrate energy use in the standby mode and off mode with the energy use of the main functions of the product.[2] 76 FR 972, 975–6 (Jan. 6, 2011).

For clothes dryer active mode, in the January 2011 Final Rule, DOE adopted testing methods for ventless clothes dryers, test cloth preconditioning requirements for clothes dryer energy tests, test conditions for gas clothes dryers, test conditions for clothes dryer

[1] ''Bone dry'' is defined in the DOE clothes dryer test procedure as a condition of a load of test clothes which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less. (10 CFR subpart B, appendix D, section 1.2)

[2] The CEF is defined as the clothes dryer test load weight in pounds divided by the sum of the per-cycle standby and off mode energy consumption and either the total per-cycle electric dryer energy consumption or the total per-cycle gas dryer energy consumption expressed in kilowatt hours (kWh).

drum capacity measurement, and amendments to reflect current clothes dryer usage patterns and capabilities and to update the references to the relevant industry test standard (Association of Home Appliance Manufacturers (AHAM) Standard HLD–1–2009). 76 FR 972, 976–8 (Jan. 6, 2011).

In the January 2011 Final Rule, DOE did not adopt amendments to more accurately measure automatic cycle termination that were proposed earlier in the rulemaking [3] because DOE concluded that they did not adequately measure the energy consumption of clothes dryers equipped with such systems using the test load specified in the DOE test procedure. DOE stated that clothes dryers with automatic termination sensing control systems, which infer the RMC [4] of the load from the properties of the exhaust air such as temperature and humidity, may be designed to stop the cycle when a load of varying weights, composition, and size has a higher RMC than the RMC obtained using the proposed automatic cycle termination test procedure in conjunction with the existing DOE test load.[5] In considering whether other test loads would be appropriate to incorporate into the DOE test procedure to produce both representative and repeatable test results, however, DOE noted that manufacturers indicated that test load types and test cloth materials different than those specified in the DOE test procedure do not produce results as repeatable as those obtained using the test load as currently specified. 76 FR 977 (Jan. 6, 2011).

2. August 2011 RFI

On August 12, 2011, DOE published a Request for Information (RFI) to further investigate the effects of automatic cycle termination on clothes dryer energy efficiency (August 2011 RFI). 76 FR 50145. DOE sought information, data, and comments regarding methods for more accurately measuring the effects of automatic cycle termination in the clothes dryer test procedure. In particular, DOE sought comment on the following: (1) The characteristics of loads of varying weights, composition, and size, (2) the accuracy of different automatic cycle termination sensors and controls, (3) the target final RMC used by manufacturers to maintain consumer satisfaction, (4) the effects of the characteristics of water (*i.e.,* hardness and conductivity) used for wetting the test load prior to testing, and (5) the cycle settings selected by consumers for automatic termination cycles. In response to the August 2011 RFI, interested parties commented that DOE should amend the clothes dryer test procedure to include provisions to account for the effectiveness of automatic cycle termination and amend the relevant energy conservation standards based on the effects of the test procedure changes according to EPCA.

3. January 2013 NOPR

On January 2, 2013, DOE published a notice of proposed rulemaking (NOPR) (January 2013 NOPR) (78 FR 152) to propose amendments to the DOE clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1, to include methods for more accurately measuring the effects of automatic cycle termination. DOE also proposed to update the reference to the latest edition of the IEC Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0 2011–01 (IEC Standard 62301 (Second Edition) or ''Second Edition'') for measuring standby mode and off mode energy consumption, along with additional clarifying language. For the test procedures at both appendix D and appendix D1, DOE proposed in the January 2013 NOPR to clarify the cycle settings used for the test cycle and the requirements for the gas supply for gas clothes dryers. 78 FR 152, 154–155 (Jan. 2, 2013). DOE also held a public meeting on February 6, 2013 (hereafter referred to as the February 2013 public meeting) to hear oral comments on and solicit information relevant to the January 2013 NOPR.

4. February 2013 SNOPR

On February 7, 2013, DOE published a supplemental notice of proposed rulemaking (SNOPR) to consider inquiries regarding specific provisions in the current clothes dryer test procedures (February 2013 SNOPR). DOE proposed amendments to clarify the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. 78 FR 8992 (Feb. 7, 2013).

II. Summary of the Final Rule

A. Automatic Termination Control Procedures.

In this final rule, DOE amends the test procedures for clothes dryers in 10 CFR part 430, subpart B to create a new appendix D2 to include methods for more accurately measuring the effects of automatic cycle termination. As discussed in section III.I.3, DOE determined that the amended automatic cycle termination test procedure for clothes dryers represents a significantly different testing methodology that may impact the energy consumption of some clothes dryers more than others and would potentially require additional product re-design to meet the January 1, 2015 standards. As a result, to maintain the same basic test procedure that is required for use to determine compliance with the January 1, 2015 clothes dryer standards, DOE is not amending appendix D1 in today's final rule to include provisions for more accurately measuring the effects of automatic cycle termination. The newly created appendix D2 with such amendments will not be required for use to determine compliance with either the current or the January 1, 2015 energy conservation standards for clothes dryers. DOE will continue to evaluate products on the market and collect data on clothes dryer automatic cycle termination to evaluate when the compliance date for the amended test procedure in appendix D2 will be required.

The amended test method in appendix D2 requires that clothes dryers with automatic cycle termination controls be tested using the ''Normal'' automatic termination cycle setting. Where the drying temperature setting can be chosen independently, it shall be set to the maximum. Where the dryness level setting can be chosen independently, it shall be set to the ''normal'' or ''medium'' dryness level setting.[6] The amendments also specify that the clothes dryer be allowed to run until the completion of the drying cycle, including the cool-down period, to achieve a final RMC of no more than 2 percent. If the final measured RMC is above 2 percent, the test shall be considered invalid and a new test cycle shall be run using the highest dryness

[3] The test method proposed in a supplemental notice of proposed rulemaking involved testing clothes dryers with automatic termination controls using the ''normal'' setting (and where the temperature setting can be chosen independently of the program, DOE proposed to use the highest temperature level) and a test load with a starting moisture content of 57.5 ± 0.33 percent, allowing the dryer to run until the heater switches off for the final time at the end of the drying cycle to achieve a final remaining moisture content of no more than 5 percent. 75 FR 37594, 37612–20 (June 29, 2010).

[4] RMC is the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.

[5] The DOE test load is composed of cotton momie test cloths that are each 24 inches by 36 inches in dimensions and are a blend of 50-percent cotton and 50-percent polyester.

[6] Most clothes dryers available on the market provide separate settings for the ''temperature level'' and ''dryness level.'' The temperature level refers to the temperature of the hot air used to dry the load in the drum. The dryness level refers to the desired remaining moisture content of the load at the completion of the drying cycle.

level setting. DOE notes that a final RMC of 2 percent using the DOE test load is more representative of clothes dryers currently on the market than the 5-percent final RMC specified in the existing test procedure and the new requirement is representative of the maximum consumer-accepted final RMC. DOE is including an additional clarification that the cycle shall be considered complete when the clothes dryer indicates to the user that the cycle has finished (by means of a display, indicator light, audible signal, or other signal) and the heater and drum/fan motor shuts off for the final time. If the clothes dryer is equipped with a wrinkle prevention feature (*i.e.,* that continuously or intermittently tumbles the clothes dryer drum after the clothes dryer indicates to the user that the cycle has finished) that is activated by default in the condition as shipped by the manufacturer, the wrinkle prevention mode would be included in the test measurement cycle unless it precluded the necessary automatic termination cycle program, temperature setting, or dryness setting. In addition, if a manufacturer's user manual specifies that the wrinkle prevention mode is recommended to be activated for normal use even if it is not done so in the as-shipped condition, the product would be tested with the wrinkle prevention mode activated per manufacturer's instructions.

In the January 2013 NOPR, DOE proposed to apply a field use factor of 0.80 for clothes dryers with automatic cycle termination to account for the measured energy consumption at the end of the automatic termination cycle drying the DOE test load below 2-percent RMC. 78 FR 152, 170 (Jan. 2, 2013). Based on comments from interested parties and review of available field use data, DOE determined that eliminating the field use factor for automatic termination control dryers will produce test results that are more representative of consumer use. As a result, in today's final rule, DOE is eliminating the field use factor in appendix D2 for clothes dryers with automatic termination controls because the test method directly measures any over-drying energy consumption.

For clothes dryers with only timed dry control settings, the amendments adopted in the new appendix D2 require that the existing timed dry test cycle be used, but change the allowable final RMC range from 2.5–5 percent to 1–2.5 percent. DOE is also amending the test procedure in appendix D2 to change the normalization in the calculation of the per-cycle energy consumption to represent the energy consumption required to dry the test load to 2-percent RMC. These changes provide consistency with the test method for automatic cycle termination and are representative of the final RMC of clothes dryers currently on the market using the DOE test load.

Appendix D2 may be used for informational purposes, but will not be required for use to determine compliance with either the current or the January 1, 2015 energy conservation standards for clothes dryers. DOE is not amending appendix D1 in today's final rule to include the amendments for more accurately measuring the effects of automatic cycle termination discussed above.

B. Incorporation of IEC Standard 62301 (Second Edition).

The IEC published IEC Standard 62301 (Second Edition) on January 27, 2011. Consistent with EPCA requirements for amending test procedures to include standby and off mode procedures (42 U.S.C. 6295(gg)(2)(A)), DOE analyzed this latest version of the IEC standard and determined that it provides for improvement for some measurements of standby mode and off mode energy use. Accordingly, DOE adopts amendments in today's final rule to incorporate certain provisions of the IEC Standard 62301 (Second Edition), along with clarifying language, into the DOE clothes dryer test procedures in both appendix D1 and appendix D2.

C. Clarifications to Test Conditions.

DOE is amending 10 CFR part 430, subpart B, appendices D, D1, and D2 to clarify: (1) The cycle settings used for the test cycle, (2) the requirements for the gas supply for gas clothes dryers, (3) the installation conditions for console lights, (4) the method for measuring the drum capacity, (5) the maximum allowable weighing scale range for drum capacity and test cloth measurements, and (6) the allowable use of a relative humidity meter.

D. Summary of Test Provisions.

Table II.1 presents the key test procedure provisions in appendix D, D1, and D2.

TABLE II.1—TEST PROCEDURE PROVISIONS

Test provisions	Appendix D	Appendix D1	Appendix D2
Standby/Off Mode Test Methods	None	Incorporates by reference IEC Standard 62301 (Second Edition) with additional clarifications.	Incorporates by reference IEC Standard 62301 (Second Edition) with additional clarifications.
Ventless Dryer Test Methods	No	Yes	Yes.
Number of Cycles Per Year	416	283	283.
Referenced AHAM Standard	HLD–1–1974	HLD–1–2009	HLD–1–2009.
Test Load Weight	Standard Size Dryers: 7.00 ± .07 pounds.	Standard Size Dryers: 8.45 ± .085 pounds.	Standard Size Dryers: 8.45 ± .085 pounds.
	Compact Size Dryers: 3.00 ± .03 pounds.	Compact Size Dryers: 3.00 ± .03 pounds.	Compact Size Dryers: 3.00 ± .03 pounds.
Detergent Specifications for Test Cloth Preconditioning.	AHAM Standard Test Detergent IIA.	AHAM Standard Test Detergent Formula 3.	AHAM Standard Test Detergent Formula 3.
Water Temperature for Test Load Preparation.	100 °F ± 5 °F	60 °F ± 5 °F	60 °F ± 5 °F.
Starting RMC of Test Load	70 ± 3.5 percent	57.5 ± 3.5 percent	57.5 ± 0.33 percent.

TABLE II.1—TEST PROCEDURE PROVISIONS—Continued

Test provisions	Appendix D	Appendix D1	Appendix D2
Cycle and Settings Used for Test ..	Timed Dry Cycle, Maximum Temperature.	Timed Dry Cycle, Maximum Temperature.	Automatic Termination Control Dryers: ''Normal'' Automatic Dry Cycle; Maximum Temperature (if separately selectable); ''Normal'' or ''Medium'' Dryness (or, if no such designations, at midpoint between min. and max. settings). Timer Dryers: Timed Dry Cycle, Maximum Temperature.
RMC of Test Load at Which Test is Stopped.	Stopped manually at 2.5–5 percent RMC.	Stopped manually at 2.5–5 percent RMC.	Automatic Termination Control Dryers: Allowed to run until completion of automatic cycle. Must be below 2-percent RMC or additional test with highest dryness level setting must be run. Timer Dryers: Stopped manually at 1–2.5 percent RMC.
Cool Down	Clothes dryer not permitted to advance into cool down.	Clothes dryer not permitted to advance into cool down.	Cool down period included in automatic cycle test.
Field Use Factor (multiplied by per-cycle energy consumption to account for over drying).	= 1.04 for automatic termination control dryers.	= 1.04 for automatic termination control dryers.	No field use factor for automatic termination control dryers.
	= 1.18 for timer dryers	= 1.18 for timer dryers	= 1.18 for timer dryers.
Clarifications:. • Cycle settings used for the test cycle • Requirements for the gas supply for gas clothes dryers • Installation conditions for console lights • Method for measuring the drum capacity • Maximum allowable scale range • Allowable use of a relative humidity meter	Yes	Yes	Yes.

III. Discussion

A. Products Covered by This Test Procedure Rulemaking

Today's amendments to DOE's clothes dryer test procedure cover both electric and gas clothes dryers. DOE defines a clothes dryer to mean a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation, with blower(s) driven by an electric motor(s) and either gas or electricity as the heat source. 10 CFR 430.2. DOE is not amending the definition for clothes dryers in DOE's regulations.

Hydromatic Technologies Corporation (Hydromatic) commented that its ''hybrid electric'' clothes dryer should be a covered product and should be considered before setting any standards or test procedures. (Hydromatic, Public Meeting Transcript, No. 10 at pp. 24–27, 116–118) [7] DOE notes that the Hydromatic's clothes dryer would be considered a covered product under the definition of an electric clothes dryer in 10 CFR 430.2 because the heat source is electricity. The definition does not limit electric clothes dryers to any specific method or technology by which the heat is generated from the electrical supply, such as an electric resistance heater or heat pump technology.

B. Automatic Cycle Termination

In today's final rule, DOE is adopting amendments to the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes methods to more accurately measure the effects of automatic cycle termination. DOE is not including these methods for automatic cycle termination in appendix D1 for the reasons discussed in section III.I.3.

The DOE test procedures for clothes dryers in 10 CFR part 430, subpart B, appendices D and D1 require manufacturers to apply a field use factor to the per-cycle drying energy consumption to determine the performance of clothes dryers equipped with both automatic cycle termination and timers. For clothes dryers with automatic termination control, the test procedures do not distinguish between the types of sensing control system (*e.g.,* temperature-sensing or moisture-sensing controls) nor consider the sophistication and accuracy of the control system. Gas or electric clothes dryers with time termination control (*i.e.,* those clothes dryers equipped with a timer to determine the end of a drying cycle) are assigned a field use factor of 1.18, while clothes dryers with automatic

[7] A notation in the form ''Hydromatic, Public Meeting Transcript, No. 10 at pp. 24–27, 116–118'' identifies an oral comment that DOE received during the February 6, 2013, NOPR public meeting, was recorded in the public meeting transcript in the docket for the residential clothes dryer test procedure rulemaking (Docket No. EERE–2011–BT–TP–0054), and is available for review at *www.regulations.gov.* This particular notation refers to a comment (1) made by the Hydromatic Technologies Corporation during the public meeting; (2) recorded in document number 10, which is the public meeting transcript that is filed in the docket of the residential clothes dryer test procedure rulemaking; and (3) which appears on pages 24–27 and 116–118 of document number 10.

termination are assigned a field use factor of 1.04. Because the test procedure requires the measurement of a timed drying cycle in which the tester manually stops the drying cycle when the test load reaches 2.5–5 percent RMC, the field use factors are intended to account for consumers that may dry loads beyond the 2.5–5 percent RMC specified in the test procedure. The field use factor for timer dryers was derived from a field study conducted by the Oklahoma Gas and Electric Company in 1971, consisting of 64 households and 33,000 loads of clothing, as well as data reported by AHAM representing the energy consumption in 1972 of 2,983,200 production units of clothes dryers. 42 FR 46145, 46146 (Sept. 14, 1977). For automatic termination control dryers, the field use factor was derived from a field study conducted by AHAM in 1977 involving 72 households. 45 FR 46762–63 (July 10, 1980); 46 FR 27324 (May 19, 1981).

In an SNOPR published on June 29, 2010 (75 FR 37594) (June 2010 SNOPR) in advance of the January 2011 Final Rule, DOE proposed to revise its clothes dryer test procedure to include definitions of, and provisions for, testing both timer dryers and automatic termination control dryers based on the methodology provided in Australia/New Zealand (AS/NZS) Standard 2442.1: 1996, ''Performance of household electrical appliances—Rotary clothes dryers, Part 1: Energy consumption and performance'' (AS/NZS Standard 2442.1) and AS/NZS Standard 2442.2: 2000, ''Performance of household electrical appliances—Rotary clothes dryers, Part 2: Energy labeling requirements'' (AS/NZS Standard 2442.2). 75 FR 37594, 37598 (June 29, 2010). DOE proposed to incorporate the testing methods from these international test standards, along with a number of clarifications, to measure the energy consumption for both timer dryers and automatic termination control dryers. The measurement would account for the energy consumed by the clothes dryer after the load reaches an RMC of 5 percent. 75 FR 37594, 37599 (June 29, 2010). The proposed test method in the June 2010 SNOPR specified that a clothes dryer with automatic cycle termination controls be tested using the ''normal'' cycle setting, and where the temperature setting can be chosen independently of the program, it would be set to the highest level. The clothes dryer would then be allowed to run until the heater switched off for the final time at the end of the drying cycle. If the final RMC was higher than 5 percent, the test would be re-run using the highest dryness level setting. *Id.*

In addition to the provisions for automatic termination control dryers, DOE also proposed testing methods in the June 2010 SNOPR for timer dryers based on AS/NZS Standard 2442.1. The proposed test method specified that the clothes dryer be operated at the maximum temperature setting until the final RMC of the load was between 5 and 6 percent. The procedure would then be repeated to dry the load until the final RMC was between 4 and 5 percent, with the results from these two tests used to interpolate the value of the per-cycle energy consumption required to dry the test load to exactly 5-percent RMC. 75 FR 37594, 37617 (June 29, 2010).

As discussed in the January 2011 Final Rule, DOE conducted testing of representative residential clothes dryers using the automatic cycle termination test procedure proposed in the June 2010 SNOPR. The results of the testing revealed that all of the clothes dryers tested significantly over-dried the DOE test load to near bone dry and, as a result, the measured EF values were significantly lower than EF values obtained using the existing DOE test procedure in appendix D. 76 FR 972, 977 (Jan. 6, 2011). In the January 2011 Final Rule, DOE concluded that the test procedure amendments for automatic cycle termination proposed in the June 2010 SNOPR do not adequately measure the energy consumption of clothes dryers equipped with such systems using the test load specified in the DOE test procedure. Clothes dryers with automatic termination sensing control systems may infer the RMC of the load from the properties of the exhaust air such as temperature and humidity or by using conductivity sensor bars to determine the amount of moisture in the load when the load comes in contact with the sensors. DOE noted in the January 2011 Final Rule that these automatic termination sensing control systems may be designed for consumer use to dry loads of varying weights, composition, and size, which may have different moisture retention properties than the existing DOE test load, and therefore, may result in a higher measured RMC than the RMC obtained using the existing DOE test load with the proposed automatic cycle termination test procedure. In considering whether other test loads would be appropriate to incorporate into the DOE test procedure to produce both representative and repeatable test results, however, DOE noted that manufacturers indicated that test load types and test cloth materials different than those specified in the DOE test procedure do not produce results as repeatable as those obtained using the test load as currently specified. As a result, in the January 2011 Final Rule, DOE did not adopt the amendments to more accurately measure automatic cycle termination that were originally proposed in the June 2010 TP SNOPR. 76 FR 972, 977–78 (Jan. 6, 2011).

1. Joint Petition To Amend the Clothes Dryer Test Procedure

As discussed in section I of this notice, DOE published the August 2011 RFI to further investigate the effects of automatic cycle termination on clothes dryer energy efficiency. 76 FR 50145 (Aug. 12, 2011). DOE sought information, data, and comments regarding methods for more accurately measuring the effects of automatic cycle termination in the residential clothes dryer test procedure. In particular, DOE sought comment on the following: (1) The characteristics of loads of varying weights, composition, and size, (2) the accuracy of different automatic cycle termination sensors and controls, (3) the target final RMC used by manufacturers to maintain consumer satisfaction, (4) the effects of the characteristics of water (*i.e.,* hardness and conductivity) used for wetting the test load prior to testing, and (5) the cycle settings selected by consumers for automatic termination cycles.

In response to the August 2011 RFI, DOE received the ''Joint Petition to Amend the Test Procedure for Residential Clothes Dryers to Include Provisions Related to Automatic Termination Controls'' (the ''Joint Petition''), a comment submitted by groups representing manufacturers (AHAM, Whirlpool Corporation (Whirlpool), General Electric Company (GE), Electrolux, LG Electronics, Inc. (LG), BSH Home Appliances (BSH), Alliance Laundry Systems (ALS), Viking Range, Sub-Zero Wolf, Friedrich A/C, U-Line, Samsung, Sharp Electronics, Miele, Heat Controller, AGA Marvel, Brown Stove, Haier, Fagor America, Airwell Group, Arcelik, Fisher & Paykel, Scotsman Ice, Indesit, Kuppersbusch, Kelon, and DeLonghi); energy and environmental advocates (American Council for an Energy Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), Alliance to Save Energy (ASE), Alliance for Water Efficiency (AWE), Northwest Power and Conservation Council (NPCC), and Northeast Energy Efficiency Partnerships (NEEP)); and consumer groups (Consumer Federation of America (CFA) and the National

Consumer Law Center (NCLC)) (collectively, the ''Joint Petitioners''). The Joint Petitioners commented that DOE should amend the clothes dryer test procedure to include provisions to account for the effectiveness of automatic cycle termination. (Joint Petition, No. 3 at pp. 1, 4–5) [8]

The Joint Petitioners recognized DOE's concerns that the amendments for automatic cycle termination proposed in the June 2010 SNOPR may not properly measure the effectiveness of automatic termination controls, particularly in light of data that suggested that automatic termination control dryers may in fact be drying clothes to approximately 5-percent RMC rather than the less than 2-percent RMC resulting from testing using the DOE test cloth. The Joint Petitioners noted that the DOE test cloth is uniform, for purposes of repeatability and reproducibility, but likely dries faster and more uniformly than a load of varying weights, composition, and size. (Joint Petition, No. 3 at p. 5)

As part of the Joint Petition, AHAM members provided test data on clothes dryers with automatic termination controls representing 60 percent of shipments, measuring the final RMC at the completion of a ''normal'' automatic cycle, including cool down, using the DOE test load. The data showed that all tested models had a final RMC below 2 percent. The Joint Petitioners stated that because there are few consumer complaints that automatic termination control dryers do not dry clothes, this market-representative final RMC from testing using the DOE test cloth best approximates the maximum consumer-accepted final RMC. (Joint Petition, No. 3 at pp. 5–6)

Based on this data, the Joint Petitioners stated that DOE should amend the clothes dryer test procedure to include the full automatic termination cycle, including cool down. The Joint Petitioners stated that testing the entire cycle is more representative of actual consumer use and is less of a test burden for manufacturers than DOE's proposal in the June 2010 SNOPR to stop the clothes dryer when the heater switches off for the final time at the end of the drying cycle. In addition, the Joint Petitioners commented that the test procedure should be amended to state that the final RMC when testing units with automatic termination controls shall be no more than 2 percent when testing with the DOE test load to be representative of clothes dryers currently on the market. Any test in which the final RMC is 2 percent or less should be considered valid. If the final RMC is greater than 2 percent, the test would be invalid and a new test run would be conducted using the highest dryness level setting. (Joint Petition, No. 3 at p. 6)

AHAM withdrew its support for the petition in a letter to DOE dated May 29, 2012, stating that the petition was predicated on DOE's adoption of test procedure provisions to account for automatic termination controls by December 31, 2011. (AHAM, No. 5 at pp. 1–2) DOE acknowledged AHAM's withdrawal but continued to consider the substantive provisions to account for such controls.

2. January 2013 NOPR Analysis

For the January 2013 NOPR, DOE selected a representative sample of 20 clothes dryers encompassing all clothes dryer product classes to evaluate potential amendments for automatic cycle termination. DOE considered features such as rated energy factor, rated capacity, control type (*i.e.,* electromechanical versus electronic), and automatic cycle termination sensor technology (if advertised) when selecting units to be most representative of products currently available on the U.S. market. DOE initially conducted testing for all test units according to the DOE clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1. Appendix D1 requires that the DOE test load, initially soaked with an RMC of 57.5 ± 3.5 percent, be dried using the timed dry and maximum temperature settings until the test load has reached a final RMC of 2.5 to 5 percent without allowing the clothes dryer to advance into a cool-down phase. A field use factor is then applied to the measured per-cycle energy consumption to account for the over-drying energy consumption associated with the use of either timer dryers or automatic termination control dryers. DOE then conducted testing of these units using automatic cycle termination test methodologies with different test loads to evaluate the effects of these potential test procedure amendments on the measured efficiency as compared to the existing DOE test procedure in 10 CFR part 430, subpart B, appendix D1. DOE also conducted additional testing to evaluate repeatability and reproducibility of the test results. 78 FR 152, 157–158 (Jan. 2, 2013).

In conducting the testing for the January 2013 NOPR, DOE used the DOE test load and the test load specified in both the AHAM clothes dryer test standard HLD–1–2009, ''Household Tumble Type Clothes Dryers,'' and the IEC test standard 61121, ''Tumble dryers for household use—Methods for measuring the performance,'' Edition 3 (2005), which consists of cotton bed sheets, towels, and pillowcases. DOE concluded in the August 2011 RFI that clothes dryers with automatic termination sensing control systems may be designed to stop the cycle when a load of varying weights, composition, and size has a higher RMC than the RMC obtained using the automatic termination drying cycle in conjunction with the existing DOE test load. 76 FR 50145, 50146 (Aug. 12, 2011).

As part of the January 2013 NOPR, DOE conducted the testing for the proposed automatic cycle termination test methodology according to the DOE test procedure in appendix D1, with the following modifications. The test load was prepared with a starting RMC of 57.5 percent ± 0.33 percent. The controls were set as follows:

- Instead of using the timed dry cycle setting, the ''normal'' automatic termination cycle setting was selected. If a ''normal'' cycle setting was not provided, then the test cycle recommended by manufacturers for drying cotton or linen clothes was used.
- Where the temperature setting could be chosen independently of the program, the highest level was selected.
- Where the dryness level setting could be chosen independently of the program, it was set to the ''normal'' or ''medium'' level. If such designation was not provided, then the dryness level was set at the mid-point between the minimum and maximum settings. 78 FR 152, 158 (Jan. 2, 2013).

The clothes dryer was then allowed to run until the completion of the cycle, including the cool-down period. At the completion of the cycle, the clothes were weighed to determine the final RMC. If the final RMC was below 2 percent for the DOE test load, the test was considered valid. If the RMC was higher than 2 percent (*i.e.,* the test load contained more moisture than would be acceptable to consumers), the test was considered invalid and was re-run using the highest dryness level setting. DOE selected the 2-percent RMC threshold based on data presented in the Joint Petitioners' comment regarding RMC levels acceptable to consumers, discussed above. For the IEC/AHAM test load, similar test conditions were applied except that the threshold value for the final RMC was changed from 2

[8] A notation in the form ''Joint Petition, No. 3 at pp. 1, 4–5'' identifies a written comment: (1) Made by the Joint Petition; (2) recorded in document number 2 that is filed in the docket of the residential clothes dryer test procedure rulemaking (Docket No. EERE–2011–BT–TP–0054) and available for review at *www.regulations.gov;* and (3) that appears on pages 1 and 4–5 of document number 2.

percent to 5 percent because of the more varied composition of the IEC/AHAM test load. *Id.*

For each specific testing methodology, DOE conducted a series of three identical tests for each model to evaluate the repeatability of test results.[9] DOE presented the test results in the January 2013 NOPR, which are summarized in Table III.1. DOE noted in the January 2013 NOPR that for the automatic cycle termination tests using the DOE test load, all of the tests resulted in a lower measured CEF (*i.e.,* higher per-cycle energy use) compared to the DOE test procedure, ranging from a 3.5 percent to 41.9 percent decrease in CEF. Similarly, for the automatic cycle termination tests using the IEC/AHAM test load, DOE noted that all of the tests resulted in a lower measured CEF compared to the DOE test procedure, ranging from a 6.1 percent to 40.3 percent decrease. In addition, the majority of tested units had a lower CEF for the automatic cycle termination test with the IEC/AHAM test load than with the DOE test load. 78 FR 152, 159–160 (Jan. 2, 2013).

TABLE III.1—JANUARY 2013 NOPR DOE TEST PROCEDURE AND AUTOMATIC CYCLE TERMINATION TEST RESULTS

Product class	DOE test procedure (Appendix D1)	Automatic cycle termination—DOE test load		Automatic cycle termination—IEC/AHAM test load	
	CEF (*lb/kWh*)	CEF [1] (*lb/kWh*)	% Change	CEF [1] (*lb/kWh*)	% Change
Vented Electric Standard	3.79	3.16	−16.6	3.03	−20.0
Vented Electric Compact (240V)	3.54	2.79	−21.1	2.68	−24.4
Vented Electric Compact (120V)	3.75	2.18	−41.9	2.42	−35.6
Vented Gas	3.39	2.92	−13.9	2.79	−17.7
Ventless Electric Compact (240V)	2.98	2.73	−8.4	2.63	−11.9
Ventless Electric Combination Washer/Dryer	2.54	2.45	−3.9	2.29	−9.7

[1] No field use factor for automatic cycle termination applied to results.

In the January 2013 NOPR, DOE also presented the average final RMC from the automatic cycle termination tests with both the DOE and IEC/AHAM test loads, as well as the cycle settings used for each test unit. The test data showed that the final RMC ranged from 0.4 percent to 2.0 percent for the DOE test load and 1.3 to 4.7 percent for the IEC/AHAM test load. DOE also noted that for nearly all of the test units, the average final RMC was higher for the tests using the IEC/AHAM test load. The higher measured per-cycle energy use and final RMC for the IEC/AHAM test load compared to the DOE test load is likely due to the ability of the IEC/AHAM test load to retain more water during the drying process than the DOE test load, which gives off moisture more readily and terminates the drying cycle sooner. In addition, as discussed above, clothes dryers with automatic termination sensing control systems may be designed to stop the cycle when a load of varying weights, composition, and size has a higher RMC than the RMC obtained using the DOE test load. 78 FR 152, 160 (Jan. 2, 2013).

DOE noted in the January 2013 NOPR that manufacturers have indicated that test load types and test cloth materials different than those specified in the DOE test procedure do not produce results as repeatable as those obtained using the DOE test load. Therefore, for each test unit, DOE examined the test-to-test variation in CEF among the three tests conducted using the DOE test procedure and among the three tests using the automatic cycle termination test methodology. DOE presented the test-to-test variation results in the January 2013 NOPR, which are summarized in Table III.2. The analysis showed that the test-to-test variation for the automatic cycle termination tests with the DOE test load is slightly lower than the test-to-test variation with the IEC/AHAM test load, and that both are higher than the test-to-test variation for the DOE test procedure. DOE noted that the more consistent results for the current DOE test procedure are likely due to the use of the timed dry cycle rather than the automatic termination cycles, which may have additional variation in results due to the performance of temperature and moisture sensors and the automatic termination control strategies. 78 FR 152, 160–161 (Jan. 2, 2013).

TABLE III.2—JANUARY 2013 NOPR CEF TEST-TO-TEST VARIATION

	CEF Test-to-test variation (%)		
	DOE test procedure (Appendix D1)	Automatic cycle termination—DOE test load	Automatic cycle termination—IEC/AHAM test load
Minimum	0.18	0.16	0.16
Maximum	2.08	5.7	6.44
Average	0.87	1.87	2.07

In the January 2013 NOPR, to evaluate the effect of test load composition on repeatability, DOE then ran appendix D1 again for a subset of 10 of the clothes dryers in its test sample, using the IEC/AHAM test cloth instead of the DOE test cloth. For each of these units, DOE conducted three repeat tests. DOE stated that it believes that using the timed dry cycle and requiring that the clothes dryer be stopped manually allow for better evaluation of the effect of the test

[9] For this series of tests, DOE did not make any modifications to the water used to wet the test loads.

load composition alone on repeatability by limiting other factors, such as automatic termination sensor performance, that may contribute to variability of results from test to test. The results from this testing were presented in the January 2013 NOPR and are summarized in Table III.3. The results showed a test-to-test variation in CEF (expressed in terms of standard error) of 1.02 percent for the IEC/AHAM test load as compared to the 0.87 percent test-to-test variation for the DOE timed dry test procedure with the DOE test load. 78 FR 152, 161 (Jan. 2, 2013).

TABLE III.3—JANUARY 2013 NOPR CEF TEST-TO-TEST VARIATION FOR APPENDIX D1 WITH IEC/AHAM TEST LOADS

	Timed Dry-IEC/AHAM test load—CEF test-to-test standard error (%)
Minimum	0.31
Maximum	1.42
Average	1.02

DOE noted in the January 2013 NOPR that in addition to the use of the IEC/AHAM test load producing less repeatable results from test to test, the reproducibility of test results from lab to lab must also be considered because different test laboratories may be using different lots of test cloth. To evaluate the reproducibility of test results from lab to lab, DOE conducted testing of 9 units at an independent test laboratory with different lots of the DOE and IEC/AHAM test loads using the automatic cycle termination test method. The results showed that the lab-to-lab reproducibility of test results was, on average, 3.0 percent for the existing DOE test load and 4.7 percent for the IEC/AHAM test load. 78 FR 152, 161–162 (Jan. 2, 2013).

As part of the automatic cycle termination testing for the January 2013 NOPR, DOE tested a number of units in the test sample at an independent test laboratory that measured and recorded the energy consumption and an estimated instantaneous RMC of the test load throughout the test cycle. The estimated RMC was determined based on the weight of the test load, measured in place during the test cycle, and the rotation of the drum. Based on this testing, DOE decided to develop a field use factor to account for the over-drying energy consumption using the automatic cycle termination test method with the DOE test load at the end of the cycle when the load is dried below 2-percent RMC. 78 FR 152, 162 (Jan. 2, 2013).

Using the independent test laboratory's data, DOE evaluated the measured energy consumption at different times during the cycle—when the test load initially reached 5-percent RMC, when it reached 2-percent RMC, and at the end of the cycle (including after cool down). The test data showed that the energy consumption measured over a full automatic termination dry cycle is 11–72 percent greater than the energy consumption during the test cycle when the test load initially reaches 5-percent RMC, and 4–62 percent greater than the energy consumption when the test load initially reaches 2-percent RMC (before any moisture regain during cool down/tumbling). DOE also noted that while the final RMC of the DOE test load using the automatic cycle termination test method was between 0.4 percent and 2.0 percent at the completion of the test cycle for all of the clothes dryers in DOE's test sample, this RMC was achieved either after the end of a cool-down period, during which the clothes dryer tumbles with no added heat after the conclusion of the heated drying, or after an extended period of operation at nearly 0-percent RMC when the heater is cycled off and on. The independent test laboratory's data showed that during cool down or non-heated tumbling, the test load regains moisture from the room air. As a result, the final RMC of the test load at the completion of the cycle after the cool-down/tumbling period is higher than the RMC of the load when the heater turns off for the final time. 78 FR 152, 162 (Jan. 2, 2013).

TABLE III.4—JANUARY 2013 NOPR—MEASURED AUTOMATIC CYCLE TERMINATION ENERGY CONSUMPTION AT SPECIFIC RMC LEVELS

Product class	Test unit	Automatic cycle termination sensor technology	Energy consumption (*kWh*)		
			5% RMC	2% RMC	End of cycle (measured RMC (%)) [1]
Vented Electric Standard	1	Moisture + Temp	1.945	2.070	2.624 (1.2)
	2	Temperature	2.068	2.233	3.119 (0.9)
	4	Moisture + Temp	2.160	2.318	2.405 (0.7)
	6	Moisture + Temp	2.091	2.280	3.141 (1.9)
Vented Electric Compact (240V)	10	Temperature	0.823	0.875	1.418 (2.0)
Vented Gas	13	Moisture + Temp	2.375	2.569	2.905 (0.8)
	15	Moisture + Temp	2.347	2.532	3.161 (1.2)
	17	Moisture + Temp	2.300	2.482	2.843 (1.2)

[1] As noted above, the test load regained moisture during the cool-down/tumbling period.

Based on the test data, DOE noted that for all of the clothes dryers tested at the independent test laboratory, the DOE test load reached 2-percent RMC before the clothes dryer initially began cycling the heater on and off. The test data also showed that the cool-down/tumbling period can contribute a significant amount of energy consumption associated with over-drying and moisture regain when using the DOE test load. DOE observed that two test units, both of which used the same moisture sensor technology and dried the test load to final RMCs of close to 1 percent at the end of the cycle, had significantly different total measured energy consumption. One of these test units achieved this final RMC with only a brief cool-down period, while the other test unit repeatedly heated, tumbled, and regained moisture before the final cool down. DOE stated in the January 2013 NOPR that it believes that the difference in energy consumption between these two units is most likely a function of the control strategy rather

than the accuracy of the sensors. 78 FR 152, 163–166 (Jan. 2, 2013).

As part of the January 2013 NOPR, DOE conducted further analysis to develop an appropriate field use factor to account for the measured energy consumption at the end of the automatic termination cycle below 2-percent RMC using the DOE test load (including any cool-down/tumbling period). DOE calculated a field use factor of 0.80 for automatic termination control dryers by taking the average of the difference between the measured energy consumption to initially reach 2-percent RMC and the measured energy consumption at the end of the test cycle. 78 FR 152, 166 (Jan. 2, 2013). The results of this analysis showing the application of the 0.8 field use factor are presented in Table III.5.

TABLE III.5—JANUARY 2013 NOPR—AUTOMATIC CYCLE TERMINATION TEST RESULTS WITH ADJUSTED FIELD USE FACTOR

Product class	Test unit	Per-cycle energy consumption (*kWh*)		
		2% RMC	End of test—measured	End of test—field adjusted
Vented Electric Standard	1	2.070	2.624	2.099
	2	2.233	3.119	2.495
	4	2.318	2.405	1.924
	6	2.280	3.141	2.513
Vented Electric Compact (240V)	10	0.875	1.418	1.134
Vented Gas	13	2.569	2.905	2.324
	15	2.532	3.161	2.528
	17	2.482	2.843	2.274

DOE noted in the January 2013 NOPR that the IEC recently revised its test standard for clothes dryers, IEC Standard 61121. 78 FR 152, 166 (Jan. 2, 2013). IEC Standard 61121 Fourth Edition, which published in February 2012, notes that the characteristics of the water used for wetting the test load prior to the test, particularly the conductivity, can influence the test results when testing automatic termination control dryers with moisture sensors. Clothes dryers with moisture sensors use conductivity sensor bars to determine the amount of moisture in the load when the load comes in contact with the sensors. Table III.6 provides the characteristics of either soft or hard water to be used for appliance testing under IEC Standard 61121.

TABLE III.6—IEC STANDARD 61121 REQUIREMENTS FOR COMPOSITION OF SOFT AND HARD WATER FOR CLOTHES DRYER TESTING

Property	Unit	Water type	
		Standard soft water	Standard hard water
Total hardness	Millimols per liter (mmol/l) (Ca^{2+}/Mg^{2+})	0.50 ± 0.20	2.50 ± 0.20
Conductivity (at 20°C)	Microsiemens per centimeter (μS/cm)	150 ± 50	750 ± 150

In the August 2011 RFI, DOE requested information and data on these effects of the characteristics of the water used to wet the test load on the measured efficiency, as well as any potential testing burden associated with the requirements for modifying the water supply used for wetting the test load. DOE did not receive any comments or information on this issue. DOE conducted testing for the January 2013 NOPR to evaluate the effects of using supply water modified to meet the specifications in the IEC Standard 61121 on the measured efficiency compared to using supply water according to the requirements of appendix D1. For this series of tests, DOE conducted tests on 16 units using the same automatic cycle termination methodology discussed above, except that the water used to wet the test load prior to the test met the conditions presented in Table III.6 for standard soft water. 78 FR 152, 167 (Jan. 2, 2013). DOE selected the soft water requirements from IEC Standard 61121 rather than the hard water requirements to more closely match the existing DOE clothes dryer test procedure, which also requires the use of soft water.[10] For each test method, DOE again conducted three identical tests for each test unit. The test results did not show a correlation between the average measured CEF and water supply specifications for the automatic cycle termination tests with either the DOE or IEC/AHAM test loads. Similar to the measured CEF discussed above, there was no definitive correlation between the average measured final RMC or the test-to-test variation and the water supply specifications. Based on the test results, DOE determined that the modifications to the water supply specified in IEC Standard 61121 did not have a definitive effect on the measured CEF as compared to the water requirements specified in the existing DOE test procedure. In addition, the repeatability testing showed that the IEC water hardness specifications did not improve overall the test-to-test repeatability. 78 FR 152, 167–169 (Jan. 2, 2013).

DOE conducted additional testing on two clothes dryers to evaluate the lab-to-lab reproducibility using both supply water specifications in automatic cycle termination tests with the IEC/AHAM test load. These tests showed that the IEC supply water may produce more reproducible results from lab to lab with the IEC/AHAM test load. DOE noted, however, that the percentage difference in test results from lab to lab was within the test-to-test variation for a given lab using the IEC/AHAM test load. For

[10] 10 CFR part 430, subpart B, appendix D1, section 2.6.3 requires the use of soft water with 17 parts per million hardness or less.

these reasons, DOE did not propose amendments in the January 2013 NOPR to include in the amendments to appendix D1 the supply water specifications from IEC Standard 61121. DOE noted that if additional test results are made available showing that IEC supply water characteristics produce more repeatable and reproducible test results than the requirements in appendix D1, DOE may consider such amendments in a future test procedure rulemaking. 78 FR 152, 166 (Jan. 2, 2013).

3. January 2013 NOPR Proposed Amendments and Today's Final Rule

Based on the testing and analysis discussed above, DOE proposed amendments to the clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1 in the January 2013 NOPR to more accurately measure the energy consumption of automatic termination control dryers. 78 FR 152, 169 (Jan. 2, 2013).

a. Definitions

DOE proposed in the January 2013 NOPR to amend the clothes dryer test procedure in appendix D1 to add definitions for both automatic termination control dryers and timer dryers. DOE proposed to define ''automatic termination control dryer'' as a clothes dryer that can be preset to carry out at least one sequence of operations to be terminated by means of a system assessing, directly or indirectly, the moisture content of the load. An automatic termination control dryer with a supplementary timer or that may also be manually controlled would be tested as an automatic termination control dryer. DOE proposed to define ''timer dryer'' as a clothes dryer that can be preset to carry out at least one operation to be terminated by a timer, but may also be manually controlled, and does not include any automatic termination function. 78 FR 152, 169–170 (Jan. 2, 2013).

AHAM and ALS commented that they did not oppose the proposed definitions for automatic termination control dryer and timer dryer. (AHAM, No. 17 at p. 12; ALS, No. 16 at p. 3) Based on these comments and the discussion above, DOE is adopting these definitions for automatic termination control dryer and timer dryer in today's final rule.

b. Test Load

The existing DOE test procedure in 10 CFR part 430, subpart B, appendix D1, section 2.6 specifies that the test load be composed of 50-percent cotton and 50-percent polyester momie weave cloth. Section 2.7 in appendix D1 requires that test loads be prepared with a starting RMC of 57.5 percent ± 3.5 percent. DOE proposed amendments in January 2013 NOPR to change the starting RMC from 57.5 percent ± 3.5 percent to 57.5 percent ± 0.33 percent. DOE stated in the January 2013 NOPR that it believes that the starting RMC of 57.5 percent ± 0.33 percent, which was used for the testing presented above, and originally proposed in the June 2010 SNOPR, would produce the most repeatable results, particularly for automatic termination control dryers. DOE noted that allowing a wide range in the starting RMC, such as the ± 3.5 percent specified in the current DOE test procedure, would result in significantly different results using the proposed automatic cycle termination test procedure because a test load with a starting RMC of 61 percent would contain approximately 0.6 pounds (lb) of water more than a test load with a starting RMC of 54 percent for standard-size loads. 78 FR 152, 170 (Jan. 2, 2013). As a result, DOE specifically proposed to amend 10 CFR part 430, subpart B, appendix D1, section 2.7.1, ''Compact size dryer load,'' and section 2.7.2, ''Standard size dryer load,'' to require that water be extracted from the wet test loads by spinning the load until the moisture content of the load is 52.5–57.5 percent of the bone-dry weight of the test load. Final mass adjustments would be made, such that the moisture content is 57.5 percent ± 0.33 percent by adding water uniformly to the load in a very fine spray. DOE noted that requiring water to be extracted to achieve an RMC between 52.5 percent and 57.5 percent would serve as an initial preparation step prior to the final mass adjustments to obtain a test load with an RMC of 57.5 ± 0.33 percent proposed above. 78 FR 152, 170 (Jan. 2, 2013).

Test Load Composition

In response to the January 2013 NOPR, The Northwest Energy Efficiency Alliance (NEEA) and NPCC jointly commented (hereafter ''NEEA & NPCC'') that the DOE test load is not representative of the laundry loads being dried in a representative average use cycle. NEEA & NPCC stated that the data from the NEEA residential laundry field use study, which included 50 households in the Pacific Northwest United States metered from January 2012 to March 2012, show that the fabrics in the loads being washed and dried are much heavier than those in the DOE test load. NEEA & NPCC added that the outcomes for the field data, in terms of RMC from the clothes washer, drying cycle time, and clothes dryer energy use, are all substantially different than those produced using the test procedure proposed in the January 2013 NOPR. (NEEA & NPCC, No. 21 at pp. 3–4, 10; NPCC, Public Meeting Transcript, No. 10 at p. 114; NEEA, Public Meeting Transcript, No. 10 at p. 17) NEEA added that: (1) The current DOE test load is consistent and the ply is fairly thin, (2) the IEC Standard 61121 mixed load has thinner fabric but more cotton than the DOE load, (3) the IEC Standard 61121 cotton load is also fairly thin and not substantively different than the DOE ply, (4) the AS/NZS Standard 2442 load is mostly cotton and has a large range of ply thicknesses and resembles loads that are seen in the field, and (5) the AHAM HLD–1–1992 test load is cotton and has a large range of ply thicknesses. Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison (hereafter ''California Investor Owned Utilities (IOUs)'') and NEEA commented that the test-to-test and lab-to-lab variation based on DOE's testing is slightly higher for the IEC cotton load as compared to the DOE test load, but, given that the amount of energy that it takes to dry the IEC cotton load is greater, the results as a percentage of per-cycle energy use are not significantly different. The California IOUs added that, given the far greater differences observed between the actual clothes dryer energy use per load in the field and what is measured using the DOE test procedure, this minimal increase in testing variability is justifiable to provide an accurate representation of energy use. (NEEA, Public Meeting Transcript, No. 10 at pp. 17, 19–21, 22; California IOUs, Public Meeting Transcript, No. 10 at p. 64)

NEEA & NPCC and the California IOUs noted that when DOE tested the IEC/AHAM test load and allowed the clothes dryers to shut off at 5-percent RMC or less (rather than 2-percent RMC with the DOE test load), all of the clothes dryers used more energy per load but left the clothes less dry than the tests with the DOE test load. The California IOUs added that the average efficiency drop from the existing appendix D1 results was 3.9 percent for automatic termination with the DOE test load and 9.7 percent with the IEC/AHAM test load and that the choice of a test load affects the final test outcome more than the choice of final RMC or most of the other factors being considered in the test procedure. NEEA & NPCC and the California IOUs commented that this difference would increase with an even more realistic test load, such as the AHAM HLD–1–1992

test load. The California IOUs added that removing the last few percent RMC from the load is an inefficient process, and that if the test procedure required the IEC/AHAM test load to be dried 2-percent RMC, the difference in efficiency compared to the existing appendix D1 test procedure would widen further. (NEEA & NPCC, No. 21 at p. 5; California IOUs, No. 22 at p. 14; California IOUs, Public Meeting Transcript, No. 10 at pp. 60–61, 64)

NEEA & NPCC and the California IOUs presented test data for 5 different clothes dryer models [11] comparing the drying time, measured per-cycle energy consumption, and CEF using the automatic termination test cycle with the DOE test load versus with a test load they considered more representative of real-world laundry loads. NEEA & NPCC noted that the drying times for the automatic termination test cycle with the real-world loads are quite similar from model to model, except for the clothes dryer with the moisture sensor bars that rotate with the drum and the heat pump clothes dryer. NEEA & NPCC and the California IOUs also noted that the CEF is lower for the tests with real world load as compared to the DOE test load in all cases, but the difference varies depending on the technology type. Based on this data, NEEA & NPCC and the California IOUs believe that it is inappropriate for DOE to adopt a single field use factor to adjust the per-cycle energy use from testing using the current DOE test load to represent how various technologies would perform with real-world laundry loads. NEEA & NPCC and the California IOUs commented that DOE should specify testing with a more realistic test load, such as the IEC cotton load or AHAM HLD–1–1992 test load, so that manufacturers would have an incentive to optimize their sensors and drying technology for real-world conditions. (NEEA & NPCC, No. 21 at pp. 10–12; California IOUs, No. 22 at pp. 21–22) NEEA & NPCC commented that a test load that is more reflective of real-world clothing, such as the IEC cotton test load or the AHAM HLD–1–1992 test load, would provide additional agreement between tested energy use and typical field energy use. NEEA & NPCC urged DOE to address this issue as soon as possible for both clothes washers and clothes dryers in a new rulemaking. (NEEA & NPCC, No. 21 at pp. 12–13)

NRDC, ASAP, ACEEE, and the California IOUs similarly commented that the current test load is not representative of real-world loads and results in significant underreporting of energy use. The California IOUs added that, as a result, the test procedure does not appropriately balance representativeness and repeatability. NRDC, ASAP, and the California IOUs requested DOE to address this issue as soon as possible in a new rulemaking. NRDC and ASAP commented that clothes dryers are likely the single largest opportunity for energy savings in home appliances, and modifying the test procedure so that it more accurately represents field energy use is critical to being able to capture these additional opportunities. (NRDC, No. 20 at p. 2; ASAP, Public Meeting Transcript, No. 10 at pp. 119–120; ACEEE, Public Meeting Transcript, No. 10 at pp. 114–115; California IOUs, No. 22 at pp. 14, 17)

Earthjustice commented that DOE's use of 5 percent as the target RMC using the AHAM test load recognizes that the AHAM load is more representative of the loads encountered in the field. Earthjustice stated that the NEEA field study data, which shows that heavier fabrics (such as the towels represented in the AHAM test load) make up a significant portion of household laundry loads, supports this conclusion. (Earthjustice, No. 15 at pp. 1–2)

The California IOUs stated that designs that reduce over-drying can, based on DOE's test data in January 2011 Final Rule, save about 0.3 to 0.6 kilowatt hours (kWh) of over-drying energy use per load relative to designs that inefficiently terminate the cycle. The California IOUs stated that, based on recent testing by Ecos, Consumer Reports, DOE, and Ecova, certain automatic termination test methods can actually result in a higher measured energy use relative to DOE's current timed dry test procedure because the DOE test cloths are already quite dry by the time many clothes dryers detect high exhaust temperatures and low humidity levels that indicate there is no water left in the load to evaporate. The California IOUs stated that it is difficult for these clothes dryers to prevent over-drying because the condition they are designed to detect occurs when the DOE test load has been over-dried. (California IOUs, No. 22 at p. 13)

The California IOUs commented that DOE should use the AHAM HLD–1–1992 bone-dry load weight (7.4 lb), which according to the NEEA field data more accurately represents field laundry loads than the DOE test load or the IEC/AHAM cotton load because it contains a much wider range of fabric thicknesses and weights. The California IOUs stated that common items such as shirts, pants, socks, and other articles of clothing are three-dimensional, and therefore contain interior sides that are more difficult to dry than the two-dimensional DOE test cloths. The California IOUs added that these items vary quite widely in their moisture retention capability because of differences in thickness and synthetic content but, on average, retain more moisture per pound than the uniform DOE test cloth and require more energy to dry. The California IOUs stated that these items present automatic termination controls with greater difficulty than DOE's test cloths in determining when the load is dry. (California IOUs, No. 22 at pp. 17–18; California IOUs, Public Meeting Transcript, No. 10 at pp. 112–113) The Super Efficient Dryer Initiative (SEDI) also cited the Ecova testing in stating that the AHAM HLD–1–1992 test load is the most similar to typical laundry because it uses items of actual clothing with different fabrics and varying thicknesses. SEDI stated that the test results showed that drying test cloths that more closely resemble real-world clothing increased drying time and energy consumption, and that DOE should specify the use of the AHAM HLD–1–1992 test load in the clothes dryer test procedure. (SEDI, No. 14 at pp. 2–3)

The California IOUs commented that manufacturers are likely already using AHAM HLD–1 to evaluate drying performance. The California IOUs commented that if there is already a representative load that industry is using to determine drying performance, measuring energy at the same time as that test would reduce test burden. (California IOUs, Public Meeting Transcript, No. 10 at pp. 179–180) AHAM stated that the test burden associated with using the IEC/AHAM test load for energy and water testing would not be lower than the burden associated with using the DOE test load. AHAM stated that manufacturers use the IEC/AHAM test load for non-energy purposes, but use of the AHAM test procedure is voluntary and, thus, use of the IEC/AHAM test load for other purposes is outside of the regulatory context. AHAM also stated that it is not simple to measure the energy using the IEC/AHAM test load given the increased variability in test results, which will in turn increase the burden on manufacturers. AHAM added that it is critical that the DOE test procedure be as repeatable and reproducible as

[11] The 5 tested clothes dryers included: (1) A dryer with temperature sensing, (2) a dryer with stationary moisture sensing bars, (3) a dryer with moisture sensing bars that rotate with the drum, (4) a dryer with an exhaust air-to-air heat exchanger, and (5) a heat pump clothes dryer.

possible, especially given the more stringent standards. (AHAM, No. 17 at p. 15)

AHAM stated that the DOE test load, because it is comprised of uniform test cloth, produces more repeatable and reproducible results. AHAM, therefore, agreed with DOE's proposal to continue using the DOE test load at this time. AHAM stated that should such a change in the test load be considered in the future, extensive testing would be required to determine the appropriate test load and the impact of such a change on measured energy efficiency. AHAM indicated that it would be impossible to complete this work prior to the January 1, 2015 compliance date of the amended standards, even were it appropriate to make such a change during the 3-year lead time before the amended standards. (AHAM, No. 17 at p. 14) Samsung also supported using the DOE test load to minimize measurement system uncertainty, based on DOE's data and internal experience that the IEC/AHAM loads could result in higher variation. Samsung stated that even though the DOE load is different from real-world loads, it is expected that the DOE load will identify relative differences between the test units with higher precision. (Samsung, No. 13 at p. 2)

Hydromatic stated that there is no definition of a real-world test load. (Hydromatic, Public Meeting Transcript, No. 10 at pp. 40–55)

DOE recognizes interested parties concerns regarding the test load composition and the available field study data that show a variety of weights, composition, and size of consumer laundry loads. DOE did not receive any data or information from interested parties that would alter its determination that the test-to-test and lab-to-lab variation using the current IEC/AHAM test load is sufficiently higher than with the DOE test load to warrant the continued use of the DOE test load. Further, DOE concludes that specifying any alternative load with more variation in weights, composition, and size than the DOE test load would increase the test-to-test and lab-to-lab variation. Repeatable and reproducible test procedures are necessary to ensure that testing results are consistent from test to test and lab to lab especially for compliance and verification testing. In addition, although certain manufacturers may use AHAM HLD–1 for measuring clothes dryer performance and these manufacturers may experience reduced testing burden if DOE specified the IEC/AHAM load in its test procedure, the use of AHAM HLD–1 is voluntary and thus this benefit may not apply to all manufacturers. For these reasons, DOE is not adopting amendments to the DOE test load in today's final rule. In addition, due to a lack of sufficient information at this time, DOE is not adopting a definition of a real-world load in today's final rule. DOE may continue collecting data on clothes dryer test loads and may consider amendments to the test load in a future rulemaking if data is made available showing that the variation from test to test and lab to lab can be reduced, particularly for different batches and lots of test loads.

Test Load Preparation

AHAM requested that DOE provide further definition of what is considered a ''very fine spray'' and what is meant by ''uniform'' when adding water to make the final mass adjustments. AHAM questioned whether testers should use a spray bottle, a detergent bottle with holes in it, or some other method, and that without clarity on these points, variation could be introduced into the test procedure. AHAM stated that the method for application of the water could impact the measured energy use. AHAM suggested that DOE further investigate the impact this method could have on measured energy use, including contacting manufacturers for input. AHAM stated that it cannot provide data on the impact on measured energy efficiency, if any, until DOE clarifies ''very fine spray.'' (AHAM, No. 17 at p. 12) ALS opposed tightening the allowable range for the initial RMC to ± 0.33 percent because it claimed manufacturers and test labs will aim to be at the low end of this tolerance, and then try to utilize the proposed technique of ''uniformly'' misting with a ''very fine spray'' the outside of the test load to achieve the initial RMC. ALS believes that the sprayed moisture on the outside of the test load is the easiest to evaporate during the energy test and can skew the test result. (ALS, No. 16 at pp. 3–4)

DOE does not believe that the method for wetting the test load, which requires water to be initially extracted to achieve an RMC between 52.5 percent and 57.5 percent then making final mass adjustments to obtain a test load with an RMC of 57.5 ± 0.33 percent by adding water uniformly to the load in a very fine spray, would significantly affect the measured efficiency at the extremes for the RMC conditions. Because the DOE test cloths are uniform and relatively thin, the water absorbed when making the final mass adjustments by adding water uniformly in a very fine spray would be absorbed relatively equivalently to the water absorbed when initially dampening the test load. In addition, DOE notes that the allowable range for the initial RMC of 57.5 ± 0.33 percent would result in a difference in the amount of water contained in the test load of only approximately 0.06 lb at the minimum and maximum values. As a result, DOE does not believe this allowable range for the initial RMC would measurably affect the efficiency and that further tightening the tolerances would add testing burden to achieve the initial RMC. DOE also notes that for the testing conducted for the January 2013 NOPR, the test technicians did not attempt to control the tolerances for wetting the test load tighter than the ranges specified in the test method (*i.e.,* the initial extraction achieve an RMC between 52.5 percent and 57.5 and the final mass adjustments to obtain a test load with an RMC of 57.5 ± 0.33 percent). As a result, any effects in the measured efficiency would have been captured in the test-to-test variation for the automatic termination tests with the DOE test load (which was on average 1.87 percent). For these reasons, DOE is adopting the test load requirements proposed in the January 2013 NOPR and discussed above, with the following clarification. To provide a clear and consistent method, the amendments adopted in today's final rule specify in 10 CFR part 430, subpart B, appendix D2, section 2.7, that water added to make the final mass adjustments shall be uniformly distributed among all of the test cloths in a very fine spray using a spray bottle.

Automatic Termination Control Dryer Test Cycle

DOE proposed in the January 2013 NOPR to change the clothes dryer test cycle specified in 10 CFR part 430, subpart B, appendix D1, section 3.3 to require separate test methods for automatic termination control dryers and timer dryers. 78 FR 152, 170 (Jan. 2, 2013).

For automatic termination control dryers, DOE proposed to amend the clothes dryer test procedure to require the use of the control settings discussed in section III.B.2 of this notice. Specifically, DOE proposed to require that the ''normal'' automatic termination cycle program be selected for the test cycle, and that for clothes dryers that do not have a ''normal'' program, the cycle recommended by the manufacturer for drying cotton or linen clothes would be selected. 78 FR 152, 170 (Jan. 2, 2013). Where the drying temperature can be chosen independently of the program, it would be set to the maximum

temperature setting. *Id.* In addition, the proposed amendments would require that where the dryness level setting can be chosen independently of the program, the dryness level would be set to the ''normal'' or ''medium'' setting. *Id.* If such designation is not provided, then the dryness level would be set at the mid-point between the minimum and maximum settings. DOE also proposed to require that the cycle settings used for the test cycle be recorded. *Id.*

For the reasons explained below, DOE proposed that the clothes dryer would then be allowed to run until the completion of the cycle, including any cool-down period. After the cycle is complete, the test load would be weighed to determine the final RMC. If the final RMC is below 2 percent, the test would be considered valid. If the RMC is higher than 2 percent, the test would be considered invalid and would be re-run using the highest dryness level setting. *Id.*

DOE proposed in the January 2013 NOPR to measure the full automatic termination cycle, including any cool-down period, to be more representative of actual consumer use. DOE determined in the January 2013 NOPR that the proposed provision to include a cool-down period would result in less testing burden than the January 2011 Final Rule proposal to stop the test cycle when the heater switches off for the final time immediately before the cool-down period begins (76 FR 972, 998 (Jan. 6, 2011)), which would require the tester to monitor the clothes dryer and possibly run multiple test cycles to determine when the heater has switched off for the final time. 78 FR 152, 170 (Jan. 2, 2013).

As discussed above, DOE also proposed in the January 2013 NOPR to base the calculations for automatic termination control dryers on a nominal final RMC of 2 percent. This is a change from the existing test procedure, which requires that the clothes dryer test cycle be stopped when the final RMC is between 2.5 percent and 5 percent. Based on the data submitted in the Joint Petition and DOE's analysis, DOE tentatively concluded in the January 2013 NOPR that a final RMC of 2 percent using the DOE test load would be more representative of clothes dryers currently on the market and representative of the maximum consumer-accepted final RMC. *Id.*

NEEA stated that, based on its field study data, consumers select the medium temperature setting 52 percent of the time. (NEEA, Public Meeting Transcript, No. 10 at p. 21) The California IOUs commented that DOE should update the required temperature settings in the test procedure to reflect consumer preferences, based on recent field measurements. The California IOUs stated that DOE should make these revisions in a new test procedure rulemaking. The California IOUs noted that the NEEA field data also show that consumers select the high and low temperature settings 35 percent and 13 percent of the time, respectively. (California IOUs, No. 22 at pp. 17, 20)

DOE does not have information to determine for the clothes dryer models included in the field study whether the temperature setting can be selected independently of the cycle program and whether the sample of clothes dryers in the field study is representative of the optional temperature settings for all clothes dryer shipments. As a result, DOE notes that there is uncertainty as to whether the temperature settings selected by participants in the NEEA field study, which included only 50 households in the Pacific Northwest, are representative of the selections of the nation as a whole. For these reasons, DOE is not considering changing the temperature settings for the automatic termination test cycle proposed in the January 2013 NOPR at this time. However, DOE notes that according to the provisions for the cycle settings proposed in the January 2013 NOPR, which specify that the highest temperature setting be used if the temperature setting can be chosen independently of the cycle program setting, six of the 14 units in DOE's test sample that had a temperature setting indicator on the control panel were unable to select the temperature setting separately from the cycle program and automatically used the medium temperature setting for the test cycle. In addition, DOE may continue to collect and consider available data and information on the temperature settings to consider whether changes to the temperature settings would be warranted in a future test procedure rulemaking.

NEEA stated that, based on its field study data, consumers select the normal dryness setting 57 percent of the time and the very dry setting 42 percent of the time. (NEEA, Public Meeting Transcript, No. 10 at p. 21) The California IOUs commented that many people use the very dry setting, and that it is not true that all consumers are satisfied with the dryness of their clothing when using the normal dryness setting, based on the study conducted by NRDC in 2011 that found that real clothing would have to be dried to approximately 2-percent final RMC in order to feel uniformly dry to the touch. The California IOUs commented that, since the DOE test cloths are much easier to dry than real-world loads, the test cloths would need to be significantly lower than 2-percent final RMC to approximate a 2-percent final RMC in real clothing. The California IOUs stated that with a test load that more closely approximates real-world clothing, such as the AHAM HLD–1–1992 test load, a 2-percent final RMC would be appropriate. (California IOUs, No. 22 at pp. 20–21)

DOE notes that the NRDC report prepared by Ecova and referenced by the California IOUs states that the 2-percent RMC threshold for what consumers would consider ''dry'' for real-world clothing is an assertion made by NRDC and Ecova without any empirical basis.[12] As a result, DOE is not considering changing the dryness level settings for the automatic termination test cycle proposed in the January 2013 NOPR. In addition, for the reasons discussed above, DOE is not considering changing the DOE test load at this time.

NEEA & NPCC and the California IOUs commented that the NEEA field study showed that participants used timed drying 29 percent of the time, and the auto-termination cycle 71 percent of the time. NEEA & NPCC and the California IOUs considered 29 percent to be a significant fraction of total clothes dryer cycles, and therefore stated that the test procedure should require clothes dryers with automatic cycle termination to be tested both in the timed drying and auto cycle termination modes. (NEEA & NPCC, No. 21 at pp. 13–14; California IOUs, No. 22 at p. 11)

Because the field study sample was limited, DOE does not have sufficient information at this time to determine how frequently all consumers in the nation use the timed dry function versus the automatic cycle termination function and, thus, properly weight or apportion the energy consumption between the two drying modes in the clothes dryer test procedure. DOE also notes that Whirlpool submitted a comment in the last test procedure rulemaking asserting that, although the majority of consumers want timed dry cycle capability, they use it only 10 percent of the time. 76 FR 972, 995 (Jan. 6, 2011). In addition, requiring the measurement of both the automatic termination cycle and the timed dry cycle for automatic termination control

[12] Denkenberger, Serena Mau, Chris Calwell, and Eric Wanless. 2011. Residential Clothes Dryers: A Closer Look at Energy Efficiency Test Procedures and Savings Opportunities. Ecova and NRDC. p. 7.

dryers would significantly increase testing burden. As a result, DOE is not considering amendments in today's final rule to require the measurement of both the automatic termination cycle and the timed dry cycle for automatic termination control dryers.

d. Automatic Termination Control Dryer Field Use Factor

DOE proposed in the January 2013 NOPR that the measured test cycle energy consumption be multiplied by a field use factor of 0.80 to calculate the per-cycle energy consumption for automatic termination control dryers based on the data presented above in section III.B.2. DOE noted in the January 2013 NOPR that this field use factor would account for the measured energy consumption at the end of the automatic termination cycle drying the DOE test load below 2-percent RMC, which DOE determines to be representative of consumer-acceptable drying levels with loads of varying weights, composition, and size. 78 FR 152, 170 (Jan. 2, 2013).

AHAM and ALS opposed the proposed 0.80 field use factor, asserting that it is without technical or empirical justification. AHAM added that the Joint Petition did not include such a factor because it is not necessary under the proposed test procedure. AHAM and ALS stated that based on testing, DOE must rely on the proposed field use factor to justify the determination of a *de minimus* impact on the measured efficiency according to DOE's criteria (*e.g.,* less than a 5-percent impact on measured efficiency). AHAM commented that it is inappropriate for DOE to include the 0.80 field use factor to avoid adjusting the standard, and that DOE should either provide a ''crosswalk'' or not make such significant test procedure changes except as part of a future standards rulemaking. (AHAM, No. 17 at p. 4; ALS, No. 16 at p. 3)

Samsung agreed with DOE's proposed field use factor. Samsung alternatively recommended that the 0.80 field use factor not be included in the test procedure and that the standard levels be adjusted to account for the energy increase due to the test procedure change according to 42 U.S.C. 6293(e)(2). (Samsung, No. 13 at p. 3)

NEEA & NPCC, ASAP, ACEEE, SEDI, and the California IOUs commented that the 0.80 field use factor for automatic termination cycles inappropriately adjusts per-cycle energy use, significantly underestimating the annual clothes dryer energy use measured in the field. (NEEA & NPCC, No. 21 at pp. 3–4; ASAP, Public Meeting Transcript, No. 10 at pp. 28, 85–86; ACEEE, Public Meeting Transcript, No. 10 at pp. 200–201; SEDI, No. 14 at p. 3; California IOUs, No. 22 at p. 3) NEEA & NPCC stated that, based on its analysis and testing, the proposed test procedure estimates annual energy use that is approximately 30 percent lower than what is observed in the field. NEEA & NPCC commented that their testing demonstrates reasonably close agreement in energy use between DOE's proposed test procedure, but without the field use factor, and testing with a more real-world procedure. NEEA & NPCC stated that average annual clothes dryer energy use estimated from NEEA's 2012 field study is 920 kWh, and suggests that the field use factor should be closer to 1.1 or 1.2, assuming all other test procedure factors are unchanged. (NEEA & NPCC, No. 21 at p. 6) NEEA & NPCC strongly recommended that DOE not use a field use factor less than 1.0 to adjust the actual measured energy use from testing. (NEEA & NPCC, No. 21 at pp. 2–3, 12; NEEA, Public Meeting Transcript, No. 10 at pp. 87–92) NPCC added that the proposed field use factor is not consistent with the original proposal in the Joint Petition. (NPCC, Public Meeting Transcript, No. 10 at p. 104) The California IOUs commented that the NEEA field study data supports a field use adjustment factor of 1.0, or it should be removed entirely, since the field data consistently point to clothes dryers using more energy than they do under the DOE test procedure. (California IOUs, No. 22 at p. 6, 17; California IOUs, Public Meeting Transcript, No. 10 at pp. 170–171) SEDI added that CLASP-funded laboratory testing suggests that clothes dryers in the field consume more energy than would be measured by the proposed test procedure even without the field use factor. (SEDI, No. 14 at p. 3)

NEEA & NPCC and the California IOUs commented that DOE's data show that the average clothes dryer operating on an automatic termination cycle uses on the order of 25 percent more energy than it would if it terminated the cycle at optimum load dryness. NEEA & NPCC and the California IOUs commented that the difference between the end-of-cycle energy use and the energy use upon initially reaching 2-percent RMC represent an energy savings opportunity that manufacturers should be encouraged to pursue through modifications to automatic termination controls. NEEA & NPCC and the California IOUs stated that the proposed field use factor would revise the measured energy use for automatic termination control dryers that don't terminate at an initial 2-percent RMC down to a value that might have been achieved if the clothes dryer terminated properly. (NEEA & NPCC, No. 21 at p. 6; California IOUs, No. 22 at p. 5; California IOUs, Public Meeting Transcript, No. 10 at pp. 76–77, 101–102)

The California IOUs noted that in two cases (DOE test units 4 and 17), the adjusted energy consumption is lower than the measured energy consumption at both 5-percent and 2-percent RMC, and likely represents the energy consumption at points in the cycle when the test load would have been damp to the touch. The California IOUs stated that the field-adjusted values that DOE presented, therefore, are not representative of field clothes dryer performance. The California IOUs also stated that DOE's sample of 8 clothes dryer models is not sufficiently large to provide statistically meaningful information on the field use factor. (California IOUs, No. 22 at pp. 5–6; California IOUs, Public Meeting Transcript, No. 10 at pp. 94–97)

NEEA & NPCC commented that DOE's testing showed, with one exception, that the final RMC values for the IEC/AHAM test load are higher than with the DOE test load but the increase in the final RMC was not consistent from model to model. NEEA & NPCC stated that, as a result, any single field use factor is problematic. (NEEA & NPCC, No. 21 at p. 5) NEEA & NPCC also noted that the proposed automatic termination test procedure significantly increases the range of tested efficiencies, but that this increase is not predictable for a given clothes dryer. NEEA & NPCC stated that the most and least efficient models using the current DOE test procedure are not the most and least efficient models using the proposed automatic termination test procedure but with a more realistic test load. NEEA & NPCC stated that the proposed field use factor will simply reduce the calculated per cycle energy use, thereby reducing the differentiation among models. (NEEA & NPCC, No. 21 at p. 6)

The Joint Efficiency Advocates commented that DOE should adjust the January 1, 2015 standards to account for the proposed test procedure amendments without the proposed field use factor. However, the Joint Efficiency Advocates stated that if DOE concludes that it cannot adjust the standard levels, DOE should proceed with the proposal in the January 2013 NOPR. (Joint Efficiency Advocates, No. 19 at pp. 2–3)

SEDI objected to the proposed 0.80 field use factor, but commented that if DOE chooses to retain the field use

factor, manufacturers should be required to report clothes dryer energy consumption both with and without the field use factor applied. SEDI stated that accurate energy consumption information is critical for energy efficiency programs to be able to evaluate potential for incentives for more efficient products. (SEDI, No. 14 at p. 3)

Earthjustice commented that DOE should revise the proposed field use factor for automatic termination control dryers. Earthjustice stated that DOE's test data show that the load composition has much less of an impact on the effectiveness of automatic termination controls than DOE's proposed field use factor assumes. Earthjustice commented that for nearly all of the 20 clothes dryers that DOE tested, the difference in CEF between the AHAM and DOE test loads was less than 10 percent, with an average reduction in CEF of about 4 percent. Earthjustice stated that the adjustment needed for the CEF ratings to better reflect real world conditions is not only much smaller than DOE has proposed, it is in the opposite direction, and that DOE's proposal would lead to CEFs that significantly overstate the energy efficiency of many automatic termination control dryers. (Earthjustice, No. 15 at pp. 1–2)

Earthjustice stated that DOE's analysis shows that drying the DOE test load to 2-percent RMC at the end of the cycle reasonably approximates drying a test load that is more representative of the varied composition and heavier fabrics encountered in real world laundry loads to 5-percent RMC. Earthjustice stated that based on the test data in the January 2013 NOPR, the only field use factor that should be applied is a small correction to reflect that drying the AHAM test load to the end of a cycle achieving 5-percent RMC results in CEF levels about 4 percent below those measured drying the DOE test cloth as proposed in the January 2013 NOPR. (Earthjustice, No. 15 at p. 2)

Based on these comments and DOE's review of available data, DOE agrees that eliminating the field use factor for automatic termination control dryers will produce test results that are more representative of consumer use. As a result, in today's final rule, DOE is not adopting the 0.80 field use factor proposed in the January 2013 NOPR, but is instead removing the field use factor for automatic termination control dryers in appendix D2 because the test method directly measures the over-drying energy consumption. Because DOE is not amending appendix D or appendix D1 to include the methods for more accurately measuring the effects of automatic cycle termination, as discussed in section III.B.3.f, DOE is not amending the current field use factors specified in section 4.1 in 10 CFR part 430, subpart B, appendix D and appendix D1.

e. Wrinkle Prevention Mode and the Determination of the Completion of the Test Cycle

In the January 2013 NOPR, DOE proposed for the automatic cycle termination test method that the clothes dryer shall be operated until the completion of the programmed cycle, including the cool-down period. 78 FR 152, 170 (Jan. 2, 2013).

NRDC commented that DOE should clarify the definition of ''completion of test cycle'' for clothes dryers with automatic termination controls. NRDC noted that many clothes dryers have post-cycle features, such as additional tumbling designed to prevent wrinkling, that may run after the clothes dryer has terminated the main drying cycle. NRDC stated that these features can sometimes be enabled by the user and sometimes are the default operational mode. NRDC recommended that DOE modify the proposed test procedure to clarify that the cycle is complete when the main cycle terminates and the clothes dryer indicates to the consumer that the load is finished. (NRDC, No. 20 at pp. 1–2; NRDC, Public Meeting Transcript, No. 10 at pp. 129–131) NRDC also urged DOE to conduct a new rulemaking as soon as possible to further revise the clothes dryer test procedure to address post-cycle energy use to better represent real world energy use. (NRDC, No. 20 at p. 2)

NEEA & NPCC commented that it is unclear whether the current test procedure is designed to capture the energy use associated with the wrinkle prevention mode, which is part of the default cycle in some clothes dryer models. NEEA & NPCC stated that the wrinkle prevention mode meets DOE's definition of an active mode, and yet DOE's testing stopped the test at the completion of the cool-down phase. NEEA & NPCC stated clothes dryers typically use 150–250 watts of power when rotating the drum (and by default in most models, the fan) and that over a few hours, the wrinkle prevention mode could use as much as 0.5 kWh depending on how often the feature is activated and for how long at the end of each cycle. NEEA & NPCC stated that this clothes dryer feature should be accounted for accurately in the test procedure, regardless of any increase in the test burden associated with the measurement. According to NEEA & NPCC, the potential energy use of this function may be large enough to make the difference as to whether or not a clothes dryer complies with the standard, and so is not insignificant. (NEEA & NPCC, No. 21 at p. 14) NEEA added that if a cyclical wrinkle prevention period goes on indefinitely, it may cause issues with determining when to measure standby and off mode if the end of the cycle is not clearly defined. (NEEA, Public Meeting Transcript, No. 10 at pp. 154–155)

The California IOUs, Hydromatic, and the U.S. Environmental Protection Agency (EPA) also questioned how the wrinkle prevention mode would be tested and how the end of the cycle would be determined. The California IOUs stated that it is a relatively new feature, but it is becoming more prevalent. (California IOUs, Public Meeting Transcript, No. 10 at pp. 153, 154; Hydromatic, Public Meeting Transcript, No. 10 at pp. 124–128, 132–133; EPA, Public Meeting Transcript, No. 10 at pp. 122–123)

AHAM stated that the cycle ends when the clothes dryer signals to the consumer that the cycle is complete, and that wrinkle prevention or similar functions are selected by the user and should not be included in the DOE test unless they are activated by default in the condition as shipped. AHAM stated that this approach will minimize ambiguity for testers, thus resulting in less variation in the test procedure. (AHAM, No. 17 at p. 13) ALS similarly recommended testing with the default settings and not with other optional settings such as a wrinkle prevention extended cycle. (ALS, No. 16 at p. 4)

DOE conducted a market survey and testing to evaluate the wrinkle prevention mode. DOE noted that products operate in wrinkle prevention mode either intermittently or by continuously tumbling for a fixed period of time or until the user opens the clothes dryer door. Based on DOE's review of products currently available on the market, approximately 95 percent of products that are equipped with a wrinkle prevention feature offer it as a mode that must be manually selected by the user (*i.e.,* wrinkle prevention is turned off by default). Approximately 63 percent of products that are equipped with a wrinkle prevention feature operate in this mode by intermittently tumbling. For the products in DOE's test sample, the intermittent tumbling consisted of 3 to 5 seconds of tumbling every 5 to 10 minutes for a fixed period of time. Such intermittent tumbling was observed for all products on the market that operated in wrinkle prevention mode automatically by default after the end of the programmed cycle, with the

maximum duration among the sample units being 5 hours. DOE estimates that products that intermittently tumble for 5 hours would consume approximately 8.3 Wh in the wrinkle prevention mode. In the worst-case scenario for clothes dryers on the market for which the wrinkle prevention mode must be selected manually by the user, continuous tumbling was observed with a duration of up to 45 minutes and a corresponding energy consumption as much as approximately 188 Wh.

DOE is unaware of consumer usage data on how often consumers select the wrinkle prevention mode when this feature must be manually selected or data on the typical elapsed time between the end of the programmed cycle and when the consumer opens the clothes dryer door to remove the laundry load. As a result, DOE is not amending the test procedure to include the measurement of the wrinkle prevention mode when this feature must be manually selected by the consumer. As discussed in section III.F.1, DOE is adopting amendments to clarify for automatic termination control dryers that the test procedures specify requirements only for the automatic termination cycle program, temperature setting, and dryness setting, and do not specify modifications to any other optional settings that do not affect the automatic termination cycle program, temperature setting, or dryness setting. As a result, if a product is equipped with a wrinkle prevention feature that is activated by default in the condition as shipped by the manufacturer, the wrinkle prevention mode would be included in the test measurement cycle unless it precluded the necessary automatic termination cycle program, temperature setting, or dryness setting. DOE also notes that, based on the requirements that products be installed in accordance with manufacturers' instructions, if a manufacturers' user manual specifies that the wrinkle prevention mode is recommended to be activated for normal use even if it not done so in the as-shipped condition, the products would be tested with the wrinkle prevention mode activated as per manufacturer's instructions.

DOE is adopting amendments in today's final rule to clarify in 10 CFR part 430, subpart B, appendix D2, section 3.3.2, that the drying cycle is complete when the clothes dryer indicates to the user that the cycle has finished (by means of a display, indicator light, audible signal, or other signal) and the heater and drum/fan motor shuts off for the final time. If the clothes dryer is equipped with a wrinkle prevention mode (*i.e.,* that continuously or intermittently tumbles the clothes dryer drum after the clothes dryer indicates to the user that the cycle has finished) that is activated by default in the as-shipped position or if manufacturers' instructions specify that the feature is recommended to be activated for normal use, the cycle shall be considered complete after the end of the wrinkle prevention mode.

f. New Appendix D2

With the exception of the field use factor and the compliance date, AHAM and ALS supported the proposed test procedure for automatic termination control dryers. In light of its objection to the proposed field use factor and compliance date, however, AHAM stated that it cannot support these changes at this time and DOE should instead defer the changes until compliance with a future standard, subsequent to the January 1, 2015 standards change. (AHAM, No. 17 at p. 13; ALS, No. 16 at p. 4)

Samsung supported the proposed automatic termination test method, including the maximum allowable RMC of 2 percent. Samsung stated that the proposed test procedure is representative of consumer usage because it measures the energy use of the most commonly selected cycle (Normal/Cottons and Linens) and includes the cool-down period. Samsung stated that the proposed test procedure would encourage manufacturers to refine their automatic termination feature to terminate drying very close to the target 2-percent RMC using the DOE test load, without the over-drying evidenced on some clothes dryer models during DOE testing, thus reducing real-world energy consumption. (Samsung, No. 13 at pp. 2–3)

ASAP, ASE, ACEEE, CFA, NCLC jointly commented (hereafter ''the Joint Efficiency Advocates'') and SEDI, NRDC, NEEA & NPCC, and the California IOUs commented that they generally support the proposed automatic termination test procedure amendments. The Joint Efficiency Advocates, NRDC, NEEA & NPCC, and the California IOUs noted that DOE's test data presented in the January 2013 NOPR show that there is wide variability among clothes dryers in the effectiveness of automatic termination controls, and that many clothes dryers waste a significant amount of energy at the end of the automatic termination cycle (up to 38 percent of energy use). NRDC and SEDI added that the proposed test procedure will capture this energy use at the end of the cycle and will result in differentiation of the measured efficiency of individual clothes dryers. The Joint Efficiency Advocates stated that based on DOE's test data, the current test procedure in appendix D1 is not a good predictor of the efficiency of the complete automatic termination cycle. The Joint Efficiency Advocates, NEEA & NPCC, and the California IOUs stated that the proposed automatic cycle termination test procedure will encourage manufacturers to adopt improved automatic termination controls and will provide a significant national energy savings opportunity. The California IOUs added that DOE's sample is too small to conclusively estimate this savings opportunity, but a study conducted by NRDC on 15 clothes dryers concluded that a variety of energy-saving technologies, including automatic termination, could save 20 percent to 30 percent of overall energy consumption by preventing over-drying. (Joint Efficiency Advocates, No. 19 at pp. 1–2; SEDI, No. 14 at p. 2; NRDC, No. 20 at p. 1; NEEA & NPCC, No. 21 at pp. 2, 4–5; California IOUs, No. 22 at pp. 3–5)

Based on the comments from interested parties and for the reasons discussed above, DOE is adopting the automatic termination test method proposed in the January 2013 NOPR with modification as further discussed above. With regards to AHAM's comments concerning the compliance date, as discussed in section III.B.3.f and section III.I.3, DOE is amending the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes the testing methods for more accurately measuring the effects of automatic cycle termination. As discussed in section III.I.3, the newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. DOE is not amending appendix D1 in today's final rule to include the amendments associated with automatic termination controls. Appendix D2 is for informational purposes only.

Timed Dry Test Method

For timer dryers, DOE proposed in the January 2013 NOPR to use the test method currently specified in 10 CFR part 430, subpart B, appendix D1, section 3.3, but with a revised final RMC requirement. The proposed test method would require that the clothes dryer be operated using the highest temperature setting and maximum time setting. The clothes dryer would then be allowed to run until the final RMC of the load is between 1.0 percent and 2.5

percent, at which point the test cycle would be stopped without permitting the clothes dryer to advance into the cool-down period and the test load would be weighed. DOE also proposed to add a clarification that the clothes dryer should not be stopped intermittently in the middle of the test cycle for any reason. DOE stated that this clarification would ensure that test technicians are not stopping the clothes dryer intermittently to weigh the test load to check whether the RMC is within the target range. Such a practice would alter the measured results because of the heat loss from the clothes dryer when the cycle is stopped. 78 FR 152, 171 (Jan. 2, 2013).

DOE proposed in the January 2013 NOPR to include separate calculations for the per-cycle energy consumption for timer dryers. The calculations would be similar to the calculations provided in the current DOE test procedure in 10 CFR part 430, subpart B, appendix D1, sections 4.1–4.3, except that the normalization of the per-cycle energy consumption to represent the energy consumption required to dry the test load to 4-percent RMC would be changed to represent the new target RMC of 2 percent. The per-cycle energy consumption calculation in the current test procedure applies a scaling factor of 53.5, which represents the RMC percentage point change from the nominal initial RMC of 57.5 percent to the nominal final RMC of 4 percent. The proposed amendments would change this scaling factor to 55.5 to reflect the new final RMC of 2 percent. DOE proposed a range of 1.0 percent to 2.5 percent for the allowable final RMC during the test cycle to reduce testing burden. DOE tentatively concluded in the January 2013 NOPR that requiring the tester to dry the test load to an exact RMC during the test cycle would be unduly burdensome because it could require the test to be repeated a significant number of times until the exact RMC is achieved. For the test procedure to produce repeatable results, the measured test cycle energy consumption is normalized to calculate the energy consumption required to dry the test load from exactly 57.5-percent RMC to 2-percent RMC, which is representative of clothes dryers currently on the market and of the maximum consumer-accepted final RMC. 78 FR 152, 171 (Jan. 2, 2013).

DOE proposed in the January 2013 NOPR that manufacturers continue to apply the field use factor needed to account for the energy consumption of timed drying beyond the 2-percent RMC specified in the test procedure. DOE did not propose any changes to the 1.18 field use factor for timer dryers because DOE stated that it is not aware of any data or studies more recent than the studies on which it was originally based that would indicate that this value is not currently representative of consumer use.

DOE did not propose in the January 2013 NOPR to include the cool-down period as part of the timed dry test cycle because the proposed test method requires drying the load to a specified RMC, at which point the test cycle is stopped by the test technician. DOE determined that specifying a timed dry cycle that includes the cool-down period to achieve a target final RMC would add significant testing burden on test technicians to determine and preset the appropriate time setting. DOE also noted that it would be difficult to ensure that testing results are repeatable and reproducible because different combinations of timed dry cycle length and cool-down period may be selected to dry a test load to the same final RMC.

AHAM commented that it did not oppose the proposed timed dry test method on a technical basis. AHAM stated, however, because it considers these changes to be part of the proposed amendments regarding automatic cycle termination controls, it cannot support these changes at this time. AHAM commented that DOE should defer the changes until compliance with future energy conservation standards, subsequent to the January 1, 2015 standards. (AHAM, No. 17 at p. 13) ALS also opposed the proposed timed drying test method because it opposed any test procedure change with an effective date concurrent with the January 1, 2015 standards. (ALS, No. 16 at p. 4) As discussed in section III.I.3, DOE is adopting the amendments to more accurately measure the effects of automatic cycle termination in a new appendix D2 that will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. As a result, in today's final rule, DOE is also adopting the timer dryer test methods presented above in 10 CFR part 430, subpart B, appendix D2, section 3.3.2. DOE is not amending appendix D1 in today's final rule to include these amendments.

Incorporating by Reference IEC Standard 62301 Second Edition for Measuring Standby Mode and Off Mode Power

As discussed in section I of today's final rule, EPCA, as amended by EISA 2007, requires that test procedures be amended to include standby mode and off mode energy consumption, taking into consideration the most current versions of IEC Standards 62301 and 62087. (42 U.S.C. 6295(gg)(2)(A)) The January 2011 Final Rule incorporated in the test procedures for clothes dryers relevant provisions from IEC Standard 62301 (First Edition) for measuring standby mode and off mode power. 76 FR 972, 979–80 (Jan. 6, 2011). DOE reviewed the IEC Standard 62301 (First Edition) and concluded that it would be generally applicable to clothes dryers, although some clarification would be needed. Specifically, DOE adopted amendments for standby mode and off mode power measurements to provide a stabilization period of 30 to 40 minutes followed by an energy use measurement period of 10 minutes. 76 FR 986 (Jan.6, 2011). With these clarifications in place, the January 2011 Final Rule referenced IEC Standard 62301 (First Edition) for the standby mode and off mode wattage measurements. DOE also incorporated into the clothes dryer test procedure definitions of ''active mode,'' ''standby mode,'' and ''off mode'' based on the definitions provided in IEC Standard 62301 CDV. 76 FR 76 FR 981–85 (Jan. 6, 2011).

IEC Standard 62301 (Second Edition) published on January 27, 2011. Consistent with EPCA requirements for amending test procedures to include standby and off mode procedures, DOE considered IEC Standard 62301 (Second Edition) for amendments to the standby mode and off mode test procedures for clothes dryers in the January 2013 NOPR. (42 U.S.C. 6295(gg)(2)(A)) DOE determined that IEC Standard 62301 (Second Edition) is an internationally-accepted test procedure for measuring standby power in residential appliances, and it provides clarification to certain sections as compared to the First Edition. In the January 2013 NOPR, DOE proposed to update its reference to IEC Standard 62301 by incorporating certain provisions of IEC Standard 62301 (Second Edition), along with clarifying language, into the DOE test procedures for clothes dryers. 78 FR 152, 171 (Jan. 2, 2013).

AHAM and ALS commented that they support the incorporation by reference of IEC Standard 62301 (Second Edition). AHAM stated that the Second Edition contains a number of important clarifications not present in the First Edition and that adopting the Second Edition will allow for optimum international harmonization, which gives clarity and consistency to the regulated community. (AHAM, No. 17 at pp. 13–14; ALS, No. 16 at p. 4)

The suitability of specific clauses from IEC Standard 62301 (Second Edition) regarding testing conditions

and methodology for use in DOE's clothes dryer test procedure are discussed in the following paragraphs.

Section 4, paragraph 4.4 of the Second Edition revises the power measurement accuracy provisions of the First Edition. A more comprehensive specification of required accuracy is provided in the Second Edition, which depends upon the characteristics of the power being measured. Testers using the Second Edition are required to measure the crest factor and power factor of the input power, and to calculate a maximum current ratio (MCR) (paragraph 4.4.1 of the Second Edition). The Second Edition then specifies calculations to determine permitted uncertainty in MCR. DOE noted in the January 2013 NOPR, however, that the allowable uncertainty is the same or less stringent than the allowable uncertainty specified in the First Edition, depending on the value of MCR and the power level being measured. DOE determined that this change in the allowable uncertainty, however, maintains sufficient accuracy of measurements under a full range of possible measured power levels without placing undue demands on the instrumentation. These power measurement accuracy requirements were based upon detailed technical submissions to the IEC in the development of IEC Standard 62301 Final Draft International Standard (FDIS), which showed that commonly-used power measurement instruments were unable to meet the original requirements for certain types of loads. DOE concluded in the January 2013 NOPR that the incremental testing burden associated with the additional measurements and calculations is offset by the more reasonable requirements for testing equipment, while maintaining measurement accuracy deemed acceptable and practical by voting members for IEC Standard 62301 (Second Edition). For these reasons, DOE proposed in the January 2013 NOPR to incorporate by reference in 10 CFR part 430, subpart B, appendix D1, section 2.4.7 the power equipment specifications in section 4, paragraph 4.4 of IEC Standard 62301 (Second Edition). 78 FR 152, 171–172 (Jan. 2, 2013). AHAM commented that it supports incorporating by reference these provisions. (AHAM, No. 17 at p. 14) For the reasons discussed above, DOE adopts in today's final rule these amendments to its clothes dryer test procedure.

In the January 2013 NOPR, DOE noted that Section 5, paragraph 5.2 of IEC Standard 62301 (Second Edition) maintains the installation and setup procedures incorporated by reference in the clothes dryer test procedure in the January 2011 Final Rule from the First Edition. These provisions require that the appliance be prepared and set up in accordance with manufacturer's instructions, and that if no instructions are given, then the factory or default settings shall be used, or where there are no indications for such settings, the appliance is tested as supplied. Additionally, IEC Standard 62301 (Second Edition) adds certain clarifications to the installation and setup procedures in section 5, paragraph 5.2 of the First Edition regarding products equipped with a battery recharging circuit for an internal battery, as well as instructions for testing each relevant configuration option identified in the product's instructions for use. DOE stated in the January 2013 NOPR that it is not aware of any clothes dryer with an internal battery, or with a recharging circuit for such a battery. DOE also determined that a requirement to separately test each configuration option could substantially increase test burden and potentially conflicts with the requirement within the same section to set up the product in accordance with the instructions for use or, if no such instructions are available, to use the factory or default settings. Therefore, DOE tentatively concluded in the January 2013 NOPR that the portions of the installation instructions in section 5, paragraph 5.2 of IEC Standard 62301 (Second Edition) pertaining to batteries and the requirement for the determination, classification, and testing of all modes associated with every combination of available product configuration options (which may be more numerous than the modes associated with operation at the default settings) are not appropriate for the clothes dryer test procedures. Accordingly, DOE proposed qualifying language in the test procedure amendments in 10 CFR part 430, subpart B, appendix D1, section 2.1 to disregard those portions of the installation instructions. 78 FR 152, 172 (Jan. 2, 2013). AHAM commented that it does not oppose this proposal because it is also not aware of any clothes dryer with an internal battery or recharging circuit for such a battery. (AHAM, No. 17 at p. 14) Therefore, for the reasons discussed, DOE is amending the clothes dryer test procedure in today's final rule to incorporate by reference the installation instructions in section 5, paragraph 5.2 of IEC Standard 62301 (Second Edition) and to include qualifying language to disregard the portions pertaining to batteries and the requirement for the determination, classification, and testing of all modes associated with every combination of available product configuration options.

The Second Edition also contains provisions for the power supply (section 4.3) and power-measuring instruments (section 4.4). Paragraph 4.3.2 requires that the value of the harmonic content of the voltage supply be recorded during the test and reported. As described previously, paragraph 4.4.1 requires the instrument to measure the crest factor and maximum current ratio. Paragraph 4.4.3 requires the instrument to be capable of measuring the average power or integrated total energy consumption over any operator-selected time interval. In the January 2013 NOPR, DOE stated that it is aware of commercially available power measurement instruments that can perform each of these required measurements individually. However, DOE is also aware that certain industry-standard instruments, such as the Yokogawa WT210/WT230 digital power meter and possibly others, are unable to measure harmonic content or crest factor while measuring average power or total integrated energy consumption. DOE is concerned that laboratories currently using power-measuring instruments without this capability would be required to purchase, at potentially significant expense, additional power-measuring instruments that are able to perform all these measurements simultaneously. Therefore, DOE proposed in the January 2013 NOPR for 10 CFR part 430, subpart B, appendix D1, sections 2.3.1.1 and 2.4.7 that if the power-measuring instrument is unable to perform these measurements during the actual test measurement, it would be acceptable to measure the total harmonic content, crest factor, and maximum current ratio immediately before and immediately after the actual test measurement to determine whether the requirements for the power supply and power measurement have been met. 78 FR 152, 172 (Jan. 2, 2013). AHAM commented that it supports this proposal. (AHAM, No. 17 at p. 14) For the reasons discussed, DOE adopts these amendments to its clothes dryer test procedure in today's final rule.

The other major changes in the Second Edition related to the measurement of standby mode and off mode power consumption in covered products involve measurement techniques and specification of the stability criteria required to measure that power. The Second Edition contains more detailed techniques to evaluate the stability of the power consumption and to measure the power consumption for loads with different

stability characteristics. According to the Second Edition, the user is given a choice of measurement procedures, including sampling methods, average reading methods, and a direct meter reading method. For the January 2013 NOPR, DOE evaluated these new methods in terms of test burden and improvement in results as compared to the methods adopted in the January 2011 Final Rule, which were based on IEC Standard 62301 (First Edition).

In the January 2011 Final Rule, DOE adopted provisions requiring that clothes dryer standby mode and off mode power be measured using section 5, paragraph 5.3 of IEC Standard 62301 (First Edition), clarified by requiring the product to stabilize for 30 to 40 minutes and using an energy use measurement period of 10 minutes. Further, for any clothes dryer in which the power varies over a cycle, as described in section 5, paragraph 5.3.2 of the First Edition, the January 2011 Final Rule adopted amendments to require the use of the average power approach in section 5, paragraph 5.3.2(a), with a 30- to 40-minute stabilization period and a 10-minute minimum measurement period, as long as the measurement period comprises one or more complete cycles. 76 FR 972, 979–980, 985–986 (Jan. 6, 2011).

For the January 2013 NOPR, DOE analyzed the potential impacts of referencing methodology from IEC Standard 62301 (Second Edition) rather than from the First Edition by comparing the provisions allowed by each under different scenarios of power consumption stability. Based on its analysis, DOE concluded that the use of the Second Edition would improve the accuracy and representativeness of power consumption measurements and would not be unduly burdensome to conduct. As a result, DOE proposed in the January 2013 NOPR to incorporate by reference the relevant paragraphs of section 5.3 of IEC Standard 62301 (Second Edition) in the clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1, section 3.6. 78 FR 152, 172–174 (Jan. 2, 2013).

AHAM commented that it does not oppose the proposed requirement to use the sampling method in section 5.3.2 of the Second Edition. (AHAM, No. 17 at p. 14) For the reasons discussed above, DOE amends the clothes dryer test procedure in today's final rule to require in 10 CFR part 430, subpart B, appendix D1, section 3.6 the use of the sampling method in section 5.3.2 of the Second Edition for all standby mode and off mode power measurements.

DOE also amends the reference in 10 CFR 430.3 to add IEC Standard 62301 (Second Edition). DOE is not replacing the reference to the First Edition in 10 CFR 430.3, because several test procedures for other covered products not addressed in today's notice incorporate provisions from it. In addition, there are a number of editorial changes necessary in appendix D1 to allow for the correct referencing to the Second Edition. For example, the definition section in appendix D1 must define the IEC Standard 62301 as the Second Edition instead of the First Edition. Also, there are certain section numbering differences in the Second Edition that impact the text of the measurement provisions of the relevant test procedures in appendix D1. In addition, the definition and section references discussed above are incorporated in appendix D2.

E. Technical Correction to the Calculation of the Per-cycle Combined Total Energy Consumption

In the January 2013 NOPR, DOE noted that 10 CFR part 430, subpart B, appendix D1, section 4.6, regarding the calculation of the per-cycle combined total energy consumption contains a reference to an incorrect section number. The per-cycle standby mode and off mode energy consumption, E_{TSO}, which is contained in section 4.5, is incorrectly referenced in the per-cycle combined total energy consumption as section 4.7. DOE proposed in the January 2013 NOPR to correct this section number reference. 78 FR 152, 174 (Jan. 2, 2013). DOE did not receive any comments on this topic in response to the January 2013 NOPR. In today's final rule, DOE adopts this amendment to its clothes dryer test procedure in appendix D1, and includes the correct calculation in newly adopted appendix D2.

F. Clarifications to Test Conditions

DOE noted in both the January 2013 NOPR and the February 2013 SNOPR that it had received a number of inquiries requesting clarification on testing according to the DOE clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D. 78 FR 152, 174 (Jan. 2, 2013); 78 FR 8992 (Feb. 7, 2013). As discussed in the following sections, based on these inquiries, DOE is adopting amendments in today's final rule to clarify certain provisions in the DOE clothes dryer test procedure.

1. Cycle Settings

Section 3.3 in 10 CFR part 430, subpart B, appendix D specifies that the maximum temperature setting and, if a tested unit is equipped with a timer, the maximum time setting must be used for the drying test cycle. DOE noted in the January 2013 NOPR that it received an inquiry regarding how to test a clothes dryer that has timed dry cycle length settings, but no temperature settings on the control panel. DOE proposed in the January 2013 NOPR to clarify in 10 CFR part 430, subpart B, appendix D, section 3.3, that if the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. DOE also proposed in the January 2013 NOPR to include the clarification discussed above in section 3.3.1 of 10 CFR part 430, subpart B, appendix D1, for the timer dryer test method. 78 FR 152, 174 (Jan. 2, 2013).

AHAM commented that it does not oppose these clarifications for the cycle settings, nor does it oppose these changes becoming effective prior to the January 1, 2015 standards compliance date. (AHAM, No. 17 at p. 17) Because DOE did not receive any comments objecting to this proposal in response to the January 2013 NOPR and for the reasons discussed above, DOE adopts this clarification to its clothes dryer test procedure in appendix D and appendix D1 in today's final rule. Because DOE is amending the clothes dryer test procedure in today's final rule to create a new appendix D2 for informational purposes only that includes the methods for more accurately measuring the effects of automatic cycle termination, which includes a separate method for timer dryers, DOE is also including the same cycle settings clarification in section 3.3.1 of 10 CFR part 430, subpart B, appendix D2, for the timer dryer test method.

In the January 2013 NOPR, DOE noted that it also received an inquiry regarding how to test a clothes dryer that has an optional cycle setting, other than the temperature and time settings, that is activated by default in the condition as shipped by the manufacturer. DOE proposed to clarify in both 10 CFR part 430, subpart B, appendix D, section 3.3, and appendix D1, section 3.3.1, that the test procedures specify requirements only for the temperature setting and time setting, and do not specify modifications to any other optional settings that do not alter the temperature setting and time setting. Similarly, in 10 CFR part 430, subpart B, appendix D1, section 3.3.2, DOE proposed to clarify for automatic termination control dryers that any other optional cycle settings that do not affect the automatic termination cycle program, temperature setting, or dryness setting shall be tested in the as-shipped position. 78 FR 152, 174 (Jan. 2, 2013).

AHAM commented that it does not oppose the clarifications for the optional cycle settings because they are consistent with its position that units should be tested in the as-shipped condition. AHAM stated that if other settings are activated by default when the appropriate temperature and time settings are selected, the unit should be tested with those settings activated. AHAM noted, however, that because it opposes the amendments related to automatic termination controls at this time, it supports incorporating these clarifications in the current appendix D and appendix D1. Should DOE finalize the automatic termination control methodology and related amendments, but make them mandatory for compliance with some future standard (beyond 2015), AHAM stated it would support these clarifications in that test procedure as well. (AHAM, No. 17 at pp. 17–18)

For the reasons discussed above, DOE amends section 3.3 in 10 CFR part 430, subpart B, appendix D and D1 and section 3.3.1 in 10 CFR part 430 subpart B, appendix D2, to clarify that any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position. In addition, DOE amends section 3.3.2 of 10 CFR part 430, subpart B, appendix D2, which will not be required to demonstrate compliance with the 2015 standards, to clarify for automatic termination control dryers that any other optional cycle settings that do not affect the automatic termination cycle program, temperature setting, or dryness setting shall be tested in the as-shipped position.

2. Gas Supply Requirements

Section 2.3.2 in 10 CFR part 430, subpart B, appendix D and appendix D1, specifies that gas supply to the clothes dryer should be maintained at a normal inlet test pressure at 7 to 10 inches of water column, and that the hourly British thermal unit (Btu) rating of the burner shall be maintained within ± 5 percent of the rating specified by the manufacturer. DOE discussed in the January 2013 NOPR that it received an inquiry noting that during testing of a gas clothes dryer, the unit under test did not meet the requirement to maintain the Btu rating within 5 percent of the rating specified by the manufacturer under the allowable range in gas inlet test pressure. DOE proposed in the January 2013 NOPR to add a clarification in both 10 CFR part 430, subpart B, appendix D and appendix D1 that if the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. 78 FR 152, 174–175 (Jan. 2, 2013).

AHAM and ALS opposed the proposal to change the orifice of the gas burner or any other hardware to meet the ± 5 percent requirement. AHAM added that the burner Btu rating is based on a test gas value intended to ensure product safety and that the average heating value and typical heating value during consumer use may be lower than the heating value of the test gas. AHAM commented that because the intent of the test procedure is to be representative of actual consumer use, DOE should not go forward with this proposal because the consumer would never and should never modify the orifice. (AHAM, No. 17 at p. 18; ALS, No. 16 at pp. 4–5)

DOE notes that the proposed requirement to modify the gas burner orifice if the hourly Btu rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet pressure ensures that the burner output is reproducible from lab to lab for testing purposes. DOE notes that removing the gas supply requirements specified in the test procedure and allowing a wider range in the burner output could affect the measured efficiency and reproducibility of results because of the resulting variation in the heat input into the air entering the clothes dryer drum. In addition, DOE notes that the test procedure for gas water heaters similarly specifies that the burner should be adjusted as necessary to achieve the hourly Btu rating specified by the manufacturer. (10 CFR part 430, subpart B, appendix E, section 5.1.3) To ensure that test results are repeatable and reproducible, in today's final rule, DOE amends the clothes dryer test procedure in section 2.3.2 in 10 CFR part 430, subpart B, appendix D and appendix D1 to include this clarification for the gas supply requirements. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also including this clarification for the gas supply requirements in 10 CFR part 430, subpart B, appendix D2, section 2.3.2.

Section 2.3.2 in 10 CFR part 430, subpart B, appendix D and appendix D1 specifies that if a clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. DOE noted in the January 2013 NOPR that the test procedures for similar gas heating products, such as gas water heaters, specify that the regulator outlet pressure must be within ± 10 percent of the value specified by the manufacturer. DOE proposed to clarify the term ''approximately'' by specifying that the regulator outlet pressure shall be within ± 10 percent of the value specified by the manufacturer. 78 FR 152, 175 (Jan. 2, 2013).

ALS supported DOE's proposal to clarify the outlet pressure range for the gas regulator. (ALS, No. 16, at p. 5) AHAM commented that the regulator outlet pressure should be as close as possible to that specified by the manufacturer. AHAM stated that this manufacturer recommendation helps ensure the safety of the product and, thus, the outlet pressure should not be altered. (AHAM, No. 17 at p. 18) Because DOE did not receive any comments objecting to this proposal in response to the January 2013 NOPR and for the reasons discussed above, DOE amends section 2.3.2 in 10 CFR part 430, subpart B, appendix D and appendix D1 in today's final rule to include the clarification that the regulator outlet pressure shall be within ± 10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also including this clarification in 10 CFR part 430, subpart B, appendix D2, section 2.3.2.

3. Console Lights

In the February 2013 SNOPR, DOE noted that it received an inquiry requesting clarification on section 2.1 in 10 CFR part 430, subpart B, appendix D and appendix D1, which specifies for the installation conditions that all console lights or other lighting systems that do not consume more than 10 watts shall be disconnected during the clothes dryer active mode test cycle. 78 FR 8992, 8993 (Feb. 7, 2013). DOE noted that this provision was originally adopted in the September 1977 Final Rule. 42 FR 46145, 46146, 46150. DOE intended this provision to apply to an older generation of clothes dryers existing at the time of the September 1977 Final Rule that used task lights to illuminate the area of the clothes dryer for consumers doing the laundry that did not provide any function related to the drying process during the drying cycle. Newer-generation clothes dryers equipped with electronic controls may have control setting indicators such as indicator lights showing the cycle

progression, temperature or dryness settings, or other cycle functions. In contrast to the task lighting of older-generation clothes dryers, these indicator lights associated with cycle settings or the drying operation are fully integrated into the clothes dryer control printed circuit boards (PCBs). Disconnecting such lights would require extracting the control PCB from the clothes dryer and either physically cutting off the indicator lights or destroying their electrical signal traces etched on the PCB.

As a result of these differences, DOE proposed in the February 2013 SNOPR to clarify in section 2.1 in both appendix D and appendix D1 that ''console lights or other lighting systems'' refers to task lights that do not provide any function during the drying cycle related to the drying process, rather than the control setting indicators in newer-generation clothes dryers with electronic controls. DOE also proposed to clarify that control setting indicators such as indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions should not be disconnected during the active mode test cycle. 78 FR 8992, 8993 (Feb. 7, 2013).

AHAM and ALS commented that they do not oppose the proposed clarification for the installation conditions of console lights. AHAM added that because this is not different than current industry practice, this proposal would not impact measured efficiency. (AHAM, No. 17 at p. 18; ALS, No. 16 at p. 5) Because DOE did not receive any comments objecting to this proposal and for the reasons discussed above, DOE amends the section 2.1 in 10 CFR part 430, subpart B, appendix D and appendix D1 in today's final rule to include this clarification to the installation requirements for console lights or other lighting systems. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also including this clarification in 10 CFR part 430, subpart B, appendix D2, section 2.1.

4. Drum Capacity Measurements

Section 3.1 in 10 CFR part 430, subpart B, appendix D and appendix D1 specifies that when measuring drum capacity, the drum shall be filled with water to a level determined by the intersection of the door plane and the loading port. In addition, section 3.1 specifies that volume should be added or subtracted as appropriate depending on whether the plastic bag used for the measurement protrudes into the drum interior. DOE noted in the February 2013 SNOPR that it received an inquiry requesting clarification of this requirement. DOE proposed to amend section 3.1 to clarify that, for the measurement of the drum capacity, the intersection of the door plane and the loading port refers to the uppermost edge of the drum that is in contact with the door seal and that volume should be added or subtracted from the measured water fill volume to account for any space in the drum interior not measured by water fill (*e.g.,* space occupied by the door protruding into the drum interior). 78 FR 8992, 8993 (Feb. 7, 2013).

ALS supported DOE's proposal to clarify the drum capacity measurement. (ALS, No. 16 at p. 5) AHAM commented that it opposes the change for the drum capacity measurements in appendix D due to a lack of information and data on the impact, if any, on measured energy efficiency. AHAM stated that it does not have such data. AHAM also commented that the proposed amendments could impact manufacturers' reported capacities and that it would be burdensome to require such a change during the transition to the January 1, 2015 standards. AHAM suggested that DOE make this change only to appendix D1, and only if DOE determines that there would be no impact on measured energy efficiency. Otherwise, AHAM requested that any changes DOE made not be mandatory for compliance with the January 1, 2015 standards. According to AHAM, this would allow any impact on measured energy efficiency to be evaluated in the future. AHAM commented that it is possible that manufacturers have information on whether there is an impact on measured energy efficiency, and, thus, AHAM suggested that DOE contact manufacturers to understand the potential impact. (AHAM, No. 17 at pp. 18–19)

DOE notes that the amendment for the drum capacity measurement proposed in the February 2013 SNOPR would clarify the measurement method (*i.e.,* the level to which water is filled in the drum and the amount of volume added or subtracted from the measurement), but not change the measurement results. Therefore, the amendments to clarify the drum capacity measurement would not affect the measured drum volume or energy efficiency. In today's final rule, DOE amends section 3.1 in 10 CFR part 430, subpart B, appendix D and appendix D1 to include this clarification to the drum capacity measurement. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also including this clarification in 10 CFR part 430, subpart B, appendix D2, section 3.1.

The California IOUs commented that the current method for measuring drum capacity requires a technician to line the clothes dryer drum with a plastic bag and then fill the lined drum with water while the clothes dryer rests on its side on a scale. The California IOUs stated that this procedure is burdensome, presents a risk of very large water spills, and can introduce measurement errors because it is often difficult for technicians to ensure that the plastic bag has completely filled every extrusion inside the drum, particularly those just inside the drum opening. The California IOUs stated that DOE should consider the IEC method for drum volume measurement. (California IOUs, No. 22 at p. 24)

DOE notes that the drum volume measurement method in annex E of IEC Standard 61121 requires that the clothes dryer be placed on its side with the door leveled horizontally. The drum is then filled with specifically-sized table tennis balls without preventing the door closing. In addition, the table tennis balls are stirred occasionally to achieve the closest packing of balls possible and to eliminate void spaces. The number of table tennis balls are then counted and used to calculate the drum volume. DOE notes that this method could result in variation due to test technicians stirring the table tennis balls differently, and thus ending up with a different number of total balls in the drum. DOE also notes that counting the table tennis balls may be burdensome depending on the size of the drum. DOE notes that, if conducted properly, the drum capacity measurement using water is not significantly more burdensome that the drum volume measurement method in IEC Standard 61121. As a result, DOE is not considering such amendments to the drum capacity measurement method in today's final rule.

5. Maximum Allowable Scale Range

Section 2.4.1 in appendix D and appendix D1 specifies that the weighing scale for the test cloth shall have a range of 0 to a maximum of 30 lb with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 lb. Similarly, section 2.4.1.2 in appendix D and appendix D1 specifies that the weighing scale for drum capacity measurements should have a range of 0 to a maximum of 500 lb with resolution of 0.50 lb and a maximum error no greater than 0.5 percent of the measured value. DOE noted in the February 2013 SNOPR that it received an inquiry requesting clarification of this requirement. DOE recognizes that scales for weighing the

test cloth may have maximum capacity higher than 30 lb, but still meet the requirements for resolution and maximum error within the range of 3 to 15 lb, as specified in the test procedure. DOE also recognizes that a clothes dryer, when filled with water for the drum capacity measurement, could exceed 500 lb. As a result, DOE proposed in February 2013 SNOPR to allow a higher maximum scale range, 60 lb for weighing the test cloth and 600 lb for drum capacity measurements. DOE also noted that the resolution and maximum error requirements would remain unchanged. 78 FR 8992, 8993–8994 (Feb. 7, 2013).

AHAM stated that it did not oppose the proposal to increase the maximum allowable scale range while retaining the resolution and maximum error requirements. (AHAM, No. 17 at p. 19) ALS opposed DOE's proposal for the weighing scales, especially for the 600 lb maximum range for the weighing scale used for drum capacity measurements. ALS commented that a larger maximum range would be acceptable provided that the scale's accuracy in the range where the measurement is being made is calibrated to ISO 17025. (ALS, No. 16 at pp. 5–6) As discussed above, DOE is maintaining the resolution and accuracy requirements in the range where the measurement is being made that are specified in the current test procedure. DOE does not believe it is necessary to require a calibration to a specific standard as long as the resolution and accuracy requirements have been properly certified. For the reasons discussed above, in today's final rule, DOE adopts the amendments to sections 2.4.1 and 2.4.1.2 in 10 CFR part 430, subpart B, appendix D and appendix D1 to allow a higher maximum scale range, 60 lb for weighing the test cloth and 600 lb for drum capacity measurements, while maintaining the current resolution and maximum error requirements. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also incorporating these provisions for the weighing scale in 10 CFR part 430, subpart B, appendix D2, sections 2.4.1 and 2.4.1.2.

6. Relative Humidity Meter

Section 2.4.4 in appendix D and appendix D1 specifies that the dry and wet bulb psychrometer used for measuring the ambient humidity shall have an error no greater than ±1 degree Fahrenheit (°F). DOE noted in the February 2013 SNOPR that it received an inquiry requesting clarification of this provision. DOE recognizes that relative humidity meters may be an acceptable means to measure the ambient humidity. DOE also recognizes that some humidity meters may express error tolerances in terms of the dry and wet bulb temperatures, while others express error tolerances in terms of percent relative humidity. As a result, DOE evaluated how the ±1 °F tolerance for the dry and wet bulb temperatures translates to relative humidity. DOE determined in the February 2013 SNOPR, based on the allowable range in ambient temperature (72 to 78 °F) and ambient humidity (40 to 60 percent relative humidity) specified in the DOE test procedure, that a ±1 °F tolerance for the dry and wet bulb temperatures would translate to a tolerance between ±2 percent and ±4 percent relative humidity. As a result, DOE proposed that a relative humidity meter with a maximum error tolerance expressed in °F equivalent to the requirements for the dry and wet bulb psychrometer or with a maximum error tolerance of ±2 percent relative humidity would be acceptable for testing. 78 FR 8992, 8993–8994 (Feb. 7, 2013).

ALS supported DOE's proposed requirements for the relative humidity meter. (ALS, No. 16 at p. 6) Because DOE did not receive any comments objecting to this proposal in response to the February 2013 SNOPR and for the reasons discussed above, DOE adopts in today's final rule the amendments to section 2.4.4 in 10 CFR part 430, subpart B, appendix D and appendix D1 specifying that a relative humidity meter with a maximum error tolerance expressed in °F equivalent to the requirements for the dry and wet bulb psychrometer or with a maximum error tolerance of ±2 percent relative humidity would be acceptable for testing. In addition, because DOE is also amending the clothes dryer test procedure to include a new appendix D2, DOE is also including this clarification in 10 CFR part 430, subpart B, appendix D2, section 2.4.4.

G. Additional Test Procedure Issues

DOE received comments in response to the January 2013 NOPR and February 2013 SNOPR regarding a number of additional issues related to the clothes dryer test procedure. These issues are discussed in the following sections.

1. Consumer Usage Patterns and Capabilities

DOE received a number of comments regarding changes to reflect current consumer usage patterns and capabilities. NEEA and the California IOUs commented that based on the NEEA field use data, the drying energy consumption per-cycle in the field is different than what is measured in the DOE test procedure. NEEA stated that real-world drying times are longer and the energy used per load is greater. According to NEEA, their field use data indicates that the average annual energy use is 1134 kWh/year, which is nearly double what the DOE test procedure produces. According to the California IOUs, the typical annual energy use using DOE's proposed amendments to appendix D1 is 30 percent lower than values observed in the NEEA field study, which ranged from approximately 830 to 1,100 kWh/year. The California IOUs stated that the estimated clothes dryer energy use is 967 kWh/year when using the appendix D test procedure, which closely approximates the trends observed in the field data. The California IOUs stated that the proposed number of clothes dryer loads per year reduces the estimated annual energy use to 641 kWh/year, which is too low. (NEEA, Public Meeting Transcript, No. 10 at pp. 15–16, 17, 18; California IOUs, No. 22 at pp. 1–2)

The California IOUs commented that in terms of load size, typical drying times, and the measurement of automatic termination, NEEA's field study and the proposed test procedure in the January 2013 NOPR are in fairly close agreement. However, the California IOUs stated that the initial RMC, number of annual use cycles, field use factor, temperature settings, load composition, and duct restriction are substantively different, and as a result, a number of values derived from these parameters (*i.e.,* the adjusted per-cycle energy use, energy factor, and estimated annual energy use) are significantly different as well. The California IOUs commented that changes to the initial RMC, field use factor, and number of annual use cycles are feasible to include in the current test procedure rulemaking. (California IOUs, No. 22 at p. 6)

NRDC also commented that there are several aspects of the test procedure that remain inconsistent with real-world use, including the number of annual clothes dryer use cycles and the initial RMC, as demonstrated by the recent NEEA field study, testing by Ecos for NRDC, and more recent testing by Ecova. NRDC commented that, while these issues are beyond the scope of the current rulemaking, DOE should conduct a new rulemaking as soon as possible to address these issues to better represent real world energy use. (NRDC, No. 20 at p. 2) NEEA & NPCC similarly commented that if DOE is unable to make appropriate changes to the

proposed test procedures in the current rulemaking that would bring tested energy use in closer agreement with a more representative average use cycle as indicated by the NEEA field data, DOE should initiate another round of test procedure and standards rulemaking as soon as possible. (NEEA & NPCC, No. 21 at p. 4)

The following sections discuss the specific issues related to consumer use.

a. Annual Clothes Dryer Use Cycles

The DOE test procedure in 10 CFR part 430, subpart B, appendix D1, section 4.5, specifies that the representative number of clothes dryer average-use cycles is 283 cycles per year. NEEA presented data at the February 2013 public meeting from a field study that it conducted in the Pacific Northwest for a four- to five-week period during the winter of 2012 indicating that the number of clothes dryer annual use cycles is 428, and that the amendment in the January 2011 Final Rule to change the number of cycles per year to 283 is not representative. (NEEA, Public Meeting Transcript, No. 10 at pp. 17–18, 194–195) The California IOUs also commented that the number of loads being dried per year is greater than specified in appendix D1. The California IOUs commented that, as a result, real-world energy consumption is higher, with a greater potential for absolute energy savings. (California IOUs, Public Meeting Transcript, No. 10 at pp. 196–198) NEEA & NPCC and the California IOUs commented that the clothes dryer annual use cycles should be adjusted upward to 337 based on the NEEA field study data. (NEEA & NPCC, No. 21 at p. 13; California IOUs, No. 22 at pp. 6, 10) NEEA & NPCC and the California IOUs commented that the RECS data alone are not precise enough to use as the basis for the annual use cycles of clothes dryers. NEEA & NPCC and the California IOUs commented that RECS data are based on self-reporting of survey participants, who were asked to recall and report on their typical laundry habits, rather than relying on precisely metered laundry loads. NEEA & NPCC and the California IOUs also stated that the ranges allowed for the responses are too wide to produce accurate data on average use, and that the clothes dryer data are qualitative and categorical in nature, further introducing room for interpretation. NEEA & NPCC and the California IOUs commented that the estimate of the fraction of clothes washer loads that are dried is 124 percent based on NEEA data and not the 84 percent or 91 percent that DOE estimated. NEEA & NPCC stated that the matching process between the monitored clothes dryer cycles and the hand-written log entries for each load can lead to ambiguity in the results of their analysis of the field data, but that the NEEA data also show that people are often splitting loads that come out of the clothes washer into two or more clothes dryer loads. (NEEA & NPCC, No. 21 at p. 13; California IOUs, No. 22 at pp. 6, 7–8)

The California IOUs stated that they conducted a sensitivity analysis on the RECS data to establish high, intermediate, and low estimates of annual clothes dryer usage, using the distribution of responses for each question to establish weighted averages of clothes washer and clothes dryer use. The California IOUs commented that their analysis showed that the RECS data could yield values as high as 363 and as low as 199 clothes dryer loads per year. The California IOUs commented that DOE should consider existing field measurements of residential laundry behavior to determine an appropriate estimate for the number of annual clothes dryer use cycles, noting a number of surveys with estimates for the average annual use cycles ranging from 224 loads per year to 545 loads per year. (California IOUs, No. 22 at p. 9) The California IOUs stated that the NEEA field study, which estimated 338 annual use cycles, is more reflective of the average U.S. homeowner usage than the RECS data are for several reasons: (1) The 50 participants were metered for a longer period than other field studies (including a total of 903 valid clothes dryer runs); (2) the NEEA study was specifically designed to examine the energy use and behaviors associated with laundry care in the Northwest region, including written logs of clothes washer and clothes dryer use to corroborate metered clothes dryer data; (3) NEEA captured a diverse sample of homes in its study, whereas one earlier study was dominated by homes already participating in energy efficiency programs that show a tendency to use equipment less frequently; and (4) the estimates of annual clothes dryer loads per year from the NEEA study fall in the middle of the range of possible clothes dryer use estimates resulting from analysis of RECS data. (California IOUs, No. 22 at p. 10) The California IOUs commented that although a comprehensive study of typical U.S. residential laundry behavior does not yet exist, the existing studies provide a sounder basis for calculating clothes dryer cycles per year than RECS survey data. The California IOUs requested that DOE adjust its current assumption of 283 clothes dryer loads per year up to 336 clothes dryer loads per year, which both reflects findings of the NEEA study and serves as a compromise point between current and pre-2011 DOE duty cycle values. (California IOUs, No. 22 at pp. 10–11)

AHAM opposed a change to the number of clothes dryer annual use cycles. AHAM stated that DOE just completed a rulemaking in which it determined that it was appropriate to decrease the number of annual use cycles. AHAM commented that DOE should not reverse that determination now, at least, not without further study and the opportunity for full notice and comment rulemaking on the issue. In addition, AHAM stated that it is not appropriate to make this change at this time given that it will impact test results, thus necessitating an adjustment to the standard, which should not be done during the 3-year lead time to the January 1, 2015 standards. (AHAM, No. 17 at p. 16)

DOE notes that the 283 clothes dryer annual use cycles specified in appendix D1 was based on data from the 2005 RECS, which is a national sample survey of housing units that collects statistical information on the consumption of, and expenditures for, energy in housing units along with data on energy-related characteristics of the housing units and occupants. In the January 2011 Final Rule, DOE estimated that the fraction of clothes washer loads that go into the clothes dryer is 91 percent (not the 84 percent suggested by NEEA & NPCC). In addition, DOE noted in the January 2011 Final Rule that the 283 annual use cycles is fairly consistent with data provided by AHAM that referenced a study conducted by Procter & Gamble (which estimated 279 annual use cycles), as well as data from Whirlpool (which estimated 288 annual use cycles). 76 FR 972, 1010 (Jan. 6, 2011). DOE also notes that the NEEA field study does not appear to take into account users that may line-dry certain laundry loads, which could potentially be due to the timing (winter) and location (Pacific Northwest) of the survey. DOE recognizes interested parties' concerns regarding the number of annual use cycles based on the available field use data. However, DOE does not have sufficient information at this time to make a definitive conclusion regarding the number of clothes dryer annual use cycles. As a result, DOE is not amending the number of clothes dryer annual use cycles at this time in the limited scope of this test procedure rulemaking. DOE may continue collecting and considering

available data on clothes dryer use and may consider amendments to the number of annual use cycles in a future rulemaking.

b. Initial Remaining Moisture Content and Moisture Removed During Test Cycle

The DOE test procedure in appendix D1 specifies that the initial RMC of the test load shall be 57.5 percent. (10 CFR part 430, subpart B, appendix D1, section 2.7) NEEA presented data at the February 2013 public meeting from a field study that it conducted showing that real-world initial RMC is 80 percent. In addition, NEEA commented that based on its field use data, the drying cycle times in the field are different than what is measured in the DOE test procedure. (NEEA, Public Meeting Transcript, No. 10 at pp. 15, 16, 194–195) The California IOUs also commented that, based on the NEEA field data, clothes are wetter when they come out of the clothes washer than DOE estimates. (California IOUs, Public Meeting Transcript, No. 10 at pp. 196–197)

NEEA & NPCC and the California IOUs commented that, based on the NEEA field study data, initial RMC values below 60 percent are not being realized in the field, and that their average (from a sample of 50 households that comprised 30-percent top-loaders and 70-percent front-loaders) is estimated to be 62 percent. NEEA & NPCC stated that this results in greater energy use and longer cycle times in the field than is produced using the DOE test procedure. NEEA & NPCC added that the initial RMC is largely independent of the dry weight of the test load because: (1) Clothes washer users are not always selecting the cycles that utilize the highest spin speeds available on their equipment; and (2) if consumers do select those cycles, the clothes washers are not always successfully balancing the loads sufficiently to actually spin at the highest speeds. NEEA & NPCC commented that in many cases, the machine is unable to balance the load after a long period and simply spins at the highest speed that the suspension allows, and they believe that this speed may decrease over time as the drum suspension components wear. (NEEA & NPCC, No. 21 at pp. 3–4, 7–8, NPCC, Public Meeting Transcript, No. 10 at p. 114) NEEA & NPCC stated that the RMC values seen in the field result in more time and energy to dry a typical load than DOE's current test procedures would suggest. According to NEEA & NPCC, the estimated average drying cycle time from the field testing was 58 minutes. NEEA & NPCC also stated that there is a positive linear trend between average drying time versus average total moisture removed. Based on field data, NEEA & NPCC and the California IOUs recommended that DOE change the initial RMC value to 62 percent ± 0.33 percent. (NEEA & NPCC, No. 21 at pp. 8–10; California IOUs, No. 22 at pp. 6–7)

AHAM opposed a change to the initial RMC currently specified in the DOE test procedure at appendix D1. AHAM stated that DOE just completed a rulemaking in which it determined that it was appropriate to decrease the initial RMC. AHAM commented that DOE should not now reverse that determination, at least not without further study and the opportunity for full notice and comment rulemaking on the issue. In addition, AHAM stated that it is not appropriate to make this change at this time given that it will impact test results, thus necessitating an adjustment to the standard, which should not be done during the 3-year lead time to the January 1, 2015 standards. (AHAM, No. 17 at pp. 12–13)

DOE noted in the January 2011 Final Rule that the 57.5-percent initial RMC was based on AHAM shipment-weighted clothes washer RMC data, which was representative of all products on the market. In addition, DOE notes that there is uncertainty in the initial RMC estimates from the NEEA field study data because each laundry load was not dried to determine the bone-dry weight, which is then used to calculate the RMC of the test load. Instead, a fixed correction was used to estimate the RMC of laundry loads from the NEEA field study. DOE also notes that NEEA & NPCC's comment that initial RMCs below 60 percent are not being realized in the field appears to be contrary to the data presented in their comments, which show that a large number of laundry loads metered in the NEEA field study had initial RMCs of 60 percent or less (NEEA & NPCC, No. 21 at p. 7). After considering this information, DOE determined it is not sufficient at this time to make a definitive conclusion regarding the value of the initial RMC of the test load. As a result, DOE is not amending the initial RMC in this test procedure rulemaking. DOE may continue collecting and considering available data on clothes dryer use and may consider amendments to the initial RMC in a future rulemaking.

The California IOUs stated that the amount of moisture being removed better describes the work being done by a clothes dryer than the dry weight of clothing in the load, and that the proposed test procedure does not require the clothes dryer under test to remove as much moisture as the field data suggests is typical. The California IOUs stated that, as a result, the DOE test procedure underestimates field clothes dryer energy use by 30 percent. The California IOUs presented data showing that the amount of water removed during the proposed automatic cycle termination test procedure is 4.6 lb, whereas the NEEA field study data show an average of 4.5 lb of water removed during the drying cycle. The California IOUs stated that the test procedure will not be representative of field conditions unless the total moisture being removed per load is greater, as suggested by the field data. (California IOUs, No. 22 at pp. 6, 18–19)

DOE notes that the amount of moisture removed is controlled by the weight, initial RMC, and final RMC of the test load. For the reasons discussed in this section, DOE is not considering changes to the test load weight and initial RMC in today's final rule. In addition, as discussed in section III.B.3, the 2-percent final RMC threshold for the automatic cycle termination test method was based on the data presented in the Joint Petitioners' comment regarding RMC levels acceptable to consumers. DOE also notes that the amount of water removed during the proposed automatic termination test cycle for standard-size clothes dryers must be at a minimum 4.7 lb to dry the load to just 2-percent RMC (not 4.6 lb as suggested by the California IOUs), and thus most clothes dryers will dry more than 4.7 lb of water during the test cycle. DOE also notes that the data from the NEEA field study cited by the California IOUs showing that on average 4.5 lb of water was removed during the drying cycle appears to be contrary to the California IOUs' comment that the total moisture being removed per load should be greater. For these reasons, DOE is not considering changes to these values that would revise the amount of moisture removed during the test cycle.

c. Test Load Weight

The DOE test procedure at appendix D1 specifies test load bone-dry weights of 8.45 lb and 3.00 lb for standard-size and compact-size clothes dryers, respectively. As part of the test procedure amendments in the January 2011 Final Rule, DOE changed the load bone-dry weights for standard-size dryers from 7.00 lb to 8.45 lb based on the historical trends of clothes washer tub volumes and the corresponding percentage increase in clothes washer test load sizes (as specified by the DOE

clothes washer test procedure). 76 FR 972, 977 (Jan. 6, 2011).

NEEA commented that the dry weight of real-world test loads, as determined from its field study, is on average 7.4 lb. (NEEA, Public Meeting Transcript, No. 10 at p. 17) As discussed above, DOE notes that there is uncertainty in the test load bone-dry weight estimates from the NEEA field study data because each laundry load was not dried to determine the bone-dry weight. Instead, a fixed correction was used to estimate the dry weight of laundry loads based on the weight measurements after the drying cycle from the NEEA field study. In addition, it is unclear whether the NEEA field study included both standard-size and compact-size clothes dryers and whether the capacities of the clothes dryer models in the 50 households selected in the survey are representative of all U.S. clothes dryer shipments. DOE recognizes NEEA's concerns regarding the test load bone-dry weight based on the available field use data. However, DOE does not have sufficient information at this time to make a definitive conclusion regarding the test load bone-dry weight. As a result, DOE is not amending the test load bone-dry weight at this time in this test procedure rulemaking. DOE may continue collecting and considering available data on clothes dryer use and may consider amendments to the test load bone-dry weight in a future rulemaking.

d. Exhaust Conditions

The DOE test procedure specifies in 10 CFR part 430, subpart B, appendix D and appendix D1, section 2.1, that the clothes dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in section 3.3.5.1 of AHAM HLD–1–2009.

The California IOUs commented that DOE should update the test procedure in a new rulemaking to modify the exhaust cap diameter to better reflect the duct restriction and airflow from recent NEEA field measurements. According to the California IOUs, typical clothes dryers operate with less-than-ideal venting and have greater duct blockage, lower airflow, and correspondingly longer drying times than those measured under DOE test conditions. The California IOUs stated that this is due to lint accumulation in ducts, failure of users to clean lint filters routinely, unsecured ducting, and long venting distances in older homes. The California IOUs stated that NEEA's field study confirms a wide range of air flow rates from clothes dryers, representing various levels of duct restriction. The California IOUs noted that air flow rates at the output of the vent were found to be as low as 6 cubic feet per minute (CFM) and as high as 146 CFM, with an average of 79 CFM. The California IOUs stated that this is significantly lower than air flow rates of approximately 96 CFM that they measured in the laboratory when a set of clothes dryers similar to those metered in the field were tested under the current DOE test procedure. The California IOUs developed a correlation of air flow rate with the size of hole in an end cap, as allowed by the 2010 AHAM procedure, and found that the NEEA field study average air flow rate was reproduced for the average of four representative clothes dryers in the laboratory with a hole diameter of $2\frac{11}{16}$ inches versus the current DOE value of $2\frac{7}{8}$ inch diameter. The California IOUs stated that DOE should update its airflow restriction in a new rulemaking to better reflect conditions documented in the field. (California IOUs, No. 22 at pp. 17, 19–20, 21)

DOE first notes that the exhaust simulator specified in section 3.3.5.1 of AHAM HLD–1–2009, which is required for use in the DOE test procedure, requires a hole diameter of $2\frac{9}{16}$ inches, not the $2\frac{7}{8}$-inch diameter referenced by the California IOUs. As a result, DOE notes that it is unclear whether the correlation between air flow rates with the size of the hole was developed correctly to take into consideration the $2\frac{9}{16}$-hole diameter required in the DOE test procedure. In addition, drum volume and shipments information were not made available for the four clothes dryers used in the limited testing conducted by the California IOUs, to determine whether airflow rates would be representative of all clothes dryer shipments and household venting configurations. Therefore, DOE does not have sufficient information at this time to make a definitive conclusion regarding the exhaust conditions. As a result, DOE is not amending the exhaust conditions at this time in this test procedure rulemaking. DOE may continue collecting and considering available data on clothes dryer use and may consider amendments to the exhaust conditions in a future rulemaking.

2. Test Load Bone-Dry Weight Measurement

DOE notes that 10 CFR part 430, subpart B, appendix D, section 1.2 and appendix D1, section 1.5 specify that the bone-dry weight means the condition of a load of test clothes which has been dried in a clothes dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less.

The California IOUs commented that DOE should clarify its requirements for bone-dry weight measurements. The California IOUs stated that the process for obtaining bone-dry weight is considerably labor intensive, requiring technicians to iteratively dry test cloths until their run-to-run weight variation is less than a particular percentage. The California IOUs added that for a laboratory conducting large numbers of clothes dryer measurements, the repeated bone drying of test cloths can be burdensome. The California IOUs commented that the current wording of the test procedure appears to require that testers obtain new bone-dry cloth measurements for every clothes dryer test. According to the California IOUs, test cloths shed very little mass through the drying process (about 0.01 lb for every 10 drying cycles) and so they question whether it may be acceptable for bone drying to occur at a less frequent interval as long as the same test cloths are used for every drying cycle. (California IOUs, No. 22 at p. 24)

DOE notes that if a commercial clothes dryer is used, bone-drying test loads should only take two to three 10-minute drying cycles to achieve a bone-dry state. In addition, DOE notes that the current DOE clothes dryer test procedure does not require multiple test runs. As a result, DOE does not consider the bone-drying process to be unduly burdensome to conduct and, therefore, is not amending the bone-drying process in today's final rule.

Ventless Clothes Dryer Preconditioning

DOE notes that the current clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1, section 2.8.2, specifies that for ventless clothes dryers, before any test cycle, the steady-state machine temperature must be equal to the room ambient temperature. Section 2.8.2 also specifies that this may be done by leaving the machine at ambient room conditions for at least 12 hours between tests.

The California IOUs commented that for testing laboratories conducting a high volume of testing with limited test stations, the requirement for ventless clothes dryers to leave the machine at ambient conditions for 12 hours between tests when conducting repeated tests can be burdensome and effectively means that only one test may be performed per day. The California IOUs requested that DOE consider alternate language that might enable shorter turnaround times when testing ventless

clothes dryers. The California IOUs stated that, for example, drum or cabinet air temperature measurements could be conducted after an initial 6-hour period to determine whether a clothes dryer's internal temperature is within ± 5 °F of ambient conditions. If internal temperatures are within the given range of ambient conditions, testing would proceed. Otherwise, test technicians would need to wait the full 12 hours until conducting another test. The California IOUs stated that such provisions would greatly reduce the testing burden for ventless clothes dryers. (California IOUs, No. 22 at p. 24)

As discussed above, the provisions specify that the steady-state temperature may be achieved by leaving the machine at ambient room conditions for at least 12 hours between tests. DOE notes, however, that a 12-hour period is not required and, as discussed in the January 2011 Final Rule, other means used to achieve a steady-state machine temperature would be acceptable under the test procedure provisions. 76 FR 972, 1007 (Jan. 6, 2011). As a result, DOE is not changing the pre-conditioning requirements for ventless clothes dryers in today's final rule.

Room Ambient Humidity Requirements

The DOE test procedures specify in 10 CFR part 430, subpart B, appendix D, section 2.2 and appendix D1, section 2.2.1, that the room relative humidity must be maintained at 50 ± 10 percent relative humidity.

The California IOUs also commented that the lab-to-lab variation from DOE's testing with the DOE and IEC/AHAM test loads may be largely attributed to the variation in ambient humidity. The California IOUs commented that if the DOE were to change the test load composition such that reproducibility and repeatability were lessened, DOE could change other conditions in the test procedure to compensate, such as specifying a tighter tolerance for the allowable humidity. The California IOUs noted that it is relatively harder for the air coming in to the clothes dryer to evaporate the moisture in the load if the air has more water in it. (California IOUs, Public Meeting Transcript, No. 10 at pp. 70–72)

The California IOUs commented that they tested one clothes dryer with moisture sensors near the extremes of environmental conditions for temperature and humidity. The California IOUs stated that the high-temperature, low-relative humidity scenario was only 1-percent more efficient than the low-temperature, high-relative humidity scenario. The California IOUs noted that other studies, such as data provided by Whirlpool in chapter 5 of the 2011 DOE Final Rule Technical Support Document, have shown the measured efficiency has a greater sensitivity to ambient temperature and relative humidity. The California IOUs stated their limited data to date on this topic do not suggest that the range of allowable environmental conditions needs to be narrowed, but they encouraged DOE to investigate this issue more thoroughly in a new rulemaking as it seeks ways of minimizing run-to-run variability while increasing the representativeness of the test procedure. (California IOUs, No. 22 at pp. 22–23)

DOE notes that, in its tests, it did not require the ambient conditions to be controlled any more tightly than required by the current test procedure and that variations in the ambient humidity would also have been present from test to test within a given test lab. As a result, the effects of variations in the ambient humidity would be equally present in both the test-to-test and lab-to-lab variation. As a result, DOE considers the difference in lab-to-lab reproducibility for the DOE test load (3.0 percent) and the IEC/AHAM test load (4.7 percent) to be primarily attributable to the variation in test loads from lot to lot. DOE notes that further tightening the room temperature and humidity conditions may require testing to be conducted in an environmental chamber to maintain the required conditions, which would significantly increase testing burden. Based on the information and test data available regarding the effects of the ambient humidity on the measured efficiency, DOE is not amending the room relative humidity requirements in today's final rule.

Measurement of Drying Cycle Time

The California IOUs commented that DOE should include a measurement of drying time in its test procedure. The California IOUs indicated that test labs can already determine drying time for timed dry and automatic termination cycles from their data logs of power consumption over time, but the DOE test procedure does not require it to be reported. The California IOUs stated that various U.S. clothes dryer manufacturers currently make widely different claims about drying times for various models, each employing different assumptions about the size and composition of the load being dried and the initial RMC. According to the California IOUs, some manufacturers have made claims that particular clothes dryer models can achieve energy savings of 40 percent or more, or can dry laundry in as little as 14 minutes, but these results may not have been achieved under representative conditions. The California IOUs stated that in the absence of standardized guidelines for how to report drying times and energy savings, manufacturers developed their own guidelines for marketing purposes. (California IOUs, No. 22 at pp. 11–12)

The California IOUs further stated that the link between energy efficiency and drying times in clothes dryers has already been established in laboratory testing. The California IOUs stated that, all else being equal, a clothes dryer that reduces the heating element temperature and modestly extends average drying times can save energy, which is the basis for the optional ''eco-modes'' now being offered in many new clothes dryers. The California IOUs stated that this will not affect consumer satisfaction for loads that are not time-critical, but that it may be an unacceptable tradeoff to many consumers. The California IOUs stated that having an accurate measure of drying times will help users purchase those models that can achieve energy savings without sacrificing performance, and will help programs such as ENERGYSTAR establish a reasonable upper bound for allowable drying times for labeled products. (California IOUs, No. 22 at p. 12)

The California IOUs stated that recording and reporting drying time will also encourage manufacturers to automatically terminate the drying cycle promptly and as close as possible to 2-percent RMC, since any additional over-drying would take more time and produce no consumer benefit. (California IOUs, No. 22 at p. 12)

DOE notes that requiring the measurement of the drying time is inconsistent with the EPCA requirement that a test procedure measure the energy efficiency, energy use, or estimated annual operating cost of a covered product. (42 U.S.C. 6293(b)(3)) As a result, DOE is not adopting amendments to require the measurement and reporting of the clothes dryer cycle time in today's final rule.

Effects of Proposed Test Procedure Revisions on Compliance With Standards

In any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the

measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2)) In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency, energy use, or water use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency, energy use, or water use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products. (42 U.S.C. 6293(e)(2)) If DOE were to amend an energy conservation standard under 42 U.S.C. 6293(e)(2), models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency, energy use or water use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard. (42 U.S.C. 6293(e)(3)) DOE's authority to amend energy conservation standards does not affect DOE's obligation to issue any final standards as described in 42 U.S.C. 6295. (42 U.S.C. 6293(e)(4))

Active Mode

As discussed in section III.F, DOE is amending 10 CFR part 430 subpart B, appendix D in today's final only to clarify the cycle settings used for testing, the requirements for the gas supply, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because the amendments to appendix D would not change the actual testing method, DOE determined that these amendments would not affect the measured efficiency according to appendix D and would not affect a manufacturer's ability to demonstrate compliance with the current energy conservation standards at 10 CFR 430.32(h)(2).

As part of the January 2013 NOPR, because the January 1, 2015 energy conservation standards for clothes dryers are based on CEF as measured according to 10 CFR part 430 subpart B, appendix D1, DOE investigated how the proposed amendments for automatic cycle termination would affect the measured CEF. For the January 2013 NOPR, DOE conducted testing on 20 clothes dryers according to the DOE clothes dryer test procedure in existing appendix D1 and then according to the proposed automatic cycle termination test procedure.[13] The results of this testing showed that specific models resulted in either a lower or higher measured CEF as compared to the measured CEF using the existing test procedure, ranging from a 27.4-percent decrease to a 20.4-percent increase in CEF with an average of a 3.8-percent increase. DOE also evaluated the effects of the proposed amendments for the products in DOE's test sample that minimally comply with the existing energy conservation standards (based on rated EF). The results for the 10 minimally compliant units in DOE's test sample showed a 27.4-percent decrease to a 16.9-percent increase in CEF as compared to the CEF using the existing test procedure, with an average of a 4.1-percent increase. 78 FR 152, 175–176 (Jan. 2, 2013).

Based on these results and consistent with 42 U.S.C. 6293(e)(1) and (2), DOE tentatively concluded in the January 2013 NOPR that the proposed amendments to the active mode test procedure will on average not impact the measured efficiency as compared to the current test procedure for models currently available on the market. As a result, DOE did not consider amendments to the energy conservation standards that will be required on January 1, 2015. 78 FR 152, 176 (Jan. 2, 2013).

AHAM disagreed with DOE's determination that the proposed test procedure's impact on measured efficiency is *de minimus* and that an adjustment to the standards is unnecessary. AHAM stated that DOE's data shows that the impact of the proposed test procedure amendments is significant enough that it would be inappropriate for DOE to make the proposed test procedure amendments effective until a future standards change (*i.e.,* subsequent to the January 1, 2015 standards). (AHAM, No. 17 at pp. 2–3, 11; AHAM, Public Meeting Transcript, No. 10 at pp. 172–173)

AHAM commented that DOE's approach does not meet either the test procedure ''crosswalk'' and lead time requirements for amended standards or the procedural and substantive requirements and criteria under 42 U.S.C. 6295. AHAM stated that the provisions in 42 U.S.C. 6293(e) do not contain the same rigorous economic and technical criteria as in the standards provisions because changes in standards stringency are intended to occur in a standards rulemaking only, not in a stand-alone test procedure rulemaking. AHAM stated that in a future joint standards and test procedure rulemaking, the basic criteria of technical feasibility and economic justification, and the many sub-economic and technical considerations, can be reviewed fully. (AHAM, No. 17 at p. 3)

AHAM commented that test procedures should not be used to tighten or loosen standards. AHAM stated that DOE must comply with 42 U.S.C. 6293(e), and if that would result in unlawful attenuating of lead time and lock-in periods, then DOE should wait until a future standards rulemaking is complete and integrate the regulatory processes. AHAM stated that, should DOE proceed as proposed in the January 2013 NOPR despite AHAM's opposition, AHAM would prefer that DOE include the 0.80 field use factor rather than exclude it because it would mitigate the burden to manufacturers. (AHAM, No. 17 at p. 5)

AHAM commented that DOE's evaluation of the impacts of the proposed test procedure revisions on the measured efficiency was not conducted pursuant to any formal policy or guidance on how the evaluation under 42 U.S.C. 6293(e) is to be conducted. AHAM commented that without some establishment of these policies and procedures, it is difficult to evaluate whether the analysis was conducted properly or to determine how to interpret its results. (AHAM, No. 17 at p. 5)

AHAM members conducted testing on vented electric standard, vented electric compact (240V), vented gas, and ventless electric compact (240V) clothes dryers under existing appendix D1 and the proposed appendix D1. AHAM stated that its test data, applying the 0.80 field use factor, showed similar results to DOE's testing. In particular, AHAM's testing under the proposed test procedure showed a 28.1-percent decrease to a 13.1-percent increase in CEF as compared to the CEF using appendix D1, with an average 0.63-percent increase in CEF. However, AHAM stated that without a protocol for choosing which models to test, a focus on individual product classes rather than clothes dryers as a whole, and criteria for what is significant versus *de minimus,* the DOE and the AHAM processes are both arbitrary. (AHAM, No. 17 at pp. 5–6)

AHAM disagreed with DOE's determination that an average 3.8-

[13] As discussed in section III.B.III.B.3, the proposed amendments in the January 2013 NOPR included the 0.80 field use factor for automatic termination control dryers.

percent (based on all tested models) or an average 4.1-percent (based on minimally compliant models only) increase in CEF is *de minimus,* and, thus, does not constitute an ''impact'' on measured efficiency. AHAM stated that 42 U.S.C. 6293(e)(1)–(2) requires DOE to determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency and it does not say ''significantly alter.'' AHAM noted that 42 U.S.C. 6293(e)(2) specifies that if DOE determines that the amended test procedure will alter the measured efficiency, the Secretary shall (not ''may'' or ''shall under certain circumstances'') amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. AHAM noted that the statute provides for an averaging process—which DOE has failed to further define or clarify—that is required to determine the amended standard. AHAM stated that there is no process to determine when not to change the standard and that even if such *de minimus* determinations are statutorily permitted, these data—even if accepted as an appropriate sampling—do not support a *de minimus* determination. (AHAM, No. 17 at p. 7)

AHAM commented that because the January 1, 2015 standards are 5 percent more stringent than the existing standard, it is not reasonable to conclude that a 3.8–4.1 percent change in measured efficiency will on average not impact the measured efficiency. AHAM and ALS commented that the field use factor seems to have been selected to allow DOE to meet what it considers a *de minimus* threshold. (AHAM, No. 17 at p. 7; ALS, No. 16 at p. 3)

AHAM stated that it is improper to consider just an average impact on measured efficiency, across all product classes combined, and that DOE should instead assess the range of impacts. AHAM commented that every clothes dryer, not just the average clothes dryer, must comply with the standards and, thus, ranges of impact must not be ignored as DOE assesses whether there is an impact on measured efficiency under 42 U.S.C. 6293(e)(1). AHAM commented that DOE and AHAM data under the proposed test procedure show a wide range of effects on the measured CEF as compared to the appendix D1 test results. AHAM commented that even if DOE determined that the proposed test procedure changes impact measured efficiency, it is unclear whether DOE should adopt test procedure changes that would have this range of impacts during a 3-year lead time or any time other than coincident with a standards rulemaking. In this particular case, AHAM stated that it does not believe it is appropriate to make such a standards change. (AHAM, No. 17 at pp. 7–8) According to ALS, it is unacceptable to have certain models that cannot be certified or sold after January 1, 2015 because Congress intended under 42 U.S.C. 6293(e)(3) that every model that is compliant before a test procedure change would be compliant after the test procedure change. (ALS, No. 16 at p. 3) The California IOUs also commented that there is a wide range in measured efficiency under the proposed test procedure, and that although the effects on the measured efficiency on average may be small, clothes dryers must qualify individually. (California IOUs, Public Meeting Transcript, No. 10 at pp. 169–171)

AHAM commented that DOE should assess the impact on measured efficiency by product class. AHAM stated that product classes exist for energy conservation standards because of important design, use, and utility differences between products that impact energy use, and those differences should not be ignored when assessing the impact a test procedure change will have on measured energy efficiency. AHAM commented that based on DOE's data, there are certain product classes for which the *de minimus* argument does not hold, even if such determinations are permitted and even if the field use factor is applied (*e.g.,* vented electric compact (120V) clothes dryers). Furthermore, comparing the DOE and AHAM data by product class, AHAM noted that the product class average impacts differ. For example, DOE's test data show a 7.4-percent change for vented gas clothes dryers, whereas AHAM's data show a 2.5-percent change in average CEF under the proposed test procedure as compared to appendix D1 results. Thus, AHAM stated that the overall averages are not comparable. (AHAM, No. 17 at p. 8)

AHAM and ALS opposed the 0.80 field use factor for automatic termination control dryers and noted that without that field use factor applied, the data show that an adjustment under 42 U.S.C. 6293(e) is necessary. AHAM noted that DOE and AHAM's data, when the field use factor is removed, show an average impact on measured energy efficiency of −16.9 percent and −19.5 percent, respectively, for the proposed test procedure as compared to the appendix D1 test results. In addition, AHAM again noted that for certain product classes, the average impact is even more significant. AHAM noted that, for example, the impact on measured efficiency for vented electric compact (120V) clothes dryers in DOE's sample (of which there is only one) without the field use factor applied is −42.0 percent as compared to the appendix D1 test results. In addition, according to AHAM's data, without the field use factor applied, the average impact on measured efficiency for vented electric standard clothes dryers is −20.0 percent and the average impact on measured efficiency for vented gas clothes dryers is −18.0 percent as compared to the appendix D1 test results. Furthermore, AHAM stated that though the overall average impact on measured efficiency is similar between the DOE data (−16.9 percent) and AHAM data (−19.5 percent), AHAM believes this is coincidental because the individual product class averages which factor in to the overall average are quite different. AHAM noted, for example, that the percent change for vented gas clothes dryers is −14.0 percent based on DOE's data, whereas AHAM's data show a −18.0-percent change as compared to appendix D1. (AHAM, No. 17 at pp. 8–10; ALS, No. 16 at p. 3)

Samsung stated that it conducted testing on units to evaluate the effects of the proposed test procedure change on the measured efficiency. Samsung stated that, in general, its test results are within the data range of the DOE tests. (Samsung, No. 13 at p. 4)

AHAM commented that DOE does not have sufficient data or a transparent model selection process upon which to base either: 1) A determination as to whether the proposed test procedure amendments impact measured efficiency, or 2) a standards adjustment under 42 U.S.C. 6293(e)(2). AHAM stated that the basic models on the market today are not necessarily the basic models that will be on the market when compliance with the January 1, 2015 standards is required. According to AHAM, many of those models are still in the design phase and may have different platforms than those in current production. AHAM stated, however, that its own data are similarly limited and did not suggest how DOE could adjust the standard. As a result, AHAM recommended that DOE work together with stakeholders to develop a process for that adjustment. (AHAM, No. 17 at p. 11)

AHAM and NEEA & NPCC commented that the anti-backsliding provision in EPCA (42 U.S.C. 6295(o)(1)) is not intended to apply to standards adjustments done per 42 U.S.C. 6293(e). AHAM stated that, otherwise, DOE could never address the

consequences of test procedure changes between standards changes. AHAM also stated that if DOE does not apply these test procedure amendments until the underlying standards changes in the future, this would no longer be an issue. (AHAM, No. 17 at p. 11; NEEA & NPCC, No. 21 at p. 15) NEEA & NPCC and Earthjustice added that if DOE chooses not to adjust the January 1, 2015 standards based on the proposed changes to the test procedure, not only will it violate the provisions in section 42 U.S.C. 6293(e)(1), but also the 5-percent energy savings estimated for the January 1, 2015 standards could largely be lost. NEEA & NPCC and Earthjustice stated that the 4-percent difference in energy use when applying the proposed test procedure might be enough to allow most of the models now in production to meet the standards and would be a *de facto* weakening of the January 1, 2015 standards. (NEEA & NPCC, No. 21 at p. 15; Earthjustice, No. 15 at p. 3) ASAP also commented that a 4-percent increase in CEF is not insignificant considering that the January 1, 2015 standards will reduce energy use by about 5 percent compared to the current standards. (ASAP, Public Meeting Transcript, No. 10 at p. 169) NEEA & NPCC commented that it is not clear whether or not the testing conducted by DOE required under 42 U.S.C. 6293(e) is sufficient to properly calculate an appropriate adjustment to the standard. NEEA & NPCC disagreed with DOE's determination that no adjustment is needed. (NEEA & NPCC, No. 21 at p. 15)

Earthjustice commented that the January 2013 NOPR asserts that the proposed test procedure amendments will not alter the measured energy efficiency of clothes dryers, but this conclusion is contrary to DOE's own findings that the proposed amended test procedure resulted in an average increase in CEF of 3.8 percent and a 4.1-percent increase when only considering the minimally compliant clothes dryers in DOE's sample. Earthjustice stated that because DOE's testing confirms that the amendments to the test procedures will alter the measured energy efficiency of clothes dryers, EPCA requires that DOE adjust the standards for these products. Earthjustice stated that nothing in 42 U.S.C. 6293(e)(1) suggests that DOE is authorized to determine that the extent of any such alteration is insufficient to trigger the obligation to adjust the standards and that the ''extent'' of any such alteration determines the amount of adjustment required under 42 U.S.C. 6293(e)(2). Earthjustice noted that a final rule published on October 17, 1990 (55 FR 42162) reduced the required energy factor levels for electric storage water heaters by 0.02 to account for the impact of revisions to the water heater test procedure. (Earthjustice, No. 15 at pp. 3–4)

Earthjustice commented that the need to adjust the standards might be different if adjusting the standards under 42 U.S.C. 6293(e) would have no impact on covered products. Earthjustice noted examples of the dishwasher, boiler, and refrigerator test procedure amendments where the change in the measured energy efficiency is so small that any adjustment to the standard would not impact the compliance of any covered products. Earthjustice commented that DOE has not suggested that a 4-percent change in the level of the clothes dryer standards would have no impact on the compliance status of covered models. Earthjustice stated that DOE cannot conclude that a 4-percent reduction in the stringency of the clothes dryer standards would have a *de minimus* impact, given that DOE determined in the final rule adopting the January 1, 2015 standards that a significant share of the clothes dryers currently on the market perform just below the adopted standards. Earthjustice stated that adding 4-percent to the January 1, 2015 standard for electric standard-size clothes dryers would enable many of the clothes dryers meeting the efficiency level below the standards to then comply with the standards, reducing the energy savings that the January 1, 2015 standards would otherwise have delivered. To avoid this weakening of the standards, Earthjustice stated that DOE must adjust them as 42 U.S.C. 6293(e) requires. (Earthjustice, No. 15 at pp. 4–5)

NEEA & NPCC and Earthjustice commented that anti-backsliding provisions would not preclude amending the energy conservation standards based on the proposed test procedure amendments for automatic cycle termination. Earthjustice added that such an adjustment is required to avoid backsliding. Earthjustice also noted that 42 U.S.C. 6293(e)(4) provides that DOE's authority to adjust energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in 42 U.S.C. 6295. According to Earthjustice, this provision means that any adjustments to standards that DOE makes under 42 U.S.C. 6293(e) do not count as amendments to the standards that satisfy DOE's rulemaking obligations under 42 U.S.C. 6295. Earthjustice stated that the adjustment process established under 42 U.S.C. 6293(e) is designed to avoid *de facto* reductions (or increases) in the stringency of standards by ensuring that the impacts of test procedure amendments on measured energy efficiency are reflected in the level of the standard and that application of section 42 U.S.C. 6293(e) preserves the integrity of the standards, consistent with 42 U.S.C. 6295(o)(1). (NEEA & NPCC, No. 21 at pp. 14–15; Earthjustice, No. 15 at pp. 2–3)

NPCC commented that if the automatic termination field use factor is not applied, more units in DOE's test sample would fail to meet the January 1, 2015 standard than would pass. (NPCC, Public Meeting Transcript, No. 10 at pp. 166–167) ASAP questioned whether, if DOE did not adopt the field use factor, the standards would be adjusted so that, on average, a clothes dryer that just complies with the January 1, 2015 standards under the current test procedure would still comply with those standards under the new test procedure. (ASAP, Public Meeting Transcript, No. 10 at p. 168)

As discussed in section III.B.3 and section III.I.3, DOE is amending the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes the testing methods for more accurately measuring the effects of automatic cycle termination. As discussed in section III.I.3, the newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. DOE is not amending appendix D1 in today's final rule to include these amendments for automatic cycle termination. As a result, DOE determined that the amendments for automatic cycle termination adopted in today's final rule would not affect a manufacturer's ability to comply with the January 1, 2015 energy conservation standards for clothes dryers in 10 CFR 430.32(h)(3).

DOE is only amending the active mode test procedures in 10 CFR part 430 subpart B, appendix D1 in today's final to correct the calculation of the per-cycle combined total energy consumption and to clarify the cycle settings used for testing, the requirements for the gas supply, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because these amendments to appendix D1 do not change the actual testing method, DOE has determined that these amendments will not affect the measured efficiency according to appendix D1 and will not affect a manufacturer's ability to

demonstrate compliance with the January 1, 2015 energy conservation standards at 10 CFR 430.32(h)(3).

2. Standby Mode and Off Mode

In the January 2013 NOPR, DOE also investigated how the proposed amendments for standby mode and off mode would affect the measured efficiency. DOE stated that because the proposed amendments to the DOE clothes dryer test procedure in 10 CFR part 430 subpart B, appendix D1 for measuring standby mode and off mode energy consumption would not alter the existing measure of energy consumption for clothes dryers (EF), the proposed amendments would not affect a manufacturer's ability to comply with the current energy conservation standards. 78 FR 152, 176 (Jan. 2, 2013).

DOE's amendments in the January 2011 Final Rule specified that manufacturers will not be required to use the test procedure provisions for standby mode and off mode until the mandatory January 1, 2015 compliance date of the amended clothes dryer energy conservation standards. (10 CFR 430.32(h)(3)) The January 1, 2015 amended energy conservation standards are based on CEF, which accounts for standby mode and off mode energy consumption. In the January 2013 NOPR, DOE investigated how the proposed test procedure amendments for standby mode and off mode would affect the amended energy conservation standards at 10 CFR 430.32(h)(3). DOE stated that the proposed changes to the testing methods for measuring standby mode and off mode energy consumption do not vary significantly from the methods in the amended DOE clothes dryer test procedure in appendix D1 for measuring standby power and would not alter the measured efficiency. To confirm this assertion, DOE conducted testing on four clothes dryers (three of which minimally comply with the existing energy conservation standards) according to both the existing appendix D1 and the proposed amendments to appendix D1 for standby mode and off mode that are based IEC Standard 62301 (Second Edition). The results showed that the measured standby power was the same using both methods. Based on these test results, DOE stated that the proposed amendments to the clothes dryer test procedure for standby mode and off mode would not alter the measured CEF. DOE, therefore, did not consider amendments to the energy conservation standards at 10 CFR 430.32(h)(3) that must be met on January 1, 2015. 78 FR 152, 176–177 (Jan. 2, 2013). DOE did not receive any comments on this issue. In the absence of comments, and for the reasons discussed above, DOE concludes that the amendments to the clothes dryer test procedure for standby mode and off mode adopted in today's final rule will not alter the measured CEF.

DOE's amendments continue to clarify that manufacturers are not required to use the provisions relating to standby mode and off mode energy use in appendix D1 to determine compliance with the energy conservation standard until the compliance date of the amended energy conservation standards for clothes dryers addressing standby mode and off mode energy use on January 1, 2015. As a result, the test procedure amendments for standby mode and off mode will not affect a manufacturer's ability to demonstrate compliance with the current energy conservation standards.

In addition, as discussed in section III.D and section III.I.3, DOE is amending the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes the amendments for standby mode and off mode. For the reasons discussed in section III.I.3, the newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. As a result, DOE determined that the amendments to appendix D2 for standby mode and off mode adopted in today's final rule will not affect a manufacturer's ability to comply with the current energy conservation standards for clothes dryers.

I. Compliance With Other EPCA Requirements

1. Test Burden

EPCA requires that test procedures shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. Test procedures must also not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

DOE noted in the January 2013 NOPR that the proposed amendments for automatic cycle termination would change the test cycle for automatic termination control dryers to require that a programmed automatic termination cycle be used for the test instead of using the maximum timed dry setting. DOE stated that the proposed provision to include the cool-down period and to allow the clothes dryer to run until the completion of the programmed dry cycle would likely be less burdensome than the existing test procedure in which the tester is required to monitor or make estimates about the RMC of the test load and potentially run multiple test cycles to determine when to stop the test to achieve the desired final RMC. For timer dryers, DOE stated that the proposed amendments would use the same basic test method that is currently specified in the DOE test procedure in 10 CFR part 430, subpart B, appendix D1, except that the test cycle would be stopped when the final RMC is between 1.0 percent and 2.5 percent instead of between 2.5 percent and 5.0 percent. DOE noted that this would result in a slightly longer cycle time, but the additional time would be minimal compared to the overall time to set up and conduct the test. For these reasons, DOE stated in the January 2013 NOPR that the proposed amendments to more accurately account for automatic cycle termination would not be unduly burdensome to conduct. DOE also noted that the revised test cycle for automatic termination control dryers would produce a measured energy use that is more representative of consumer use because it directly measures the energy consumption of the programmed automatic termination cycle. 78 FR 152, 177 (Jan. 2, 2013).

AHAM commented that the proposed changes to the test procedure regarding automatic cycle termination controls would add significant burden to manufacturers if implemented prior to the January 1, 2015 standards. AHAM indicated that manufacturers have already begun designing products to comply with the January 1, 2015 standards using the existing appendix D1 and that many manufacturers would have to redesign their models in order to meet the standards using the proposed test procedure, which would add an unreasonable burden on manufacturers during the 3-year lead time. Thus, AHAM urged DOE not to make the test procedure changes associated with automatic cycle termination controls effective until compliance with future standards (beyond 2015) is required so that the impacts on measured energy efficiency can be fully considered. (AHAM, No. 17 at p. 16)

The California IOUs commented that the burden for clothes washers is greater than for clothes dryers. The California IOUs stated that, in the past, clothes washers used significantly more energy than clothes dryers and, thus, more testing to determine the energy use was justified. The California IOUs commented that clothes washers have

improved significantly and that clothes dryers now use roughly three times as much energy as clothes washers use on average, based on the total average annual energy consumption in the field. The California IOUs commented that greater test burden would be justified to determine clothes dryer energy use because the clothes washer test burden has been justified in the past and accepted by industry for what is now a much smaller potential energy savings. (California IOUs, Public Meeting Transcript, No. 10 at pp. 176–179) In response, AHAM commented that the test burden of two completely different products (clothes washers and clothes dryers) cannot be compared. AHAM stated that although clothes washers and clothes dryers are linked products from a consumer and product planning perspective, they are not similar products. Thus, AHAM did not agree that because the clothes washer test procedure takes longer to conduct, it would be acceptable for the clothes dryer test procedure to take just as long. AHAM stated that increasing the testing time for clothes dryers would increase testing burden on manufacturers, irrespective of what the burden is for testing a different product. (AHAM, No. 17 at pp. 16–17)

As discussed in section III.I.3, DOE is amending the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes the testing methods for more accurately measuring the effects of automatic cycle termination. The newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. DOE is not amending appendix D1 in today's final rule to include these amendments for automatic cycle termination. As a result, DOE concludes that the test procedure amendments and the compliance date for the January 1, 2015 energy conservation standards and corresponding use of the appendix D1 test procedure will not be unduly burdensome. DOE is not considering additional test procedure amendments that would increase testing burden for the reasons discussed in sections III.B and III.G.

As discussed in section III.F, DOE is amending 10 CFR part 430 subpart B, appendix D and appendix D1 in today's final rule to clarify the cycle settings used for testing, the requirements for the gas supply, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because the amendments to clarify the test procedures would not change the actual testing method and provide additional options for instrumentations while requiring the same resolution and accuracy, DOE has determined that these amendments will not result in any added test burden on manufacturers as compared to the existing DOE clothes dryer test procedures in 10 CFR part 430, subpart B, appendix D and appendix D1. In addition, DOE is adopting these same provisions in newly created appendix D2. As discussed above, the newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. For the same reasons discussed above, DOE has determined that amendments to clarify the cycle settings used for testing, the requirements for the gas supply, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter, will not result in any added test burden on manufacturers.

With regards to the amendments for standby and off mode power consumption, DOE concluded in the January 2011 Final Rule that the amended test procedure would produce test results that measure the standby mode and off mode power consumption of covered products during a representative average use cycle as well as annual energy consumption, and that the test procedure would not be unduly burdensome to conduct.76 FR 972, 1020 (Jan. 6, 2011). The amendments to the DOE clothes dryer test procedure for standby mode and off mode are based on an updated version of IEC Standard 62301, IEC Standard 62301 (Second Edition), which has been the subject of significant review and input from interested parties and, thus, continues to be an internationally accepted test standard for measuring standby mode and off mode power consumption. In the January 2013 NOPR, DOE stated that the provisions of IEC Standard 62301 (Second Edition) that it proposed to incorporate by reference provide a means to measure power consumption with greater accuracy and repeatability than the provisions from IEC Standard 62301 (First Edition) that were adopted in the January 2011 Final Rule. DOE tentatively concluded in the January 2013 NOPR that the proposed amendments would also provide measurements representative of average consumer use of the product under test. 78 FR 152, 177 (Jan. 2, 2013). DOE also noted that interested parties have commented that the testing methods in IEC Standard 62301 (Second Edition) would not be unduly burdensome to conduct. 77 FR 28805, 28812 (May 16, 2012); 76 FR 58346, 58350 (Sept. 20, 2011); 77 FR 13888, 13893 (March 7, 2012). The potential for increased test burden for certain power consumption measurements is also offset by more reasonable requirements for testing equipment, while maintaining measurement accuracy deemed acceptable and practical by voting members for IEC Standard 62301 (Second Edition). For these reasons, DOE tentatively concluded in the January 2013 NOPR that the proposed amendments would produce test results that measure the standby mode and off mode power consumption during representative use, and that the test procedures would not be unduly burdensome to conduct. 78 FR 152, 177 (Jan. 2, 2013).

AHAM commented that incorporating by reference IEC Standard 62301 (Second Edition) will allow for optimal international harmonization and will reduce testing burden. (AHAM, No. 17 at p. 14) DOE concludes, based on this comment and the discussion above, that the amendments for standby mode and off mode adopted in today's final rule produce test results that measure the standby mode and off mode power consumption during representative use, and that the test procedures will not be unduly burdensome to conduct.

Certification Requirements

DOE is authorized under 42 U.S.C. 6299 *et seq.* to enforce compliance with the energy and water conservation standards established for certain consumer products. On March 7, 2011, the Department revised, consolidated, and streamlined its existing certification, compliance, and enforcement regulations for certain consumer products and commercial and industrial equipment covered under EPCA, including clothes dryers. 76 FR 12422. The certification regulations are codified in 10 CFR 429.12 and 429.21 (residential clothes dryers).

The certification and compliance requirements for residential clothes dryers consist of a sampling plan for the selection of units for testing, calculation procedures for determining a basic model's certified rating, and requirements for the submittal of certification reports. Because DOE introduced a new metric (CEF) in the January 2011 Final Rule, DOE proposed in the January 2013 NOPR to amend the sampling provisions in 10 CFR

429.21(a)(2) to include CEF, along with the existing measure of EF, in the list of metrics for which consumers would favor higher values. DOE also proposed to amend the dryer-specific certification requirements in 10 CFR 429.21(b)(2) to require manufacturers, when using either appendix D or appendix D1, to provide an indication if the clothes dryer has automatic termination controls and also to report the hourly Btu rating of the burner for gas clothes dryers. DOE also proposed to amend 10 CFR 429.21(b)(2) to require manufacturers, when using appendix D1, to include the CEF and to list the cycle setting selections for the energy test cycle as recorded in the proposed section 3.4.7 of appendix D1 for each basic model.

ALS supported DOE's proposal to update 10 CFR part 429 to include CEF. In addition ALS stated that it did not oppose reporting: (1) Whether the clothes dryer has automatic termination controls, (2) the hourly Btu rating of the burner, and (3) the cycle setting selections for the energy test cycle. (ALS, No. 16 at p. 5) For the reasons discussed above, and because DOE did not receive any comments objecting to this proposal, DOE is adopting in today's final rule the amendments to 10 CFR 429.21 for the additional certification and reporting requirements presented above. Even though appendix D2 is not required for compliance and representation purposes for the 2015 energy conservation standards, DOE is adopting the methodology and allowing for its voluntary use early at the discretion of the manufacturer. Consequently, DOE is also adopting amendments to 10 CFR 429.21(b)(2) to require manufacturers, when using appendix D2, to list the cycle setting selections for the energy test cycle.

In addition, DOE is clarifying in 10 CFR 429.21(a)(3) that the certified capacity of any clothes dryer basic model should be the mean of the capacities of the units in the sample for the basic model. While DOE believes this is current practice since the existing test procedure and sampling plan require testing at least two units and measuring the drum capacity individually for each, DOE is adopting this provision in the final rule for clarity.

Compliance date of final amended test procedures

DOE noted in the January 2013 NOPR that it proposed amendments to the test procedures for clothes dryers in appendix D and appendix D1 in 10 CFR part 430 subpart B. Pursuant to 42 U.S.C. 6293(c)(2), effective 180 days after DOE prescribes or establishes a new or amended test procedure, manufacturers must make representations of energy efficiency using that new or amended test procedure. DOE stated in the January 2013 NOPR that, therefore, effective 180 days after the promulgation of any final amendments to the test procedure based on the proposal, manufacturers must make representations of energy efficiency, including certifications of compliance, using either appendix D or appendix D1. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D for certain representations and appendix D1 for other representations. 78 FR 152, 177–178 (Jan. 2, 2013). See DOE's existing guidance on this topic for additional information, available at: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/tp_faq_2012–06–29.pdf.*

DOE stated that compliance with DOE's amended standards for clothes dryers, and the corresponding use of the test procedures at appendix D1 for all representations, including certifications of compliance, is required as of January 1, 2015. (76 FR 52852 (Aug. 24, 2011), 76 FR 52854 (Aug. 24, 2011))

AHAM, Whirlpool, and ALS opposed the January 1, 2015 compliance date based on the proposed test procedure amendments for automatic cycle termination. AHAM, Whirlpool, and ALS stated that a January 1, 2015 compliance date significantly undercuts the statutory 3-year lead time provided to manufacturers for compliance with a revised standards (42 U.S.C. 6295(m)(4)(A)(i)). AHAM, Whirlpool, and ALS commented that manufacturers would not have enough time to prepare for the upcoming January 1, 2015 standards compliance date using a proposed revised appendix D1 (except for the minor technical corrections), especially because the proposed test procedure amendments for automatic cycle termination effectively constitutes a new, revised standard due to its significant impact on measured efficiency. (AHAM, No. 17 at p. 3; Whirlpool, No. 18 at pp. 1–2; ALS, No. 16 at p. 2; AHAM, Public Meeting Transcript, No. 10 at pp. 172–173)

AHAM commented that requiring the test procedure amendments for automatic cycle termination for the January 1, 2015 compliance date is problematic because EPCA ensures that compliant models in use prior to the test procedure change and accompanying standards adjustment remain in compliance after the change. (42 U.S.C. 6293(e)(3)) AHAM stated that during the 3-year lead time to an amended standard, manufacturers may have many basic models in the design phase that are not yet ''in use,'' and thus, may not be afforded the protections the statute was designed to provide. According to AHAM, this will result in stranded investments for manufacturers and could require manufacturers to redesign some, many, or even all of the basic models that were already being redesigned to comply with the January 1, 2015 standards using the existing appendix D1. AHAM stated that the design process takes time, and DOE cannot truncate that lead time provided by EPCA by effectively engaging in a standards revision through the test procedure rulemaking process. AHAM stated that DOE should not make standards changes that impact measured energy as significantly as the proposed automatic termination control amendments would during a lead time to amended or new standards. (AHAM, No. 17 at pp. 3–4)

ALS commented that it has implemented significant design construction changes to its products towards compliance with the January 1, 2015 standards based on the current test procedure in appendix D1. ALS stated that the proposed test procedure for automatic cycle termination will require it to make significant new design changes to its clothes dryers, which cannot be completed in the remaining time before the January 1, 2015 compliance date. ALS identified numerous preparatory steps that it must take to meet the January 1, 2015 standards under the proposed test procedure.[14] ALS further stated that the investment it has already made may become stranded because its designs

[14] These preparatory steps include, but are not limited to: (1) Generate ideas and concepts to meet the minimum standard with the new measurement method; (2) create prototypes for feasibility testing; (3) conduct an initial design review to select the best design path to pursue; (4) secure input from all cross-functional areas (*e.g.,* consumer marketing, sales, manufacturing, etc.); (5) create the planned timeline with critical paths identified; (6) create the output specifications (*e.g.,* drawings, bill of material, quality and manufacturing plan documents, etc.); (7) identify and qualify suppliers for new parts; (8) procure prototype parts for a assembling multiple prototypes of the full dryer for in-house lab tests to confirm performance and reliability requirements can be met; (9) conduct full reliability and performance tests in-house (9 months); (10) conduct field tests with consumers, to learn of any unknown deficiencies; (11) conduct a validation and verification design review for commitment to procure production tooling & equipment; (12) procure production tooling and equipment (usually takes 1 year); (13) react to any unanticipated issues learned from continued testing; (14) secure all agency approvals; (15) qualify production tooling and equipment; (16) conduct factory pilot runs using new tooling and equipment; (17) conduct final design and safety review; and (18) commit to starting production. (ALS, No. 16 at pp. 1–2)

will not allow compliance under DOE's new proposed test procedure. ALS commented that it is the low-volume manufacturer of residential clothes dryers, and as such, any investment for DOE minimum standard compliance normally impacts ALS disproportionally compared to the larger market share manufacturers. (ALS, No. 16 at pp. 1–2)

Whirlpool commented that, based on the data presented in the January 2013 NOPR, the proposed test procedure amendments for automatic cycle termination will likely require a major switch from electromechanical to electronic controls for some basic models. Whirlpool indicated that this is not a simple or low-cost change, and that even with this significant change in technology, it would not necessarily ensure that a product would be compliant. Whirlpool stated that such an upgrade is a complete redesign, in many cases requiring manufacturers to engage in every phase of the design process. (Whirlpool, No. 18 at pp. 1–2)

AHAM commented that DOE should not proceed with the proposed test procedure amendments on the proposed timeline. AHAM commented that if DOE moves forward with the proposed automatic termination control amendments, the changes to appendix D1 must not be required for compliance with the January 1, 2015 standards. Instead, AHAM urged that the proposed amendments not be required until a future standards revision, during which the impact on measured efficiency can be more fully analyzed in an integrated analysis of the effects of both standards and test procedure changes under 42 U.S.C. 6295(m)(4)(B). AHAM commented that, given the significant impact on measured efficiency, compounded by the disparate impact on individual basic models and product classes as demonstrated by the range of impacts on measured efficiency, DOE should not require the use of the automatic termination control test procedure for compliance with the January 1, 2015 standards. Even if DOE were to adjust the standards pursuant to EPCA (42 U.S.C. 6293(e)), AHAM stated that the statutory 3-year lead-time would be undercut. (AHAM, No. 17 at pp. 4, 10–11)

Samsung suggested that if DOE determines that manufacturers of units that tested with a lower final RMC and consumed more energy would require more time to make the required refinements to the drying algorithm, such units should be covered under the EPCA grandfathering provision (42 U.S.C. 6293(e)(3)). Samsung stated that DOE should not delay the proposed automatic cycle termination test procedure until the next standard change, which could be 2020, thereby potentially delaying the possible energy savings by 5 years or more. Samsung supported the compliance date of January 1, 2015, noting that the proposed test procedure would reflect the real-world energy use of clothes dryers having automatic cycle termination. (Samsung, No. 13 at p. 3)

The Joint Efficiency Advocates, NRDC, and SEDI urged DOE to publish a final rule for this rulemaking as soon as possible so that manufacturers have adequate lead time before the January 1, 2015 standards. (Joint Efficiency Advocates, No. 19 at p. 3; NRDC, No. 20 at p. 2; SEDI, No. 14 at p. 3) The Joint Efficiency Advocates added that the consensus standards for clothes dryers were based on the assumption that significant additional energy savings would be achieved through a change to the test procedure to capture the effectiveness of automatic termination controls. The Joint Efficiency Advocates stated that it is important that the proposed test procedure amendments take effect with the January 1, 2015 standards to realize these additional energy savings. (Joint Efficiency Advocates, No. 19 at p. 3)

DOE is not amending appendix D1 in today's final rule to include the amendments for measuring the effects of automatic cycle termination. DOE is amending the clothes dryer test procedure in appendix D1 to include the amendments for standby mode and off mode, the technical correction to the per-cycle combined total energy consumption, the clarifications to the test conditions, and the amendments to address the additional test procedure issues, as discussed in section III.D through section III.G. As discussed in section III.H, these amendments to appendix D1 will not affect a manufacturer's ability to comply with the January 1, 2015 standards. As discussed above, compliance with DOE's amended standards for clothes dryers, and corresponding use of the test procedures at appendix D1 for all representations, including certifications of compliance, is required as of January 1, 2015.

However, DOE is amending the clothes dryer test procedure in 10 CFR part 430, subpart B to create a new appendix D2 that includes the testing methods for more accurately measuring the effects of automatic cycle termination. The newly created appendix D2 will not be required for use to determine compliance with the January 1, 2015 energy conservation standards for clothes dryers. DOE will continue to evaluate products on the market and collect data on clothes dryer automatic cycle termination. However, manufacturers may elect to use appendix D2 early to show compliance with the January 1, 2015 energy conservation standards.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel*.

In conducting this review, DOE first determined the potential number of affected small entities. The Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs fewer than the threshold number of workers specified in 13 CFR part 121 according to the North American Industry Classification System (NAICS) codes. The SBA's Table of Size Standards is available at: *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*. The threshold number for NAICS classification 335224, *Household Laundry Equipment Manufacturing,* which includes clothes dryer manufacturers, is 1,000 employees.

DOE determined that most of the manufacturers supplying clothes dryers

are large multinational corporations. As part of the most recent energy conservation standards rulemaking for residential clothes dryers, DOE requested comment on whether there are any manufacturer subgroups, including potential small businesses, that it should consider for its analyses. DOE received a comment from one business stating that it should be considered a small business. 77 FR 22454, 22521 (April 21, 2011).

DOE then conducted a market survey in which it reviewed the AHAM membership directory, product databases (the Air-Conditioning, Heating, and Refrigeration Institute; AHAM; California Energy Commission; and ENERGY STAR databases), individual company Web sites, and the SBA dynamic small business search [15] to find potential small business manufacturers. During manufacturer interviews and at DOE public meetings for the energy conservation standards rulemaking, DOE asked interested parties and industry representatives if they were aware of any other small business manufacturers. DOE also contacted various companies, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered residential clothes dryers. DOE screened out companies that did not offer products covered by this rulemaking, did not meet the definition of a ''small business,'' or are foreign-owned and operated.

DOE initially identified at least 14 manufacturers of residential clothes dryers that sold products in the United States. DOE determined that 13 of these companies exceeded the SBA's maximum number of employees. Thus, DOE identified only one small business manufacturer of residential clothes dryers. This small business has developed a drying technology that it installs on existing clothes dryers. DOE notes that this small business currently offers for sale two clothes dryer models with its drying technology installed. Accordingly, DOE considered the economic impacts of the proposed test procedure amendments on this one small business manufacturer.

For active mode, as discussed in section III.F, DOE is amending 10 CFR part 430 subpart B, appendix D and appendix D1 to clarify: (1) The cycle settings used for the test cycle, (2) the requirements for the gas supply for gas clothes dryers, (3) the installation conditions for console lights, (4) the method for measuring the drum capacity, (5) the maximum allowable scale range, and (6) the allowable use of a relative humidity meter. DOE determined that because these test procedure amendments do not change the actual testing method or time required for testing and provide additional options for instrumentation while requiring the same resolution and accuracy, these amendments will not result in any added test burden on manufacturers as compared to the existing DOE clothes dryer test procedures in 10 CFR part 430, subpart B, appendix D and appendix D1.

For standby mode and off mode, DOE has determined that the test procedure amendments adopted in today's final rule, presented in section III.D, will not represent a significant economic impact. DOE notes that industry-standard instruments, such as the Yokogawa WT210/WT230 digital power meter, that meet the standby mode and off mode requirements of the current DOE clothes dryer test procedure in 10 CFR part 430, subpart B, appendix D1, also meet the requirements of the amendments for standby mode and off mode adopted in today's final rule. DOE also notes that these tests can be conducted in the same facilities used for the current standby mode and off mode testing of these products, so it is anticipated that manufacturers would not incur any additional facilities costs as a result of the test procedure amendments. As a result, DOE does not expect any increase in testing equipment costs based on the standby mode and off mode test procedure amendments. DOE also notes that the duration of a standby mode or off mode test period using the current test procedure in appendix D1 is 40 to 50 minutes. As discussed in section III.D, DOE recognizes that the test duration using the standby and off mode test procedure adopted in today's final rule may range from 15 minutes to 3 hours depending on the stability of the measured power consumption. However, based on DOE's testing of four clothes dryers from four different manufacturers comprising over 78 percent of the total clothes dryer market share, DOE expects the test duration using the standby and off mode test procedure adopted in today's final rule to be approximately 30 to 45 minutes for the majority of clothes dryers currently available on the market. DOE also notes that most third party testing laboratories already use these or similar industry-standard power meters for clothes dryer testing. As a result, if the small manufacturer decides to use a third party testing laboratory, DOE does not expect there to be an increase in cost for standby mode and off mode testing. In addition, as discussed in section III.I.1, interested parties have commented that incorporating by reference IEC Standard 62301 (Second Edition) will allow for optimal international harmonization and will reduce testing burden.

For these reasons, DOE concludes and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE has transmitted the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of clothes dryers must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for clothes dryers, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including clothes dryers. (76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 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.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its test procedure for residential clothes dryers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et*

[15] A searchable database of certified small businesses is available online at: *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm.*

seq.) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations for energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined today's final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2)

is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it will not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

Today's final rule incorporates testing methods contained in the commercial standard, IEC Standard 62301, ''Household electrical appliances—Measurement of standby power,'' Edition 2.0, 2011–01. DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA, *i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review. DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on July 31, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.21 is amended by:

■ a. Revising paragraph (a)(2)(ii) introductory text;

■ b. Adding paragraph (a)(3); and

■ c. Revising paragraph (b)(2).

The revisions and addition read as follows:

§ 429.21 Residential clothes dryers.

* * * * *

(a) * * *

(2) * * *

(ii) Any represented value of the energy factor, combined energy factor, or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

* * * * *

(3) The capacity of a basic model reported in accordance with paragraph (b)(2) of this section shall be the mean of the capacities measured for each tested unit of the basic model.

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: When using appendix D, the energy factor in pounds per kilowatt hours (lb/kWh), the capacity in cubic feet (cu ft), the voltage in volts (V) (for electric dryers only), an indication if the dryer has automatic termination controls, and the hourly British thermal unit (Btu) rating of the burner (for gas dryers only); when using appendix D1, the combined energy factor in pounds per kilowatt hours (lb/kWh), the capacity in cubic feet (cu ft), the voltage in volts (V) (for electric dryers only), an indication if the dryer has automatic termination controls, and the hourly Btu rating of the burner (for gas dryers only); when using appendix D2, the combined energy factor in pounds per kilowatt hours (lb/kWh), the capacity in cubic feet (cu ft), the voltage in volts (V) (for electric dryers only), an indication if the dryer has automatic termination controls, the hourly Btu rating of the burner (for gas dryers only), and a list of the cycle setting selections for the energy test cycle as recorded in section 3.4.7 of appendix D2 to Subpart B of Part 430.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.3 [Amended]

■ 4. Section 430.3 is amended by:

■ a. Adding ''and D2'' after ''appendix D1'' in paragraph (h)(4).

■ b. Removing ''appendix D1,'' from paragraph (m)(1); and

■ c. Adding ''D1,'' and ''D2,'' after ''appendices C1,'' in (m)(2).

■ 5. Appendix D to Subpart B of Part 430 is amended by:

■ a. Revising the Note after the appendix heading;

■ b. Revising sections 2.1, 2.3.2.1, 2.3.2.2, 2.4.1, 2.4.1.2, and 2.4.4 in section 2. *Test Conditions;* and

■ c. Revising sections 3.1 and 3.3 in section 3. *Test Methods and Measurements.*

The revisions read as follows:

Appendix D to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Note: Effective February 10, 2014, manufacturers must make representations of energy efficiency, including certifications of compliance, using appendix D. Compliance with DOE's amended standards for clothes dryers, and corresponding use of the test procedures at appendix D1 for all representations, including certifications of compliance, is required as of January 1, 2015. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D for certain representations and appendix D1 for other representations. The procedures in appendix D2 need not be performed to determine compliance with energy conservation standards for clothes dryers at this time. However, manufacturers may elect to use the amended appendix D, D1 or D2 early.

* * * * *

2. Testing Conditions

2.1 *Installation.* Install the clothes dryer in accordance with manufacturer's instructions as shipped with the unit. If the manufacturer's instructions do not specify the installation requirements for a certain component, it shall be tested in the as-shipped condition. The dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in 3.3.5 of HLD–1. All external joints should be taped to avoid air leakage. Disconnect all lights, such as task lights, that do not provide any information related to the drying process on the clothes dryer and that do not consume more than 10 watts during the clothes dryer test cycle. Control setting indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions that cannot be turned off during the test cycle shall not be disconnected during the active mode test cycle.

* * * * *

2.3.2 *Gas supply.*

2.3.2.1 *Natural gas.* Maintain the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The natural gas supplied should have a heating value of approximately 1,025 Btus per standard cubic foot. The actual heating value, H_n2, in Btus per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in section 2.4.6.

2.3.2.2 *Propane gas.* Maintain the gas supply to the clothes dryer at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The propane gas supplied should have a heating value of approximately 2,500 Btus per standard cubic foot. The actual heating value, H_p, in Btus per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in section 2.4.6.

* * * * *

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 60 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighing scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 600 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

* * * * *

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than ±1 °F. A relative humidity meter with a maximum error tolerance expressed in °F equivalent to the requirements for the dry and wet bulb psychrometer or with a maximum error tolerance of ±2 percent relative humidity would be acceptable for measuring the ambient humidity.

* * * * *

3. Test Procedures and Measurements

3.1 *Drum Capacity.* Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensure that all corners and depressions are filled and that there are no extrusions of the plastic bag through any openings in the interior of the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the dryer, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port (*i.e.,* the uppermost edge of the drum that is in contact with the door seal). Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add the appropriate volume to account for any space in the drum interior not measured by water fill (e.g., the space above the uppermost edge of the drum within a curved door) and subtract the appropriate volume to account for space that is measured by water fill but cannot be used when the door is closed (e.g., space occupied by the door when closed). The drum capacity is calculated as follows:

$C = w/d +/- \text{ volume adjustment}$

C = capacity in cubic feet.

w = mass of water in pounds.

d = density of water at the measured temperature in pounds per cubic foot.

* * * * *

3.3 *Test cycle.* Operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting. Any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position. If the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. Dry the test load until the moisture content of the test load is between 2.5 percent and 5.0 percent of the bone-dry weight of the test load, but do not permit the dryer to advance into cool down. If required, reset the timer or automatic dry control.

* * * * *

■ 6. Appendix D1 to Subpart B of Part 430 is amended:

■ a. By revising the Note after the appendix heading;

■ b. In section 1. *Definitions,* by revising section 1.11;

■ c. In section 2. *Test Conditions,* by:

■ 1. Revising sections 2.1, 2.2.2, 2.3.1.1, 2.3.2.1, 2.3.2.2, 2.4.1, 2.4.1.2, 2.4.4, and 2.4.7;

■ 2. Adding sections 2.1.1, 2.1.2, and 2.1.3;

■ d. In section 3. *Test Methods and Measurements,* by revising sections 3.1, 3.3, and 3.6; and

■ e. In section 4. *Calculation of Derived Results From Test Measurements,* by revising section 4.6.

The additions and revisions read as follows:

Appendix D1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Note: Effective February 10, 2014, manufacturers must make representations of

energy efficiency, including certifications of compliance, using appendix D. Compliance with DOE's amended standards for clothes dryers, and corresponding use of the test procedures at appendix D1 for all representations, including certifications of compliance, is required as of January 1, 2015. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D for certain representations and appendix D1 for other representations. The procedures in appendix D2 need not be performed to determine compliance with energy conservation standards for clothes dryers at this time. However, manufacturers may elect to use the amended appendix D, D1, or D2 early.

1. Definitions

* * * * *

1.11 ''IEC 62301'' (Second Edition) means the test standard published by the International Electrotechnical Commission (''IEC'') titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (Edition 2.0 2011–01) (incorporated by reference; see § 430.3).

* * * * *

2. Testing Conditions

2.1 *Installation.*

2.1.1 *All clothes dryers.* For both conventional clothes dryers and ventless clothes dryers, as defined in sections 1.7 and 1.19 of this appendix, install the clothes dryer in accordance with manufacturer's instructions as shipped with the unit. If the manufacturer's instructions do not specify the installation requirements for a certain component, it shall be tested in the as-shipped condition. Where the manufacturer gives the option to use the dryer both with and without a duct, the dryer shall be tested without the exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3). All external joints should be taped to avoid air leakage. For drying testing, disconnect all lights, such as task lights, that do not provide any information related to the drying process on the clothes dryer and that do not consume more than 10 watts during the clothes dryer test cycle. Control setting indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions that cannot be turned off during the test cycle shall not be disconnected during the active mode test cycle. For standby and off mode testing, the clothes dryer shall also be installed in accordance with section 5, paragraph 5.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), disregarding the provisions regarding batteries and the determination, classification, and testing of relevant modes. For standby and off mode testing, all lighting systems shall remain connected.

2.1.2 *Conventional clothes dryers.* For conventional clothes dryers, as defined in section 1.7 of this appendix, the dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3).

2.1.3 *Ventless clothes dryers.* For ventless clothes dryers, as defined in section 1.19, the dryer shall be tested without the AHAM exhaust simulator. If the manufacturer gives the option to use a ventless clothes dryer, with or without a condensation box, the dryer shall be tested with the condensation box installed. For ventless clothes dryers, the condenser unit of the dryer must remain in place and not be taken out of the dryer for any reason between tests.

* * * * *

2.2.2 For standby and off mode testing, maintain room ambient air temperature conditions as specified in section 4, paragraph 4.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3)

* * * * *

2.3.1.1 *Supply voltage waveform.* For the clothes dryer standby mode and off mode testing, maintain the electrical supply voltage waveform indicated in section 4, paragraph 4.3.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3). If the power measuring instrument used for testing is unable to measure and record the total harmonic content during the test measurement period, it is acceptable to measure and record the total harmonic content immediately before and after the test measurement period.

2.3.2 *Gas supply.*

2.3.2.1 *Natural gas.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 7 to 10 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator for which the manufacturer specifies an outlet pressure, the regulator outlet pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The natural gas supplied should have a heating value of approximately 1,025 Btus per standard cubic foot. The actual heating value, H_n2, in Btus per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in section 2.4.6.

2.3.2.2 *Propane gas.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 11 to 13 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator for which the manufacturer specifies an outlet pressure, the regulator outlet pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The propane gas supplied should have a heating value of approximately 2,500 Btus per standard cubic foot. The actual heating value, H_p, in Btus per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in section 2.4.6.

* * * * *

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 60 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3

percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighing scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 600 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

* * * * *

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than ±1 °F. A relative humidity meter with a maximum error tolerance expressed in °F equivalent to the requirements for the dry and wet bulb psychrometer or with a maximum error tolerance of ± 2 percent relative humidity would be acceptable for measuring the ambient humidity.

* * * * *

2.4.7 *Standby mode and off mode watt meter.* The watt meter used to measure standby mode and off mode power consumption shall meet the requirements specified in section 4, paragraph 4.4 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3). If the power measuring instrument used for testing is unable to measure and record the crest factor, power factor, or maximum current ratio during the test measurement period, it is acceptable to measure the crest factor, power factor, and maximum current ratio immediately before and after the test measurement period.

* * * * *

3. Test Procedures and Measurements

3.1 *Drum Capacity.* Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensuring that all corners and depressions are filled and that there are no extrusions of the plastic bag through any openings in the interior of the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the drum surface, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port (*i.e.,* the uppermost edge of the drum that is in contact with the door seal). Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add the appropriate volume to account for any space in the drum interior not measured by water fill (e.g., the space above the uppermost edge of the drum within a curved door) and subtract the appropriate volume to account for space that is measured by water fill but cannot be used when the door is closed (e.g., space occupied by the door when closed). The drum capacity is calculated as follows:

C = w/d +/− volume adjustment

C = capacity in cubic feet.

w = mass of water in pounds.

d = density of water at the measured temperature in pounds per cubic foot.

* * * * *

3.3 *Test cycle.* Operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting. Any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position. If the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. Dry the load until the moisture content of the test load is between 2.5 and 5.0 percent of the bone-dry weight of the test load, at which point the test cycle is stopped, but do not permit the dryer to advance into cool down. If required, reset the timer to increase the length of the drying cycle. After stopping the test cycle, remove and weigh the test load. The clothes dryer shall not be stopped intermittently in the middle of the test cycle for any reason. Record the data specified by section 3.4 of this appendix. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless dryers, as defined in section 1.19 of this appendix, during the time between two cycles, the door of the dryer shall be closed except for loading (and unloading).

* * * * *

3.6 *Standby mode and off mode power.* Establish the testing conditions set forth in Section 2 ''Testing Conditions'' of this appendix. For clothes dryers that take some time to enter a stable state from a higher power state as discussed in Section 5, Paragraph 5.1, Note 1 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), allow sufficient time for the clothes dryer to reach the lower power state before proceeding with the test measurement. Follow the test procedure specified in section 5, paragraph 5.3.2 of IEC 62301 (Second Edition) for testing in each possible mode as described in sections 3.6.1 and 3.6.2 of this appendix.

* * * * *

4. Calculation of Derived Results From Test Measurements

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4.6 *Per-cycle combined total energy consumption expressed in kilowatt-hours.* Calculate the per-cycle combined total energy consumption, E_{CC}, expressed in kilowatt-hours per cycle and defined for an electric clothes dryer as:

$E_{CC} = E_{ce} + E_{TSO}$

Where:

E_{ce} = the energy recorded in section 4.1 of this appendix, and

E_{TSO} = the energy recorded in section 4.5 of this appendix, and defined for a gas clothes dryer as:

$E_{CC} = E_{cg} + E_{TSO}$

Where:

E_{cg} = the energy recorded in section 4.4 of this appendix, and

E_{TSO} = the energy recorded in section 4.5 of this appendix.

* * * * *

■ 7. Appendix D2 is added to Subpart B of Part 430 to read as follows:

Appendix D2 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Note: The procedures in appendix D2 need not be performed to determine compliance with energy conservation standards for clothes dryers at this time. Manufacturers may elect to use the amended appendix D2 early to show compliance with the January 1, 2015 energy conservation standards. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D1 for certain representations and appendix D2 for other representations.

1. Definitions

1.1 ''Active mode'' means a mode in which the clothes dryer is connected to a main power source, has been activated and is performing the main function of tumbling the clothing with or without heated or unheated forced air circulation to remove moisture from the clothing, remove wrinkles or prevent wrinkling of the clothing, or both.

1.2 ''AHAM'' means the Association of Home Appliance Manufacturers.

1.3 ''AHAM HLD–1'' means the test standard published by the Association of Home Appliance Manufacturers, titled ''Household Tumble Type Clothes Dryers,'' (2009), AHAM HLD–1–2009 (incorporated by reference; see § 430.3).

1.4 ''Automatic termination control'' means a dryer control system with a sensor which monitors either the dryer load temperature or its moisture content and with a controller which automatically terminates the drying process. A mark, detent, or other visual indicator or detent which indicates a preferred automatic termination control setting must be present if the dryer is to be classified as having an ''automatic

termination control.'' A mark is a visible single control setting on one or more dryer controls.

1.5 ''Automatic termination control dryer'' means a clothes dryer which can be preset to carry out at least one sequence of operations to be terminated by means of a system assessing, directly or indirectly, the moisture content of the load. An automatic termination control dryer with supplementary timer or that may also be manually controlled shall be tested as an automatic termination control dryer.

1.6 ''Bone dry'' means a condition of a load of test clothes which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed, and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less.

1.7 ''Compact'' or ''compact size'' means a clothes dryer with a drum capacity of less than 4.4 cubic feet.

1.8 ''Conventional clothes dryer'' means a clothes dryer that exhausts the evaporated moisture from the cabinet.

1.9 ''Cool down'' means that portion of the clothes drying cycle when the added gas or electric heat is terminated and the clothes continue to tumble and dry within the drum.

1.10 ''Cycle'' means a sequence of operation of a clothes dryer which performs a clothes drying operation, and may include variations or combinations of the functions of heating, tumbling, and drying.

1.11 ''Drum capacity'' means the volume of the drying drum in cubic feet.

1.12 ''IEC 62301'' (Second Edition) means the test standard published by the International Electrotechnical Commission (''IEC'') titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (Edition 2.0 2011–01) (incorporated by reference; see § 430.3).

1.13 ''Inactive mode'' means a standby mode that facilitates the activation of active mode by remote switch (including remote control), internal sensor, or timer, or that provides continuous status display.

1.14 ''Moisture content'' means the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.

1.15 ''Moisture sensing control'' means a system which utilizes a moisture sensing element within the dryer drum that monitors the amount of moisture in the clothes and automatically terminates the dryer cycle.

1.16 ''Off mode'' means a mode in which the clothes dryer is connected to a main power source and is not providing any active or standby mode function, and where the mode may persist for an indefinite time. An indicator that only shows the user that the product is in the off position is included within the clasification of an off mode.

1.17 ''Standard size'' means a clothes dryer with a drum capacity of 4.4 cubic feet or greater.

1.18 ''Standby mode'' means any product modes where the energy using product is connected to a mains power source and offers one or more of the following user-oriented or protective functions which may persist for an indefinite time:

(a) To facilitate the activation of other modes (including activation or deactivation of active mode) by remote switch (including remote control), internal sensor, or timer.

(b) Continuous functions, including information or status displays (including clocks) or sensor-based functions. A timer is a continuous clock function (which may or may not be associated with a display) that provides regular scheduled tasks (*e.g.,* switching) and that operates on a continuous basis.

1.19 ''Temperature sensing control'' means a system which monitors dryer exhaust air temperature and automatically terminates the dryer cycle.

1.20 ''Timer dryer'' means a clothes dryer that can be preset to carry out at least one operation to be terminated by a timer, but may also be manually controlled, and does not include any automatic termination function.

1.21 ''Ventless clothes dryer'' means a clothes dryer that uses a closed-loop system with an internal condenser to remove the evaporated moisture from the heated air. The moist air is not discharged from the cabinet.

2. Testing Conditions

2.1 *Installation.*

2.1.1 *All clothes dryers.* For both conventional clothes dryers and ventless clothes dryers, as defined in sections 1.8 and 1.21 of this appendix, install the clothes dryer in accordance with manufacturer's instructions as shipped with the unit. If the manufacturer's instructions do not specify the installation requirements for a certain component, it shall be tested in the as-shipped condition. Where the manufacturer gives the option to use the dryer both with and without a duct, the dryer shall be tested without the exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3). All external joints should be taped to avoid air leakage. For drying testing, disconnect all lights, such as task lights, that do not provide any information related to the drying process on the clothes dryer and that do not consume more than 10 watts during the clothes dryer test cycle. Control setting indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions that cannot be turned off during the test cycle shall not be disconnected during the active mode test cycle. For standby and off mode testing, the clothes dryer shall also be installed in accordance with section 5, paragraph 5.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), disregarding the provisions regarding batteries and the determination, classification, and testing of relevant modes. For standby and off mode testing, all lighting systems shall remain connected.

2.1.2 *Conventional clothes dryers.* For conventional clothes dryers, as defined in section 1.8 of this appendix, the dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3).

2.1.3 *Ventless clothes dryers.* For ventless clothes dryers, as defined in section 1.21, the dryer shall be tested without the AHAM exhaust simulator. If the manufacturer gives the option to use a ventless clothes dryer, with or without a condensation box, the dryer shall be tested with the condensation box installed. For ventless clothes dryers, the condenser unit of the dryer must remain in place and not be taken out of the dryer for any reason between tests.

2.2 *Ambient temperature and humidity.*

2.2.1 For drying testing, maintain the room ambient air temperature at 75 ± 3 °F and the room relative humidity at 50 ±10 percent relative humidity.

2.2.2 For standby and off mode testing, maintain room ambient air temperature conditions as specified in section 4, paragraph 4.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3).

2.3 *Energy supply.*

2.3.1 *Electrical supply.* Maintain the electrical supply at the clothes dryer terminal block within 1 percent of 120/240 or 120/208Y or 120 volts as applicable to the particular terminal block wiring system and within 1 percent of the nameplate frequency as specified by the manufacturer. If the dryer has a dual voltage conversion capability, conduct the test at the highest voltage specified by the manufacturer.

2.3.1.1 *Supply voltage waveform.* For the clothes dryer standby mode and off mode testing, maintain the electrical supply voltage waveform indicated in section 4, paragraph 4.3.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3). If the power measuring instrument used for testing is unable to measure and record the total harmonic content during the test measurement period, it is acceptable to measure and record the total harmonic content immediately before and after the test measurement period.

2.3.2 *Gas supply.*

2.3.2.1 *Natural gas.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 7 to 10 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator for which the manufacturer specifies an outlet pressure, the regulator outlet pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The natural gas supplied should have a heating value of approximately 1,025 Btus per standard cubic foot. The actual heating value, H_n2, in Btus per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as

could be obtained from measurements with a standard continuous flow calorimeter as described in section 2.4.6.

2.3.2.2 *Propane gas.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 11 to 13 inches of water column. If the clothes dryer is equipped with a gas appliance pressure regulator for which the manufacturer specifies an outlet pressure, the regulator outlet pressure shall be within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model. The hourly Btu rating of the burner shall be maintained within ±5 percent of the rating specified by the manufacturer. If the requirement to maintain the hourly Btu rating of the burner within ± 5 percent of the rating specified by the manufacturer cannot be achieved under the allowable range in gas inlet test pressure, the orifice of the gas burner should be modified as necessary to achieve the required Btu rating. The propane gas supplied should have a heating value of approximately 2,500 Btus per standard cubic foot. The actual heating value, H_p, in Btus per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in section 2.4.6 or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in section 2.4.6.

2.4 *Instrumentation.* Perform all test measurements using the following instruments as appropriate.

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 60 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighing scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 600 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

2.4.2 *Kilowatt-hour meter.* The kilowatt-hour meter shall have a resolution of 0.001 kilowatt-hours and a maximum error no greater than 0.5 percent of the measured value.

2.4.3 *Gas meter.* The gas meter shall have a resolution of 0.001 cubic feet and a maximum error no greater than 0.5 percent of the measured value.

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than ±1 °F. A relative humidity meter with a maximum error tolerance expressed in °F equivalent to the requirements for the dry and wet bulb psychrometer or with a maximum error tolerance of ± 2 percent relative humidity would be acceptable for measuring the ambient humidity.

2.4.5 *Temperature.* The temperature sensor shall have an error no greater than ±1 °F.

2.4.6 *Standard Continuous Flow Calorimeter.* The calorimeter shall have an operating range of 750 to 3,500 Btu per cubic foot. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the actual heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the operating range and a resolution of 0.2 percent of the full-scale reading of the indicator instrument.

2.4.7 *Standby mode and off mode watt meter.* The watt meter used to measure standby mode and off mode power consumption shall meet the requirements specified in section 4, paragraph 4.4 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3). If the power measuring instrument used for testing is unable to measure and record the crest factor, power factor, or maximum current ratio during the test measurement period, it is acceptable to measure the crest factor, power factor, and maximum current ratio immediately before and after the test measurement period.

2.5 *Lint trap.* Clean the lint trap thoroughly before each test run.

2.6 *Test Cloths.*

2.6.1 *Energy test cloth.* The energy test cloth shall be clean and consist of the following:

(a) Pure finished bleached cloth, made with a momie or granite weave, which is a blended fabric of 50-percent cotton and 50-percent polyester and weighs within +10 percent of 5.75 ounces per square yard after test cloth preconditioning, and has 65 ends on the warp and 57 picks on the fill. The individual warp and fill yarns are a blend of 50-percent cotton and 50-percent polyester fibers.

(b) Cloth material that is 24 inches by 36 inches and has been hemmed to 22 inches by 34 inches before washing. The maximum shrinkage after five washes shall not be more than 4 percent on the length and width.

(c) The number of test runs on the same energy test cloth shall not exceed 25 runs.

2.6.2 *Energy stuffer cloths.* The energy stuffer cloths shall be made from energy test cloth material, and shall consist of pieces of material that are 12 inches by 12 inches and have been hemmed to 10 inches by 10 inches before washing. The maximum shrinkage after five washes shall not be more than 4 percent on the length and width. The number of test runs on the same energy stuffer cloth shall not exceed 25 runs after test cloth preconditioning.

2.6.3 *Test Cloth Preconditioning.*

A new test cloth load and energy stuffer cloths shall be treated as follows:

(1) Bone dry the load to a weight change of ± 1 percent, or less, as prescribed in section 1.6 of this appendix.

(2) Place the test cloth load in a standard clothes washer set at the maximum water fill level. Wash the load for 10 minutes in soft water (17 parts per million hardness or less), using 60.8 grams of AHAM standard test detergent Formula 3. Wash water temperature should be maintained at 140 °F ±5 °F (60 °C ±2.7 °C). Rinse water temperature is to be controlled at 100 °F ±5 °F (37.7 °C ±2.7 °C).

(3) Rinse the load again at the same water temperature.

(4) Bone dry the load as prescribed in section 1.6 of this appendix and weigh the load.

(5) This procedure is repeated until there is a weight change of 1 percent or less.

(6) A final cycle is to be a hot water wash with no detergent, followed by two warm water rinses.

2.7 *Test loads.*

2.7.1 *Compact size dryer load.* Prepare a bone-dry test load of energy cloths that weighs 3.00 pounds ± .03 pounds. The test load can be adjusted to achieve proper weight by adding energy stuffer cloths, but no more than five stuffer cloths may be added per load. Dampen the load by agitating it in water whose temperature is 60 °F ± 5 °F and consists of 0 to 17 parts per million hardness for approximately 2 minutes to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 52.5 and 57.5 percent of the bone-dry weight of the test load. Make a final mass adjustment, such that the moisture content is 57.5 percent ± 0.33 percent by adding water uniformly distributed among all of the test clothes in a very fine spray using a spray bottle.

2.7.2 *Standard size dryer load.* Prepare a bone-dry test load of energy cloths that weighs 8.45 pounds ± .085 pounds. The test load can be adjusted to achieve proper weight by adding stuffer cloths, but no more than five stuffer cloths may be added per load. Dampen the load by agitating it in water whose temperature is 60 °F ± 5 °F and consists of 0 to 17 parts per million hardness for approximately 2 minutes to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 52.5 and 57.5 percent of the bone-dry weight of the test load. Make a final mass adjustment, such that the moisture content is 57.5 percent ± 0.33 percent by adding water uniformly distributed among all of the test clothes in a very fine spray using a spray bottle.

2.7.3 *Method of loading.* Load the energy test cloths by grasping them in the center, shaking them to hang loosely, and then dropping them in the dryer at random.

2.8 *Clothes dryer preconditioning.*

2.8.1 *Conventional clothes dryers.* For conventional clothes dryers, before any test cycle, operate the dryer without a test load in the non-heat mode for 15 minutes or until the discharge air temperature is varying less than 1 °F for 10 minutes—whichever is longer—in the test installation location with the ambient conditions within the specified test condition tolerances of 2.2.

2.8.2 *Ventless clothes dryers.* For ventless clothes dryers, before any test cycle, the steady-state machine temperature must be equal to ambient room temperature described in 2.2.1. This may be done by leaving the machine at ambient room conditions for at least 12 hours between tests.

3. Test Procedures and Measurements

3.1 *Drum Capacity.* Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag,

and ensuring that all corners and depressions are filled and that there are no extrusions of the plastic bag through any openings in the interior of the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the drum surface, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port (*i.e.,* the uppermost edge of the drum that is in contact with the door seal). Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add the appropriate volume to account for any space in the drum interior not measured by water fill (e.g., the space above the uppermost edge of the drum within a curved door) and subtract the appropriate volume to account for the space that is measured by water fill but cannot be used when the door is closed (e.g., space occupied by the door when closed). The drum capacity is calculated as follows:

$C = w/d +/- \text{ volume adjustment}$

C= capacity in cubic feet.

w= mass of water in pounds.

d= density of water at the measured temperature in pounds per cubic foot.

3.2 *Dryer Loading.* Load the dryer as specified in 2.7.

3.3 *Test cycle.*

3.3.1 *Timer dryers.* For timer dryers, as defined in section 1.20 of this appendix, operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting. Any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position. If the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. Dry the load until the moisture content of the test load is between 1 and 2.5 percent of the bone-dry weight of the test load, at which point the test cycle is stopped, but do not permit the dryer to advance into cool down. If required, reset the timer to increase the length of the drying cycle. After stopping the test cycle, remove and weigh the test load. The clothes dryer shall not be stopped intermittently in the middle of the test cycle for any reason. Record the data specified by section 3.4 of this appendix. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless dryers, as defined in section 1.21 of this appendix, during the time between two cycles, the door of the dryer shall be closed except for loading (and unloading).

3.3.2 *Automatic termination control dryers.* For automatic termination control dryers, as defined in section 1.5 of this appendix, a ''normal'' program shall be selected for the test cycle. For dryers that do not have a ''normal'' program, the cycle recommended by the manufacturer for drying cotton or linen clothes shall be selected. Where the drying temperature setting can be chosen independently of the program, it shall be set to the maximum. Where the dryness level setting can be chosen independently of the program, it shall be set to the ''normal'' or ''medium'' dryness level setting. If such designation is not provided, then the dryness level shall be set at the mid-point between the minimum and maximum settings. Any other optional cycle settings that do not affect the program, temperature or dryness settings shall be tested in the as-shipped position. Operate the clothes dryer until the completion of the programmed cycle, including the cool down period. The cycle shall be considered complete when the dryer indicates to the user that the cycle has finished (by means of a display, indicator light, audible signal, or other signal) and the heater and drum/fan motor shuts off for the final time. If the clothes dryer is equipped with a wrinkle prevention mode (*i.e.,* that continuously or intermittently tumbles the clothes dryer drum after the clothes dryer indicates to the user that the cycle has finished) that is activated by default in the as-shipped position or if manufacturers' instructions specify that the feature is recommended to be activated for normal use, the cycle shall be considered complete after the end of the wrinkle prevention mode. After the completion of the test cycle, remove and weigh the test load. Record the data specified in section 3.4 of this appendix. If the final moisture content is greater than 2 percent, the test shall be invalid and a new run shall be conducted using the highest dryness level setting. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless dryers, during the time between two cycles, the door of the dryer shall be closed except for loading (and unloading).

3.4 *Data recording.* Record for each test cycle:

3.4.1 Bone-dry weight of the test load described in 2.7.

3.4.2 Moisture content of the wet test load before the test, as described in 2.7.

3.4.3 Moisture content of the dry test load obtained after the test described in 3.3.

3.4.4 Test room conditions, temperature, and percent relative humidity described in 2.2.1.

3.4.5 For electric dryers—the total kilowatt-hours of electric energy, E_t, consumed during the test described in 3.3.

3.4.6 For gas dryers:

3.4.6.1 Total kilowatt-hours of electrical energy, E_{te}, consumed during the test described in 3.3.

3.4.6.2 Cubic feet of gas per cycle, E_{tg}, consumed during the test described in 3.3.

3.4.6.3 Correct the gas heating value, GEF, as measured in 2.3.2.1 and 2.3.2.2, to standard pressure and temperature conditions in accordance with U.S. Bureau of Standards, circular C417, 1938.

3.4.7 The cycle settings selected, in accordance with section 3.3.2 of this appendix, for the automatic termination control dryer test.

3.5 *Test for automatic termination field use factor.* The field use factor for automatic termination can be claimed for those dryers which meet the requirements for automatic termination control, defined in 1.4.

3.6 *Standby mode and off mode power.* Establish the testing conditions set forth in Section 2 ''Testing Conditions'' of this appendix. For clothes dryers that take some time to enter a stable state from a higher power state as discussed in Section 5, Paragraph 5.1, Note 1 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), allow sufficient time for the clothes dryer to reach the lower power state before proceeding with the test measurement. Follow the test procedure specified in section 5, paragraph 5.3.2 of IEC 62301 (Second Edition) for testing in each possible mode as described in sections 3.6.1 and 3.6.2 of this appendix.

3.6.1 If a clothes dryer has an inactive mode, as defined in section 1.13 of this appendix, measure and record the average inactive mode power of the clothes dryer, P_{IA}, in watts.

3.6.2 If a clothes dryer has an off mode, as defined in section 1.16 of this appendix, measure and record the average off mode power of the clothes dryer, P_{OFF}, in watts.

4. Calculation of Derived Results From Test Measurements

4.1 *Total per-cycle electric dryer energy consumption.* Calculate the total electric dryer energy consumption per cycle, E_{ce}, expressed in kilowatt-hours per cycle and defined as:

$E_{ce} = E_t$,

for automatic termination control dryers, and,

$E_{ce} = [55.5/(W_w - W_d)] \times E_t \times \text{field use}$,

for timer dryers

Where:

55.5 = an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle expressed as a percent.

E_t = the energy recorded in section 3.4.5 of this appendix

field use = 1.18, the field use factor for clothes dryers with time termination control systems only without any automatic termination control functions.

W_w = the moisture content of the wet test load as recorded in section 3.4.2 of this appendix.

W_d = the moisture content of the dry test load as recorded in section 3.4.3 of this appendix.

4.2 *Per-cycle gas dryer electrical energy consumption.* Calculate the gas dryer electrical energy consumption per cycle, E_{ge}, expressed in kilowatt-hours per cycle and defined as:

$E_{ge} = E_{te}$,

for automatic termination control dryers, and,

$E_{ge} = [55.5/(W_w - W_d)] \times E_{te} \times \text{field use}$,

for timer dryers

Where:

E_{te} = the energy recorded in section 3.4.6.1 of this appendix.

field use, 55.5, W_w, W_d as defined in section 4.1 of this appendix.

4.3 *Per-cycle gas dryer gas energy consumption.* Calculate the gas dryer gas

energy consumption per cycle, E_{ge}, expressed in Btus per cycle and defined as:

$E_{gg} = E_{tg} \times GEF$

for automatic termination control dryers, and,

$E_{gg} = [55.5/(W_w - W_d)] \times E_{tg} \times$ field use $\times GEF$

for timer dryers

Where:

E_{tg} = the energy recorded in section 3.4.6.2 of this appendix.

GEF = corrected gas heat value (Btu per cubic foot) as defined in section 3.4.6.3 of this appendix,

field use, 55.5, W_w, W_d as defined in section 4.1 of this appendix.

4.4 *Total per-cycle gas dryer energy consumption expressed in kilowatt-hours.* Calculate the total gas dryer energy consumption per cycle, E_{cg}, expressed in kilowatt-hours per cycle and defined as:

$E_{cg} = E_{ge} + (E_{gg}/3412$ Btu/kWh)

Where:

E_{ge} = the energy calculated in section 4.2 of this appendix

E_{gg} = the energy calculated in section 4.3 of this appendix

4.5 *Per-cycle standby mode and off mode energy consumption.* Calculate the dryer inactive mode and off mode energy consumption per cycle, E_{TSO}, expressed in kWh per cycle and defined as:

$E_{TSO} = [(P_{IA} \times S_{IA}) + (P_{OFF} \times S_{OFF})] \times K/283$

Where:

P_{IA} = dryer inactive mode power, in watts, as measured in section 3.6.1;

P_{OFF} = dryer off mode power, in watts, as measured in section 3.6.2.

If the clothes dryer has both inactive mode and off mode, S_{IA} and S_{OFF} both equal 8,620 ÷ 2 = 4,310, where 8,620 is the total inactive and off mode annual hours;

If the clothes dryer has an inactive mode but no off mode, the inactive mode annual hours, S_{IA}, is equal to 8,620 and the off mode annual hours, S_{OFF}, is equal to 0;

If the clothes dryer has an off mode but no inactive mode, S_{IA} is equal to 0 and S_{OFF} is equal to 8,620

Where:

K = 0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours; and

283 = representative average number of clothes dryer cycles in a year.

4.6 *Per-cycle combined total energy consumption expressed in kilowatt-hours.* Calculate the per-cycle combined total energy consumption, E_{CC}, expressed in kilowatt-hours per cycle and defined for an electric clothes dryer as:

$E_{CC} = E_{ce} + E_{TSO}$

Where:

E_{ce} = the energy calculated in section 4.1 of this appendix, and

E_{TSO} = the energy calculated in section 4.5 of this appendix, and defined for a gas clothes dryer as:

$E_{CC} = E_{cg} + E_{TSO}$

Where:

E_{cg} = the energy calculated in section 4.4 of this appendix, and

E_{TSO} = the energy calculated in section 4.5 of this appendix.

4.7 *Energy Factor in pounds per kilowatt-hour.* Calculate the energy factor, EF, expressed in pounds per kilowatt-hour and defined for an electric clothes dryer as:

$EF = W_{bonedry}/E_{ce}$

Where:

$W_{bonedry}$ = the bone dry test load weight recorded in section 3.4.1 of this appendix, and

E_{ce} = the energy calculated in section 4.1 of this appendix, and and defined for a gas clothes dryer as:

$EF = W_{bonedry}/E_{cg}$

Where:

$W_{bonedry}$ = the bone dry test load weight recorded in section 3.4.1 of this appendix, and

E_{cg} = the energy calculated in section 4.4 of this appendix,

4.8 *Combined Energy Factor in pounds per kilowatt-hour.* Calculate the combined energy factor, CEF, expressed in pounds per kilowatt-hour and defined as:

$CEF = W_{bonedry}/E_{CC}$

Where:

$W_{bonedry}$ = the bone dry test load weight recorded in section 3.4.1 of this appendix, and

E_{CC} = the energy calculated in section 4.6 of this appendix.

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