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2. The relationship between the Federal Register and Code of Federal Regulations.
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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, November 19, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Proclamation 9043 of October 18, 2013

National Character Counts Week, 2013

By the President of the United States of America

A Proclamation

As Americans, we are bound together by a set of ideals put forth by our Founders—that we are all created equal, that we possess certain unalienable rights, including the rights to life, liberty, and the pursuit of happiness, and that, above all, we are one people. During National Character Counts Week, we reflect on the ways we support one another, the ways we come together and seek common ground, and the lessons we teach our children about what citizenship means in the United States of America.

Nowhere is our Nation's strength more evident than in the men and women in uniform who embody the American spirit of selflessness, courage, and sacrifice. Across the globe and here at home, they and their families face challenges most of us will never fully understand so all of us can live in freedom. Our public servants too, and our teachers, nurses, and workers, toil without fanfare so the people of this country can count on a secure homeland and a growing economy, a healthy future, and a chance at success for their children.

The children we raise today are surrounded by proud examples of integrity, and moral courage, but it is our task as parents, community members, and leaders to teach them not only the skills they need to succeed, but also the values that keep our country strong. This week, we reaffirm our commitment to helping our children turn away from bullying, harassment, and discrimination, and to giving them the confidence and integrity to stand up for each other, imagine a brighter future, and realize their dreams.

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 October 20 through October 26, 2013, as National Character Counts Week. I call upon public officials, educators, parents, students, and all Americans to observe this week with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of October, 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. 2013–24986
Filed 10–22–13; 8:45 am]
Billing code 3295–F4

Presidential Documents

Proclamation 9044 of October 18, 2013

National Forest Products Week, 2013

By the President of the United States of America

A Proclamation

Our Nation's forests are essential to our lasting prosperity and to who we are as a people. These natural wonders provide clean air and water for our communities and abundant habitats for wildlife, as well as building materials for our homes, and jobs and recreation for workers and families across our country. During National Forest Products Week, we celebrate the sustainable uses of America's forests and the important contributions they make to our economy and our national life.

In addition to providing renewable supplies of wood and energy and showing visitors of all ages the value of preserving our natural spaces, forests play a critical role in combatting climate change and protecting the air we breathe through absorption of carbon dioxide emissions. My Administration is committed to cutting carbon pollution in the United States, and safeguarding and restoring our forests will help us fulfill that mission. We also continue to advance community-driven conservation, preservation, and outdoor recreation initiatives that are strengthening local economies and contributing to the well-being of lands, waters, and wildlife. Through the America's Great Outdoors Initiative, we have put the communities that will thrive when lands are healthy and abundant, and when they draw visitors from around the world, at the forefront of shaping conservation agendas across our country.

The strength, diversity, and productivity of our Nation's forests will be vital to our progress in the years ahead. This week, we recommit to collaborating across land ownership and landscapes, and we look to a future where America's forests will enrich our country for generations to come.

To recognize the importance of products from our forests, the Congress, by Public Law 86–753 (36 U.S.C. 123), as amended, has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim October 20 through October 26, 2013, as National Forest Products Week. I call on the people of the United States to join me in recognizing the dedicated individuals who are responsible for the stewardship of our forests and for the preservation, management, and use of these precious natural resources for the benefit of the American people.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of October, 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. 2013–24990
Filed 10–22–13; 8:45 am]
Billing code 3295–F4

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. AMS–FV–13–0071; FV13–920–2 IR]

Kiwifruit Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Kiwifruit Administrative Committee (Committee) for the 2013–14 and subsequent fiscal periods from $0.035 to $0.025 per 9-kilo volume-fill container or equivalent of kiwifruit. The Committee locally administers the marketing order, which regulates the handling of kiwifruit grown in California. Assessments upon kiwifruit handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective October 24, 2013. Comments received by November 22, 2013, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Kathie.Notoro@ams.usda.gov,* or *Martin.Engeler@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning on August 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule decreases the assessment rate established for the Committee for the 2013–14 and subsequent fiscal periods from $0.035 to $0.025 per 9-kilo volume-fill container or equivalent of kiwifruit.

The California kiwifruit marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee members are producers of California kiwifruit. They are familiar with the Committee's needs and with the costs of goods and services in their local area. Therefore, they are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2008–09 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 11, 2013, and unanimously recommended 2013–14 expenditures of $113,550 and an assessment rate of $0.025 per 9-kilo volume-fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were $108,075. The assessment rate of $0.025 per 9-kilo volume-fill container or equivalent is $0.010 per 9-kilo volume-fill container or equivalent less than the rate currently

in effect. This action will provide sufficient revenue to meet the Committee's expenses while maintaining a financial reserve within the maximum amount permitted under the order, which is approximately one fiscal period's expense.

The major expenditures recommended by the Committee for the 2013–14 year include $76,125 for management expenses, $7,500 for a financial audit, $5,000 for handler audits, and $10,000 for a contingency fund. Budgeted expenses for these items in 2012–13 were $72,500 for management expenses, $7,000 for a financial audit, $5,000 for handler audits, and $10,000 for a contingency fund.

The assessment rate recommended by the Committee was derived by considering the amount of revenue needed to meet anticipated expenses, estimated shipments of California kiwifruit, excess funds carried into the 2013–14 crop year, and estimated interest income. Kiwifruit shipments for the year are estimated at 2,600,000 9-kilo volume-fill containers. When applied to the new assessment rate, this should provide $65,000 in income. Assessment income, combined with interest income and reserve funds, will be sufficient to meet the anticipated expenses of $113,550. This also should result in a July 2014 ending reserve of $101,391, which is within the maximum reserve of approximately one fiscal year's expenses permitted by the order (§ 920.42).

The assessment rate established by this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations to modify the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether to modify the assessment rate, and further rulemaking will be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 178 kiwifruit growers in the production area and approximately 28 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

The California Agricultural Statistical Service (CASS) reported total California kiwifruit production for the 2011–12 season at 37,700 tons, with an average price of $775 per ton. Based on the average price and shipment information provided by the CASS and the Committee, it could be concluded that the majority of kiwifruit handlers would be considered small businesses under the SBA definition. Based on kiwifruit production and price information, as well as the total number of California kiwifruit growers, average annual grower revenue is less than $750,000. Thus, the majority of California kiwifruit producers may also be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2013–14 and subsequent fiscal periods from $0.035 to $0.025 per 9-kilo volume-fill container or equivalent of kiwifruit. The Committee unanimously recommended 2013–14 expenditures of $113,550 and an assessment rate of $0.025 per 9-kilo volume-fill container. The proposed assessment rate of $0.025 is $0.010 lower than the 2012–13 rate. The quantity of assessable kiwifruit for the 2013–14 fiscal year is estimated at 2,600,000 9-kilo volume-fill containers. Thus, the $0.025 rate should provide $65,000 in assessment income and combined with reserve funds and interest income, should be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2013–14 year include $76,125 for management expenses, $7,500 for a financial audit, $5,000 for handler audits, and $10,000 for a contingency fund. Budgeted expenses for these items in 2012–13 were $72,500 for management expenses, $7,000 for a financial audit, $5,000 for handler audits, and $10,000 for a contingency fund.

The Committee unanimously recommended the lower assessment rate. Income generated from this assessment rate, plus reserve funds and interest income, will be sufficient to meet the Committee's anticipated expenses of $113,550 and should result in a July 2014 ending reserve of $101,391, which is within the maximum reserve amount of approximately one fiscal year's expenses permitted by the order (§ 920.42).

Prior to arriving at this budget and assessment rate, the Committee considered alternative expenditure levels, but ultimately decided that the recommended levels were reasonable and necessary to properly administer the order.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for 2013–14 could range between $750 and $850 per ton, or between $7.42 to $8.42 per 9-kilo volume-fill container of assessable kiwifruit. Utilizing these estimates and the assessment rate of $0.025, estimated assessment revenue as a percentage of total producer revenue could range between 0.30 and 0.34 percent for the season.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 11, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's information and recommendation, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2013–14 fiscal year began on August 1, 2013, handlers began shipping kiwifruit in mid-September, and the order requires that the rate of assessment for each fiscal period apply to all assessable kiwifruit handled during the period; (2) this action decreases the assessment rate for assessable kiwifruit beginning with the 2013–14 fiscal year; (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 920.213 is revised to read as follows:

§ 920.213 Assessment rate.

On and after August 1, 2013, an assessment rate of $0.025 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24892 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS–FV–13–0041; FV13–922–2 FR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2013–2014 and subsequent fiscal periods from $0.50 to $1.50 per ton of Washington apricots handled. The Committee locally administers the marketing order, which regulates the handling of apricots grown in designated counties in Washington. Assessments upon apricot handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began on April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* October 24, 2013.

FOR FURTHER INFORMATION CONTACT: Manuel Michel, Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Manuel.Michel@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.* Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, apricot handlers in designated counties in Washington are subject to assessments. Funds necessary to administer the order are derived from such assessments. It is intended that the assessment rate, as issued herein, will be applicable to all assessable apricots beginning April 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the

hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2013–2014 and subsequent fiscal periods from $0.50 to $1.50 per ton of Washington apricots handled.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee members are producers and handlers of apricots in designated counties in Washington. They are familiar with the Committee's needs, and with the costs for goods and services in their local area, and are therefore in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2012–2013 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 13, 2013, and unanimously recommended 2013–2014 expenditures of $5,370 and an assessment rate of $1.50 per ton of apricots handled. In comparison, the Committee's budgeted expenditures for the previous fiscal period were $4,995. The assessment rate of $1.50 per ton is $1.00 higher than the rate previously established. The higher assessment rate is needed to fund an increase in administrative costs and to replenish the monetary reserve. The increased assessment rate of $1.50 per ton is the same rate that was in effect for the 2011–2012 and prior fiscal periods.

The major expenditures recommended by the Committee for the 2013–2014 fiscal period include $2,500 for the management fee; $1,200 for Committee travel; $1,000 for the annual audit; and $670 for office supplies, insurance, and miscellaneous expenses. In comparison, major expenditures for the 2012–2013 fiscal period included $2,400 for the management fee; $1,300 for Committee travel; $750 for the annual audit; and $545 for office supplies, insurance, and miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing the 2013–2014 anticipated expenses by the expected shipments of Washington apricots, while also taking into account the Committee's monetary reserve.

Committee members estimated the 2013 fresh apricot shipments to be approximately 5,950 tons, which should generate $8,925 in assessment income. Income derived from handler assessments should be adequate to cover budgeted expenses, with an expected surplus of $3,555 that may be placed in reserve. Funds in the Committee's reserve are expected to be $5,288 on March 31, 2014, which is within the maximum permitted by the order's limit of approximately one fiscal period's operational expenses (§ 922.42(a)(2)).

The assessment rate established herein will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2013–2014 budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 20 handlers of Washington apricots who are subject to regulation under the order and approximately 94 apricot growers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural growers are defined as those having annual receipts of less than $750,000.

The National Agricultural Statistics Service (NASS) reports that the 2012 total production and utilization (including both fresh and processed markets) of Washington apricots was approximately 6,700 tons, the average price was $1,250 per ton, and the total farm-gate value was approximately $8,371,000. Based on these reports and the number of apricot growers within the production area, it is estimated that the 2012 average revenue from the sale of apricots was approximately $89,000. In addition, based on information from the USDA's Market News Service, 2012 f.o.b. prices for WA No.1 apricots ranged from $16.00 to $24.00 per 24-pound loose-pack container, and from $18.00 to $27.00 for 2-layer tray-pack containers. Using average prices and shipment information provided by the Committee, it is determined that each Washington apricot handler currently ships less than $7,000,000 worth of apricots on an annual basis. In view of the foregoing, it is concluded that the majority of handlers and growers of Washington apricots may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2013–2014 and subsequent fiscal periods from $0.50 to $1.50 per ton of Washington apricots handled. The Committee unanimously recommended 2013–2014 expenditures of $5,370 and an assessment rate of $1.50 per ton. Although the assessment rate of $1.50 per ton is $1.00 higher than the rate established for the 2012–2013 fiscal period, it is the same rate as was established for the 2011–2012 and prior fiscal periods. The Committee estimates that the 2013–2014 Washington apricot crop will be 5,950 tons. Therefore, the $1.50 per ton assessment rate should provide approximately $8,925 in assessment income and be adequate to fund the budgeted expenses for the 2013–2014 fiscal period. In addition, the Committee anticipates that $3,555 will

be added to its monetary reserve, which it estimates will be $5,288 on March 30, 2014. This reserve level is within the maximum permitted by the order.

The major expenditures recommended by the Committee for the 2013–2014 fiscal period include $2,500 for the management fee; $1,200 for Committee travel; $1,000 for the annual audit; and $670 for office supplies, insurance, and miscellaneous expenses. In comparison, major budgeted expenditures for the 2012–2013 fiscal period included $2,400 for the management fee; $1,300 for Committee travel; $750 for the annual audit; and $545 for office supplies, insurance, and miscellaneous expenses.

The Committee discussed alternatives to this action, including recommending alternative expenditure levels and assessment rates. Although lower assessment rates were considered, none were selected because they would not have generated sufficient income to administer the order. Committee members also discussed reasons for and against regulatory suspension, order suspension, and order termination. The result of these discussions was the Committee's recommendation to maintain the order's administrative functions and to increase the assessment rate.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order.

Like all Committee meetings, the May 13, 2013, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend and participate in Committee deliberations on all issues.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule does not impose any additional reporting or recordkeeping requirements on either small or large Washington apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on August 20, 2013 (78 FR 51098). Copies of the proposed rule were also made available to all apricot handlers by Committee staff. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending September 4, 2013, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because (1) The 2013–2014 fiscal period began on April 1, 2013, and the order requires that the assessment rate for each fiscal period apply to all assessable Washington apricots handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; (3) handlers are already shipping Washington apricots from the 2013 crop; (4) handlers are aware of this rule, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (5) a 15-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR Part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On and after April 1, 2013, an assessment rate of $1.50 per ton is established for Washington apricots handled in the production area.

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24901 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS–FV–13–0040; FV13–922–1 IR]

Apricots Grown in Designated Counties in Washington; Suspension of Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule suspends the minimum grade, size, quality, maturity, and inspection requirements prescribed under the Washington apricot marketing order (order) for the remainder of the 2013–2014 fiscal period and subsequent fiscal periods. The order regulates the handling of apricots grown in designated counties in Washington and is administered locally by the Washington Apricot Marketing Committee (Committee). This rule follows a suspension of the handling regulations that was enacted in the 2012–2013 fiscal period, and is expected to reduce overall industry expenses and increase net returns to growers and handlers.

DATES: Effective October 24, 2013. Comments received by December 23,

2013 will be considered prior to the issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov*. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Manuel Michel, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Manuel.Michel@ams.usda.gov* or *GaryD.Olson@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 132 and Order No. 922, both as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is then afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of entry of the ruling.

This rule suspends the handling regulations prescribed under the order for the remainder of the 2013–2014 fiscal period and subsequent fiscal periods. Specifically, this rule suspends the minimum grade, size, quality, maturity, and inspection requirements under the order. This rule follows a suspension of the handling regulations enacted in the 2012–2013 fiscal period. Notwithstanding the suspension of the order's handling regulations, apricots handled in Washington must still meet Washington State's minimum grade requirement of Washington No. 2.

In addition, as a direct result of the suspension of the order's handling regulations, information from the Federal-State Inspection Service will no longer be available for the Committee to use to compile industry statistics and assess handlers. However, through a collaborative agreement, the Washington State Department of Agriculture is expected to provide the Committee access to apricot handling data similar to the information that has been previously collected and provided by the Inspection Service.

Section 922.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for apricots grown in the production area. The minimum grade, size, quality, maturity, and inspection requirements for apricots regulated under the order are specified in § 922.321.

Section 922.53 authorizes the modification, suspension, or termination of regulations issued under § 922.52 when such changes tend to effectuate the declared policy of the Act. Further, on the same basis and in a like manner, whenever the Secretary finds that a regulation previously established obstructs or does not tend to effectuate the declared policy of the Act, such regulation shall be suspended or terminated.

Section 922.55 provides that whenever the handling of any variety of apricots is regulated pursuant to § 922.52 or § 922.53, such apricots must be inspected by the Inspection Service and certified as meeting the applicable requirements. The cost of inspection and certification is borne by handlers. Section 922.111 provides for the waiver of the inspection requirement upon certain conditions for certain handlers when inspection by the Inspection Service is not readily available.

The Committee meets regularly to review and consider recommendations for the regulatory requirements of Washington apricots. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA reviews Committee recommendations, information submitted by the Committee, and other available information and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its May 13, 2013, meeting, the Committee unanimously recommended suspending the order's handling regulations for the 2013–2014 and subsequent fiscal periods. The Committee requested that this rule be effective immediately for the remainder of the 2013–2014 fiscal period.

The objective of the handling regulation has been to ensure that only acceptable quality apricots enter fresh market channels to foster consumer satisfaction, increase sales, and improve returns to growers.

The Washington apricot industry recognizes that quality is an important factor that helps to maintain sales. Some Committee members expressed concern that suspension of the handling and inspection requirements could potentially result in lower quality apricots being shipped to fresh markets, affecting consumer demand. There is also concern that if overall quality declines, the Washington apricot industry could lose sales to other apricot producing regions. However, due to the evolving nature of fresh fruit marketing, many wholesale and retail apricot buyers have developed their own specific criteria that their suppliers are required to meet to ensure a high quality product. Therefore, the Committee believes that the cost of complying with the order's handling regulations, when such regulations are in effect, may exceed the benefits.

Furthermore, the Committee suspended the order's handling regulations, effective January 9, 2013, during the 2012–2013 fiscal period, and

did not receive complaints related to the quality of Washington apricots. Therefore, the Committee believes that the marketing order's minimum handling requirements can be suspended without negatively affecting the Washington apricot industry.

After carefully evaluating all available information, the Committee recommended suspending the handling regulations prescribed under the order for the 2013–2014 and subsequent fiscal periods. However, if marketing conditions change, the Committee may take the appropriate action to reinstate the handling regulations or recommend termination of the order.

This rule enables Washington apricot handlers to ship apricots without regard to the order's minimum grade, size, quality, maturity, and inspection requirements for the remainder of the 2013–2014 and subsequent fiscal periods. This action will also allow handlers to decrease their total costs by eliminating the expenses associated with mandatory inspections. However, this rule does not impede handlers from seeking product inspection on a voluntary basis, if they find inspection desirable. At the end of each season, the Committee will evaluate the impact of the suspension of the handling regulations on marketing conditions and grower returns. Should modification become necessary, the Committee would recommend a change to USDA.

As a result of the suspension of the handling regulations, the Inspection Service will no longer generate and forward inspection certificates to the Committee. Prior to the temporary suspension of the handling regulation during the 2012–2013 season, the Committee used these certificates as the basis for collecting handler assessments and compiling apricot industry statistics. In the absence of such inspection certificates for upcoming seasons, the Committee intends to enter into a memorandum of understanding with the Washington State Department of Agriculture in order to obtain the information necessary to collect assessments and generate statistical information. Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

Consistent with the suspension of § 922.321, this rule also suspends § 922.111 of the rules and regulations in effect under the order. Section 922.111 contains provisions for handlers to apply for a waiver from mandatory inspection when such inspection is not readily available from the Inspection Service. With the suspension of the handling regulations, such waivers are no longer necessary.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 94 growers of Washington apricots in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms as those having annual receipts of less than $7,000,000. (13 CFR 121.201)

The National Agricultural Statistics Service (NASS) reports that the 2012 total production and utilization (including both fresh and processed markets) of Washington apricots was approximately 6,700 tons, the average price was $1,250 per ton, and the total farm-gate value was approximately $8,371,000. Based on these reports and the number of apricot growers within the production area, it is estimated that the 2012 average revenue from the sale of apricots was approximately $89,000. In addition, based on information from the USDA's Market News Service, 2012 f.o.b. prices for WA No.1 apricots ranged from $16.00 to $24.00 per 24-pound loose-pack container, and from $18.00 to $27.00 for 2-layer tray-pack containers. Using average price and shipment information provided by the Committee, it is determined that each of the Washington apricot handlers currently ship less than $7,000,000 worth of apricots on an annual basis. In view of the foregoing, it is concluded that the majority of growers and handlers of Washington apricots may be classified as small entities.

At its May 13, 2013, meeting, the Committee unanimously recommended suspending the handling regulations for the 2013–2014 and subsequent fiscal periods. This rule suspends the requirements specified in § 922.111 and § 922.321 of the order. The suspension of these regulations will allow the Washington apricot industry to market apricots without regard to minimum grade, size, quality, maturity, and inspection requirements prescribed under the Federal marketing order. Authority for this action is provided in § 922.53.

In prior years, the handling regulation has helped ensure that only acceptable, quality apricots enter fresh market channels, thereby fostering consumer satisfaction, increasing sales, and improving returns to growers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification may exceed the benefits. The Committee also believes that the demands of wholesale buyers and consumers will continue to drive growers and handlers to maintain a high level of product quality, without the necessity of imposing minimum quality standards and mandatory inspections. At the end of each fiscal period, the Committee will evaluate the results of the regulatory suspension and determine if changes are necessary.

The apricot industry has seen considerable fluctuations in the price of apricots in recent years. As a result, at times some growers and handlers have faced difficulty covering their total production costs. In response to the adverse economic conditions experienced by the industry, the Committee discussed the possibility of reducing handling expenses by the eliminating mandatory inspections. The Committee considered the potential consequences of suspending the handling and inspection regulations, and how this may result in lower quality apricots being shipped to fresh markets. Also, if fruit quality were to decline, some Committee members were concerned that the Washington apricot industry could lose sales to other apricot producing regions.

The Committee believes that current market conditions make the inspection program unnecessary and that the costs associated with regulation are greater than the benefits. Therefore, the Committee recommended the suspension of the handling regulations for the remainder of the 2013–2014 and subsequent fiscal periods. The Committee will evaluate the effects of the suspension at the end of each season and consider appropriate actions for the ensuing fiscal periods.

This rule enables handlers to ship apricots without regard to the order's minimum grade, size, quality, maturity, and inspection requirements for the

remainder of the 2013–2014 year and subsequent fiscal periods. This action will also eliminate the costs associated with mandatory inspections. However, this rule does not prohibit handlers from seeking inspection on a voluntary basis if they find inspection desirable.

The suspension of the handling regulations will result in the elimination of mandatory inspections and, in turn, the inspection certificates generated by the Inspection Service. The Committee has used these certificates in prior years for assessment billing purposes and for compiling industry statistics. To replicate the information that was previously provided by the inspection certificates, the Committee intends to enter into a memorandum of understanding with the Washington State Department of Agriculture in order to obtain information on which to collect assessments and generate statistical information.

The Committee anticipates that this interim rule will not negatively impact small handlers or growers. The action is a relaxation of the regulations, suspending the minimum grade, size, quality, maturity, and inspection requirements prescribed under the order. The total cost of inspection and certification for fresh shipments of Washington apricots during the 2011 fiscal period was estimated by the Committee to have been $0.23 per hundredweight, or approximately $12,700 total. This represents approximately $635 per handler. Since handlers may choose to have their apricots voluntarily inspected, the Committee expects that some handlers will continue to have at least a portion of their fresh apricots inspected and certified by the Inspection Service.

The Committee considered other alternatives to the indefinite suspension of the handling regulations, which included maintaining the status quo, suspending regulations on an annual basis, and terminating the marketing order in its entirety. The Committee believes that the continuation of mandatory regulation would be an unnecessary burden on the Washington apricot industry, given the evolving marketing conditions and future industry outlook. Thus, continuing to regulate as currently prescribed by the order was not a viable option for the Committee. The Committee also discussed suspending the handling regulations on an annual basis, but rejected this alternative at this time. Finally, the Committee considered terminating the order in its entirety, but eliminated this option as well, after determining that such a drastic action was unwarranted at this time. The Committee will evaluate the impacts of the suspension at the end of each season and consider appropriate actions for ensuing fiscal periods.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in the Committee's deliberations. Like all Committee meetings, the May 13, 2013, meeting was a public meeting. All entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the suspension of the handling regulations prescribed under the Washington apricot marketing order. Any comments timely received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation and other information, it is found that the regulatory requirements no longer tend to effectuate the declared policy of the Act and are therefore being suspended indefinitely.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim rule is a relaxation of the apricot handling regulations and should be made effective as soon as possible for the 2013–2014 fiscal period, which began April 1, 2013; (2) handlers are already shipping apricots and should know as soon as possible that they are able to market their apricots without regard to the order's handling regulations; (3) this issue has been widely discussed at various industry and association meetings, and the Committee has kept the industry well informed; (4) handlers are aware of this rule, which was recommended at a public meeting; and (5) this rule provides a 60-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR Part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§§ 922.111 and 922.321 [Suspended]

■ 2. In Part 922, §§ 922.111 and 922.321 are suspended indefinitely in their entirety, beginning on October 24, 2013.

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24900 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Doc. No. AMS–FV–13–0067; FV13–946–2 IR]

Irish Potatoes Grown in Washington; Temporary Change to the Handling Regulations and Reporting Requirements for Yellow Fleshed and White Types of Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule temporarily exempts yellow fleshed and white skin (white types) potatoes from minimum quality, maturity, pack, marking, and inspection requirements under the Washington potato marketing order through June 30, 2014. The marketing order regulates the handling of Irish potatoes grown in Washington and is administered locally by the State of Washington Potato Committee (Committee). During the temporary exemption period, reports will be required from handlers of yellow fleshed and white types of potatoes to obtain information necessary to administer the marketing order. This rule is expected to reduce overall industry expenses and increase net returns to producers and handlers while giving the industry the opportunity to explore alternative marketing strategies.

DATES: Effective October 24, 2013; comments received by December 23, 2013 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Teresa.Hutchinson@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 946, as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866 and Executive Order 13563.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted there from. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of entry of the ruling.

This rule temporarily exempts yellow fleshed and white types of potatoes from the order's handling regulations through June 30, 2014. This rule allows the Washington potato industry to market yellow fleshed and white types of potatoes without regard to the minimum quality, maturity, pack, marking, and inspection requirements currently prescribed under the order.

This rule also modifies the order's reporting requirements to require reports from handlers of yellow fleshed and white types of potatoes through June 30, 2014. By modifying the reporting requirements, the Committee can continue to obtain information necessary to administer the marketing order, including the collection of assessments, in the absence of inspection certificates and reports issued by the Federal State Inspection Service (FSIS). Assessments on all fresh yellow fleshed and white types of potatoes handled under the order will remain in effect during the temporary exemption.

The order authorizes the establishment of handling regulations for all varieties or varietal types of potatoes grown in the production area. These regulations can include minimum grade, size, quality, or maturity requirements. They can also stipulate the size, capacity, weight, dimensions, pack, marking, or labeling of containers used in the handling of such potatoes. The order also allows the handling regulations to be modified, suspended, or terminated when recommended by the Committee and approved by the Secretary.

When handling regulations are in effect, regulated potatoes must be inspected and certified by FSIS. As authorized under the order, the Committee uses information included on FSIS inspection certificates as a basis for collecting assessments and compiling industry statistics. Because this action exempts yellow fleshed and white types of potatoes from FSIS inspection and certification, the industry must collect necessary information from an alternate source. Therefore, this action also modifies current reporting requirements to require handlers to submit reports to provide information on the volume of yellow fleshed and white types of potatoes handled for the fresh market during the exemption period.

The above-described authorities are found in §§ 946.51, 946.52, 946.60, and 946.70 of the order. Supporting rules and regulations for these authorities are found in §§ 946.143 and 946.336.

The Committee meets regularly to consider the effectiveness of regulatory requirements in place for Washington potatoes. These requirements are issued on a continuing basis and are subject to modification, suspension, or termination upon recommendation of the Committee and approval by USDA. Committee meetings are open to the public, and interested persons may

express their views at these meetings. USDA reviews recommendations made by the Committee, along with any additional information submitted by the Committee and other available information, and determines whether such recommendations would tend to effectuate the declared policy of the Act.

On May 9, 2013, the Committee met to discuss the handling regulations and the mandatory inspection requirements in effect for Washington potatoes. The Committee considered whether a short-term exemption of yellow fleshed and white types of potatoes from regulation could be beneficial. The industry is concerned that the benefits of regulating the quality of Washington potatoes may be outweighed by the current cost of mandatory inspections.

After much consideration, on July 16, 2013, the Committee unanimously recommended temporarily exempting yellow fleshed and white types of potatoes from the handling regulations and modifying the reporting requirements for such potatoes. The temporary exemption was recommended for the duration of the current fiscal period so that the industry can evaluate the exemption's effects on the marketing of potatoes.

As a result of this exemption, yellow fleshed and white types of potatoes will not be subject to the minimum grade, size, quality, cleanness, maturity, pack, marking, and inspection requirements of the order through June 30, 2014. Also during this time, modified reporting requirements will be in effect to require handlers to submit reports of their shipments of fresh yellow fleshed and white types of potatoes to the Committee.

Historically, an objective of the order's handling regulations has been to ensure that only quality Washington potatoes enter the fresh market, thereby fostering consumer satisfaction, and increasing sales and returns for producers. While the industry recognizes that quality is an important factor for maintaining sales, the Committee believes the cost of mandatory inspections may exceed the benefits derived from the quality regulation of yellow fleshed and white types of potatoes.

The cost for inspections has increased. With potato prices at reportedly low levels in recent years, the Committee studied the possibility of reducing production costs by eliminating the mandatory inspection requirement. In evaluating the relative benefits of quality control, some individuals expressed concern that eliminating quality requirements could result in lower quality potatoes being shipped to the fresh market, thereby negatively affecting consumer demand. Others expressed concern that without minimum requirements the overall quality of potatoes could decline and the Washington potato industry could lose sales to other potato producing areas with mandatory quality and inspection requirements.

With these concerns in mind, combined with the desire to explore alternative strategies, the Committee recommended that yellow fleshed and white types of potatoes be temporarily exempted from the regulations through June 30, 2014. This will allow the Committee to study the impacts of not having handling regulations and consider appropriate actions for ensuing seasons. Therefore, this rule modifies § 946.336 to temporarily exempt yellow fleshed and white types of potatoes from handling regulations through June 30, 2014. This rule does not restrict handlers from seeking inspection on a voluntary basis, if they so choose.

This action will result in a temporary suspension of the monthly FSIS inspection reports for yellow fleshed and white types of potatoes. The Committee has utilized these monthly reports, compiled by FSIS from inspection certificates, as a basis for collecting assessments. During the temporary exemption period, handlers will be required to report fresh shipments of yellow fleshed and white types of potatoes directly to the Committee on an existing form that is being modified for this purpose. This information will allow the Committee to collect assessments and compile industry statistics.

Therefore, this rule modifies § 946.143 to require that each person handling yellow fleshed and white types of potatoes submit a monthly report to the Committee. The reporting requirement was originally established in 2010 to facilitate the exemption of russet type potatoes from the handling regulations. It will be modified to include the collection of information for yellow fleshed and white types of potatoes.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The modified reporting requirement will facilitate the Committee's ability to continue collecting the funds needed to cover necessary program costs.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 43 handlers of Washington potatoes subject to regulation under the order and approximately 267 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. (13 CFR 121.201)

For the 2011–2012 marketing year, the Committee reports that 11,018,670 hundredweight of Washington potatoes were shipped into the fresh market. Based on average f.o.b. prices estimated by the USDA's Economic Research Service and Committee data on individual handler shipments, the Committee estimates that 42, or approximately 98 percent of the handlers, had annual receipts of less than $7,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for 2011–2012 was $7.90 per hundredweight. The average gross annual revenue for the 267 Washington potato producers is therefore calculated to be approximately $326,021. In view of the foregoing, the majority of Washington potato handlers and producers may be classified as small entities.

This rule exempts yellow fleshed and white types of potatoes from the handling regulations and modifies the reporting requirements through June 30, 2014. The industry is concerned that the cost of mandatory inspections, which have increased, may outweigh the benefits of having the quality regulations in place. This change is expected to reduce overall industry expenses and provide the industry with the opportunity to explore alternative marketing strategies.

The authority for regulation is provided in § 946.52 of the order, while authority for reports and records is provided in § 946.70. In addition, the handling regulations are specified under § 946.336 of the order's administrative

rules and regulations, and reporting requirements are specified under § 946.143.

The Committee does not anticipate that this rule will negatively impact small businesses. This rule will temporarily exempt yellow fleshed and white types of potatoes from minimum quality, maturity, pack, marking, and inspection requirements for the current fiscal period. Though inspections are not mandatory for such potatoes during the exemption period, handlers may choose to have their potatoes inspected. Handlers are thus able to control costs based on the demands of their customers.

The Committee discussed alternatives to this recommendation, including not making any changes to the regulations. The Committee also considered different types of inspection programs, exempting all types of potatoes from handling regulations, and exempting yellow fleshed and white types from regulation indefinitely instead of temporarily. However, the Committee believes that the temporary exemption for yellow fleshed and white types of potatoes will give handlers the opportunity to explore alternative marketing strategies for one fiscal period, and give the Committee the opportunity to revisit the situation in the future.

The Committee identified no other alternatives to requiring handlers to report fresh market shipments of yellow fleshed and white types of potatoes. This information is necessary to administer the program, including the collection of assessments.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Generic Vegetable and Specialty Crops.

This rule requires the submission of a monthly handler report for fresh yellow fleshed and white types potatoes handled during the exemption period. This rule modifies the Russet Fresh Potato Report established for russet type potatoes to include yellow fleshed and white types of potatoes during the period those types of potatoes are exempted from regulation. The modified Self-Reporting Potato Form will provide the Committee with information necessary to track shipments and collect assessments. AMS has submitted the modified form and a Justification of Change to OMB for approval.

While this rule requires a reporting requirement for yellow fleshed and white types of potatoes, their exemption from handling regulations also eliminates the more frequent reporting requirements imposed under the order's special purpose shipment exemptions (§ 946.336(d) and (e)). Under these paragraphs, handlers are required to provide detailed reports whenever they divert regulated potatoes for livestock feed, charity, seed, prepeeling, processing, grading and storing in specified counties in Oregon, and experimentation.

Therefore, any additional reporting or recordkeeping requirements on either small or large handlers of yellow fleshed and white types of potatoes are expected to be offset by the elimination of the other reporting requirements currently in effect. In addition, the temporary exemption from handling regulations and inspection requirements for yellow fleshed and white types of potatoes is expected to reduce industry expenses.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The Committee's meetings were widely publicized throughout the Washington potato industry and all interested persons were invited to participate in Committee deliberations. Like all Committee meetings, the May 9, and July 16, 2013, meetings were public meetings. All entities, both large and small, were able to express views on this issue. Further, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This interim rule invites comments on the temporary exemption from handling regulations and the modification of the reporting requirements for yellow fleshed and white types of potatoes. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Any changes resulting from this rule should be effective as soon as practicable because the shipping season for Washington yellow fleshed and white types of potatoes began in July of 2013; (2) the Committee discussed and unanimously recommended these changes at a public meeting and all interested parties had an opportunity to provide input; (3) potato handlers are aware of this action and want to take advantage of relaxation of the handling regulations as soon as possible; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

■ 1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 946.143 is revised to read as follows:

§ 946.143 Assessment reports.

During the period that russet, yellow fleshed, and white types of potatoes are exempt from handling requirements under § 946.336, each person handling russet, yellow fleshed and white types of potatoes shall submit a monthly report to the Committee by the 10th day of the month following the month such potatoes are handled. Each assessment report shall contain the following information:

(a) The name and address of the handler;

(b) The date and quantity of russet, yellow fleshed, and white types of potatoes handled;

(c) The assessment payment due; and

(d) Other information as may be requested by the Committee.

■ 3. The introductory text of § 946.336 is revised to read as follows:

§ 946.336 Handling regulation.

No person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section, except that shipments of the blue or purple flesh varieties of potatoes shall be exempt from both this handling regulation and the assessment requirements specified in § 946.41: *Provided,* That russet type potatoes shall be exempt from the requirements of paragraphs (a), (b), (c), (e), and (g) of this section: *Provided further,* That, from October 24, 2013, through June 30, 2014, yellow fleshed and white types of potatoes shall be exempt from the requirements of paragraphs (a), (b), (c), (e), and (g) of this section.

* * * * *

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24814 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Parts 429, 430, and 431

[Docket No. EERE–2011–BT–TP–0061]

RIN 1904–AC65

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves

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

ACTION: Final rule.

SUMMARY: On May 30, 2012, the U.S. Department of Energy (DOE) issued a notice of proposed rulemaking (NOPR) to amend the test procedures for showerheads, faucets, water closets, urinals, and prerinse spray valves. Following consideration of comments received in response to the NOPR, DOE issued a supplemental notice of proposed rulemaking (SNOPR) on April 8, 2013. The SNOPR included revisions to the definitions of showerhead and hand-held showerhead; removal of body sprays from the proposed showerhead definition; requirements pertaining to testing of showerheads that are components of shower towers; a standardized test method to be used when verifying the mechanical retention of a showerhead flow control insert when subject to 8 pounds force (lbf); clarification of permissible trim adjustments for tank-type water closets; amendments to the required static test pressures to be used when testing flushometer valve siphonic and blowout water closets; and clarifications of the definition of basic model with respect to flushometer valve water closets and urinals, as well as associated changes to certification reporting requirements for both of these products. These proposed rulemakings serve as the basis for this action.

DATES: The effective date of this rule is November 22, 2013.

The incorporation of reference of certain publications listed in this rule was approved by the Director of the Federal Register on November 22, 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: *www1.eere.energy.gov/buildings/appliance_standards/residential/plumbing_products.html*. 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. Lucas Adin, 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. Telephone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov*.

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference the American Society of Mechanical Engineers (ASME) standard A112.18.1–2012 [1] test procedure for faucets and showerheads, ASME A112.19.2–2008 test procedure for water closets and urinals,[2] and American Society for Testing and Materials (ASTM) F2324–09 test procedure for prerinse spray valves. In addition, the final rule adds rounding instructions for certification reporting requirements for measures of water use for these products.

This final rule incorporates by reference into part 430 the following industry standards:

1. ASME A112.18.1–2012, (''ASME A112.18.1–2012''), Plumbing supply fittings,'' section 5.4, approved December 2012.

2. ASME A112.19.2–2008, (''ASME A112.19.2–2008''), ''Ceramic plumbing fixtures,'' sections 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.4, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.6, Table 5, and Table 6, approved August 2008, including Update No. 1, dated August 2009, and Update No. 2, dated March 2011.

Copies of ASME standards are available from the American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016–5990, 800–843–2763 (U.S./Canada), 001–800–843–2763 (Mexico), 973–882–1170 (outside North America), or *www.asme.org*.

This final rule also incorporates by reference into part 431 the following industry standard:

ASTM Standard F2324–03 (Reapproved 2009), (''ASTM F2324–03 (2009)''), ''Standard Test Method for Prerinse Spray Valves,'' approved May 1, 2009.

Copies of ASTM standards are available from the American Society of Testing and Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohoken, PA 19428–2959, 1–877–909–2786 (U.S. & Canada) and (610) 832–9585 (International), or *www.astm.org.*

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[1] During the course of this rulemaking, ASME updated standard A112.18.1 from the 2011 version to the 2012 version. DOE has reviewed the sections incorporated by reference here and has determined that there are no changes that have an impact on this rulemaking, meaning that for DOE's purposes the 2011 and 2012 versions of the standard are effectively identical. Unless otherwise noted, references to ASME A112.18.1 are to the 2012 version.

[2] Unless otherwise noted, references to ASME A112.19.2 are to the 2008 version.

I. 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,'' which includes showerheads, faucets, water closets, urinals and prerinse spray valves, the subjects of this notice. (42 U.S.C. 6292(a)(15)–(18) and 42 U.S.C. 6295(dd)) Because prerinse spray valves are generally viewed as commercial equipment, in a final rule published October 18, 2005, DOE placed the regulatory provisions for prerinse spray valves in Title 10 of the Code of Federal Regulations (CFR), part 431, ''Energy Efficiency Program for Certain Commercial and Industrial Equipment.'' [1] 70 FR 60407, 60409.

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 DOE that their products comply with the applicable energy and water 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.

EPCA states that the procedures for testing and measuring the water use of faucets and showerheads shall be ASME/ANSI standard A112.18.1M–1989, ''Plumbing Fixture Fittings,'' for faucets and showerheads, and ASME/ANSI standard A112.19.6–1990, ''Hydraulic Requirements for Water Closets and Urinals,'' for water closets and urinals; EPCA further specifies that if ASME/ANSI revises these requirements, the Secretary shall adopt such revisions if they conform to the basic statutory requirements for test procedures. (42 U.S.C. 6293(b)(7)–(8))

EPCA states that the test procedure for measuring the flow rate for commercial prerinse spray valves ''shall be based on [the] American Society for Testing and Materials (ASTM) standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.' '' (U.S.C. 6293(b)(14)) In a final rule published on December 8, 2006, DOE incorporated by reference the 2003 version of ASTM standard F2324 at 10 CFR 431.263, and established it as the uniform test method for the measurement of flow rate of commercial prerinse spray valves at 10 CFR 431.264. 71 FR 71340.

DOE last amended test procedures for showerheads, faucets, water closets, and urinals in a final rule published in March 1998 (Mar. 1998 final rule), which incorporated by reference ASME/ANSI standard A112.18.1M–1996, ''Plumbing Fixture Fittings,'' for showerheads and faucets, and ASME/ANSI standard A112.19.6–1995, ''Hydraulic Performance Requirements for Water Closets and Urinals,'' for water closets and urinals. 63 FR 13308 (March 18, 1998). Since publication of the March 1998 final rule, ASME has revised both procedures and issued the most recent versions as A112.18.1–2012, ''Plumbing Supply Fittings,'' for showerheads and faucets in December 2012, and A112.19.2–2008, ''Ceramic Plumbing Fixtures,'' for water closets and urinals in August 2008.[2]

DOE published the proposed amendments to the test procedures for showerheads, faucets, water closets, urinals, and prerinse spray valves in a test procedure NOPR in the **Federal Register** on May 30, 2012 (May 2012 NOPR). The NOPR proposed generally to incorporate the revised versions of the ASME standards discussed in the previous paragraph, as well as an updated version of the test standard for commercial prerinse spray valves and certain revisions and additions to the definitions of covered plumbing products in 10 CFR 430.2. On July 24, 2012, DOE held a public meeting to discuss amendments proposed in the May 2012 NOPR and provided an opportunity for interested parties to comment. DOE also received written comments from interested parties regarding the proposed amendments to the test procedures.

Upon review of the comments received in response to the May 2012 NOPR, several issues emerged that required additional clarification or information before publishing a final rule. In response to those comments, a supplemental notice of proposed rulemaking (SNOPR) was published in the **Federal Register** on April 8, 2013 (April 2013 SNOPR). The issues addressed in the April 2013 SNOPR included revisions to the definitions of showerhead and hand-held showerhead; clarification of the requirements pertaining to testing of shower towers; a standardized test method to be used when verifying the mechanical retention of a showerhead flow control insert when subjected to 8 pounds force (lbf); clarification of permissible trim adjustments for tank-type water closets; and amendments to the required static test pressures to be used when testing

[1] Because of the placement of prerinse spray valves in Part B of Title III of EPCA, the provisions of Part B apply to the rulemaking for commercial prerinse spray valves. The location of the provisions within the CFR does not affect either their substance or applicable procedure; DOE is placing them in the commercial portion of the CFR part as a matter of administrative convenience based on their nature or type.

[2] The term ''ANSI'' is no longer included in the title of the current versions of either standard. However, ASME, the organization that publishes these standards, is accredited by ANSI as a Standards Development Organization and the standards were approved by ANSI prior to publication.

flushometer valve siphonic and blowout water closets. DOE also proposed further clarification of the definition of basic model with respect to flushometer valve water closets and urinals, as well as associated changes to certification reporting requirements for these products. DOE received written comments from interested parties regarding the amended proposals.

On July 30, 2013, DOE held an additional public meeting to receive additional comments on DOE's proposed test to verify mechanical retention of a showerhead flow control insert when subjected to 8 lbf. DOE also accepted written comments for 10 days following the public meeting, with the comment period closing on August 9, 2013. 78 FR 42719 (July 17, 2013). Because DOE has not yet been able to consider all comments raised at this meeting and during the additional comment period, DOE has not finalized this proposal and will address this issue in a separate notice.

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, water use (in the case of showerheads, faucets, water closets and urinals), 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 or energy use, or, in this case, water use, 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 water use of a covered product, DOE must amend the applicable water conservation standard accordingly. (42 U.S.C. 6293(e)(2))

Effective 180 days after an amended test procedure applicable to a covered product is prescribed, no manufacturer may make any representation with respect to water usage of such product unless such product has been tested in accordance with such amended test procedure and such representation fairly discloses the results of such testing. (42 U.S.C. 6293(c)(2)) However, the 180-day period may be extended for an additional 180 days if the Secretary determines that this requirement would impose an undue burden. (42 U.S.C. 6293(c)(3))

II. Summary of the Final Rule

The final rule amends the current DOE test procedures for showerheads, faucets, water closets, urinals, and prerinse spray valves. DOE has concluded that these changes will not affect measured water use of these products. Instead, they will primarily clarify the manner in which to test for compliance with the current water conservation standards. As indicated in greater detail in the ''Discussion'' section of this notice, these amendments apply to the current test procedures in 10 CFR part 430, appendices S and T to subpart B; to the definitions set forth in 10 CFR 430.2; and to 10 CFR part 431, subpart O. DOE is making these amendments to eliminate any potential ambiguity contained in these test procedures and clarify the regulatory text so that regulated entities fully understand the intended application and implementation of the test procedures. DOE also notes that this rule also fulfills its obligation to periodically review its test procedures under 42 U.S.C. 6293(b)(1)(A).

III. Discussion

This section discusses the test procedures incorporated into this final rule. This section also presents the written and oral comments received in response to the May 2012 NOPR, the written and oral comments received in response to the April 2013 SNOPR, and DOE's responses to these comments. Responses to the comments address the following subject areas:

1. Showerheads and Faucets
2. Water Closets and Urinals
3. Commercial Prerinse Spray Valves
4. Incorporation by Reference of Standards
5. Basic Models
6. Statistical Sampling Plans
7. Information To Be Provided in Certification Reports

A. Showerheads and Faucets

1. Definitions

To address certain provisions of the revised ASME A112.18.1 that were not contemplated in the versions referenced by the existing DOE test procedures, and to establish greater clarity with respect to product coverage, DOE proposed in the May 2012 NOPR to adopt new definitions for the terms ''accessory,'' ''body spray,'' ''hand-held shower,'' and ''fitting'' based on the definitions for these components in the most recent ASME standard. 77 FR 31747–48 (May 30, 2012)

In the May 2012 NOPR, DOE proposed to define a showerhead as ''an accessory, or set of accessories, to a supply fitting distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from the overhead position, including body sprays and hand-held showerheads, but excluding safety shower showerheads.'' 77 FR at 31755 (May 30, 2013). DOE proposed a modification to the definition of the term ''showerhead'' based on a definition included in ASME A112.18.1.[3] With the proposed modification, DOE intended to reflect that safety shower showerheads are not covered products, while hand-held showerheads are covered. The proposed definition also clarified that DOE would consider a body spray to be a showerhead for the purposes of regulatory coverage.

Kohler and Sloan Valve Company (Sloan Valve) recommended that, for consistency, DOE should use the showerhead definition found in ASME A112.18.1: ''An accessory to a supply fitting for spraying water onto a bather, typically from the overhead position.'' (Kohler, No. 9 at p. 4; Sloan Valve, No. 12 at p. 3) [4]

The National Resources Defense Council (NRDC) commented that a showerhead should not be defined as an accessory. (NRDC, Public Meeting Transcript, No. 11 at pp. 54–55) [5] Plumbing Manufacturers International (PMI), Moen Incorporated (Moen), and Kohler commented that body sprays are not considered accessories since they cannot be readily added or removed by the user, and thus should not be included in the showerhead definition.

[3] 10 CFR 430.2 previously defined as showerhead as ''any showerhead (including a hand-held showerhead), except a safety shower showerhead.''

[4] A notation in the form ''Kohler, No. 9 at p. 4'' identifies a written comment that DOE has received and included in the docket of this rulemaking. This particular notation refers to a comment: (1) Submitted by Kohler; (2) in document number 9 of the docket; and (3) on page 4 of that document.

[5] A notation in the form ''NRDC, Public Meeting Transcript, No. 11 at pp. 54–55'' identifies a comment that DOE has received and included in the docket of this rulemaking. This particular notation refers to a comment: (1) Submitted by NRDC during the public meeting; (2) in the transcript of that public meeting, document number 11 in the docket of this rulemaking; and (3) appearing on pages 54 and 55 of the transcript.

(PMI, No. 8 at p. 4; Moen, No. 4 at p. 3; Kohler, No. 9 at p. 4) NRDC supported the incorporation of body sprays in the showerhead definition. (NRDC, Public Meeting Transcript, No. 11 at pp. 57–58) The International Code Council (ICC) recommended that the term ''showerhead'' be incorporated into the definition of body spray to clearly indicate that a body spray is considered a form of showerhead. (ICC, Public Meeting Transcript, No. 11 at pp. 55–56)

Based on these comments, DOE withdrew the proposal to include body sprays in the April 2013 SNOPR, citing a need to further study the issue. 78 FR at 20834 (Apr. 8, 2013). DOE also stated in the April 2013 SNOPR that the current ASME showerhead definition was not specific enough to address DOE's regulatory coverage of showerheads by not specifically including hand-held showerheads or excluding safety shower showerheads. 78 FR at 20834 (Apr. 8, 2013). DOE also proposed in the April 2013 SNOPR to remove the term ''accessory'' from the definition of showerhead in light of comments received. 78 FR at 20834 (Apr. 8, 2013). The April 2013 SNOPR proposed the following definition for the term ''showerhead'': ''A component of a supply fitting, or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including hand-held showerheads, but excluding safety showerheads.'' 78 FR at 20841 (Apr. 8, 2013). DOE notes that the term used in EPCA is ''safety shower showerhead,'' and DOE intended for the term in the proposed definition to refer to the same type of product. Accordingly, the finalized definition of ''showerhead'' in this rule uses the term ''safety shower showerhead.''

DOE received additional comments in response to the revised definition of showerhead proposed in the April 2013 SNOPR. Kohler reiterated its previous comment in support of adopting the definition of showerhead contained in ASME A112.18.1. (Kohler, No. 27 at p. 1) Comments were also received from PMI, NSF International (NSF), and the International Association of Plumbing and Mechanical Officials (IAPMO), Chicago Faucets, and Moen that supported use of the definition in ASME A112.18.1. (NSF, No. 22 at pp. 1–2; PMI, No. 23 at pp. 2–3; IAPMO, No. 25 at p. 2; Chicago Faucets, No. 27 at p. 1; Moen, No. 30 at p. 1)

Additionally, a number of comments were received regarding DOE's proposal to adopt a definition of ''showerhead'' that would not include the term ''body spray'' and, therefore, exclude body sprays from the current standard. NSF, PMI, IAPMO, Chicago Faucet, and Moen made comments in support of the adoption of the definition of showerhead currently contained in ASME A112.18.1 without edits, with all commenters, except Chicago Faucets, explicitly supporting the decision to exclude body sprays from the definition. (NSF, No. 22 at p. 2; PMI, No. 23 at pp. 2–3; IAPMO, No. 25 at p. 2; Chicago Faucets, No. 28 at p. 1; Moen, No. 30 at p. 1) On the other hand, a joint written comment submitted by NRDC and the Appliance Standards Awareness Project (ASAP) expressed regret regarding the Department's proposal to remove body sprays from the definition of showerhead, and from regulatory coverage, and further stated that the proposal presented in the SNOPR was ''muddled by the inconsistent and ambiguous use of the term 'fitting.' '' (NRDC/ASAP, No. 26 at p. 1) Maximum Performance Testing (MaP) noted that removing the term ''body spray'' from the definition of showerhead is inconsistent with the general concept of a showerhead since both products serve the same basic purpose, and specifically supported coverage of body sprays as showerheads. (MaP, No. 29 at p. 1) Finally, the California Energy Commission (CEC) stated that DOE's exclusion of the term ''body spray'' from the showerhead definition ''created an exemption from the test procedure so broad that it encompasses showerheads as well.'' CEC went on to clarify that use of the term ''typically'' (in the part of the proposed definition that provides that a showerhead sprays water ''typically from an overhead position'') is ambiguous and ''could lead to a discretionary judgment on what products can be considered not a showerhead'' because any showerhead that could be placed other than overhead or positioned at lower than usual height could be called a body spray. (CEC, No. 31 at pp. 3–4)

Based on careful consideration of these comments, DOE is excluding the term ''accessory'' from the showerhead definition and revising the definition to accurately use the term ''supply fitting'' as it is defined in ASME A112.18.1. The following definition is being adopted in this final rule: ''A component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including hand-held showerheads, but excluding safety shower showerheads.'' This final rule is not adopting a definition of body spray. Because the term ''accessory'' is not used in the definition of showerhead, DOE is not adopting a definition for accessory.

During the July 24, 2012 public meeting, PMI commented that it supported incorporating the definition of hand-held showerhead being developed by ASME: ''An accessory to a supply fitting, that can be hand-held or fixed in place for the purpose of spraying water onto a bather, and which is connected to a flexible hose.'' (PMI, Public Meeting Transcript, No. 11 at p. 54) Written comments from Moen, PMI, Kohler, and Sloan Valve also supported adoption of ASME's draft definition of hand-held showerhead. (Moen, No. 4 at p. 3; PMI, No. 8 at p. 4; Kohler, No. 9 at pp. 3–4; Sloan Valve, No. 12 at p. 3) In the April 2013 SNOPR, DOE proposed the following definition for ''hand-held showerhead'': ''A showerhead that can be hand-held or fixed in place for the purpose of spraying water onto a bather.'' 78 FR at 20841. This definition removed the phrase ''and which is connected to a flexible hose'' from the ASME hand-held showerhead definition because DOE believed the ASME definition might not encompass all hand-held showerhead configurations in the marketplace.

Following publication of the SNOPR, DOE again received comments that expressed support for the adoption of the ASME draft definition of hand-held showerhead from NSF, PMI, IAPMO, Kohler and Moen. (NSF, No. 22 at pp. 1–2; PMI, No. 23 at pp. 2–3; IAPMO, No. 25 at p. 2; Kohler, No. 27 at p. 1; Moen, No. 30 at pp. 1–2) In response to DOE's assertion that the ASME phrase ''and which is connected to a flexible hose'' is restrictive and may not cover all configurations, Moen commented that the ASME definition was developed by the ANSI consensus process and that Moen was ''unaware of any hand-held shower that is connected via some means other than a hose.'' (Moen, No. 30 at p. 1) No other comments were received in response to the proposed definition of hand-held showerhead.

DOE also has not identified any products that appear to be intended for use as a handheld showerhead that do not have a flexible hose, and notes that any product that otherwise meets the definition of a showerhead would be subject to the 2.5 gpm water consumption standard regardless of whether it has a flexible hose. Therefore, the definition for hand-held showerhead adopted in this final rule is: ''A showerhead that can be hand-held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose.''

Finally, in the April 2013 SNOPR, DOE noted that neither EPCA nor 10 CFR 430.2 defines the term ''safety shower showerhead,'' which is a type of showerhead specifically excluded from coverage by EPCA. 42 U.S.C. 6291(31)(D). DOE noted that lack of a definition could cause confusion as to which products qualify for exclusion from coverage. 78 FR at 20835. DOE notes that the current Occupational Safety and Health Administration (OSHA) regulation addressing safety showers, which is located at 29 CFR 1910.151(c), does not define the term or specify required characteristics of a safety shower showerhead. However, certain State regulatory requirements that address safety showers use ANSI standard Z358.1, ''Emergency Eyewash and Shower Equipment,'' as a reference.[6] This standard contains specific design and performance criteria that safety showers must meet, such as flow rate and accessibility. The ANSI standard defines an emergency shower as ''a device specifically designed and intended to deliver a flushing fluid in sufficient volume to cause that fluid to cascade over the entire body.'' DOE requested comments on whether a definition of safety shower showerhead is needed and, if so, whether it is appropriate to define a safety shower showerhead as ''a showerhead that is designed to meet the requirements of ANSI standard Z358.1.'' DOE received comments on the incorporation of a definition of safety shower showerhead consistent with the requirements of ANSI standard Z358.1 from NSF and PMI, which expressed support for inclusion of a definition of safety shower showerhead. (NSF, No. 22 at p. 2; PMI, No. 23 at p. 3) Kohler indicated it had no comments on adding a definition for safety shower showerhead. (Kohler, No. 27 at p. 1)

After considering the comments received on the NOPR in regard to this proposal, and reviewing potential definitions for ''safety shower showerhead,'' DOE was unable to identify a definition that would clearly distinguish these products from the showerheads covered under EPCA. Because of the additional confusion that may be caused by adoption of an unclear definition, DOE is declining to adopt a definition for the term ''safety shower showerhead'' in this final rule. DOE may consider adopting a definition for this term in a future rulemaking.

[6] For example, see Title 8 of the California Code of Regulations, Section 5162, ''Emergency Eyewash and Shower Equipment.''

2. Test Procedure for Showerhead Flow Control Insert

In addition to setting forth water conservation standards for showerheads, EPCA also provides that showerheads must comply with the design requirement of section 7.4.3(a) of ASME/ANSI standard A112.18.1M–1989 (42 U.S.C. 6295(j)(1)), which requires that if a flow control insert is used as a component of a showerhead, the showerhead must be manufactured such that a pushing or pulling force of 8 lbf or more is required to remove the insert.

The current text of 10 CFR 430.32(p) requires that all showerheads manufactured after January 1, 1994, meet the requirements of ASME/ANSI Standard A112.18.1M–1996, 7.4.4(a) (the updated version of the ASME/ANSI provision referenced by EPCA, section 7.4.3(a) of ASME/ANSI A112.18.1M–1989). As part of this final rule, DOE is incorporating this requirement directly into the text of 10 CFR 430.32(p) in place of a reference to the section 4.11.1 of ASME A112.18.1–2012, which is the updated version of the same provision in section 7.4.4(a) of ASME/ANSI A112.18.1M–1996. However, DOE has not established a test method to determine whether showerheads meet the flow control insert retention design requirement. In the May 2012 NOPR, DOE did not propose changes to the showerhead design requirement but noted that no version of ASME A112.18.1 provides a specific test procedure for verifying that a flow control insert remains mechanically retained when subjected to 8 lbf. DOE requested comments and information on prospective methods of verifying that the design requirement applicable to the flow restrictor has been met, as well as comments and information on showerhead designs that may complicate verification of the 8 lbf requirement or make verification of the design requirement unnecessary. 77 FR at 31747 (May 30, 2012).

Based on the comments received in response to the May 2012 NOPR and subsequent research, DOE proposed in the April 2013 SNOPR a test method for validating that a given showerhead meets the flow control insert design requirement. DOE received a number of comments in response to the SNOPR expressing concerns about DOE's proposed test method. (NSF, No. 22 at p. 2, PMI, No. 23 at p. 3, Kohler, No. 27 at p. 2, Chicago Faucet, No. 28 at p. 2, and Moen, No. 30 at p. 2) On July 30, 2013, DOE held a public meeting to explain the proposal in greater detail and to gather additional comments and information about the concerns of stakeholders and the practices currently used by manufacturers to verify compliance with the retention requirement. Because of the comments received during the NOPR and SNOPR comment periods and at the subsequent public meeting, DOE believes further investigation of this issue is necessary to understand clearly any prospective impacts of the proposed test procedure prior to finalizing a test method. Therefore, DOE has decided to address this proposal as part of a subsequent notice.

3. Showerhead Leakage

During the July 2012 public meeting, NRDC commented that the showerhead test procedure should clearly state that ball joint leakage from showerheads should be accounted for either by separately measuring and adding leakage to the flow rate determined per section 5.4 of ASME A112.18.1–2011 (since incorporated into the same section of ASME A112.18.1–2012), or by capturing leakage during the flow rate test itself. (NRDC, Public Meeting Transcript, No. 11 at p. 23) Joint written comments submitted by NRDC and ASAP echoed this comment. (NRDC/ASAP, No. 14 at pp. 1–2) DOE recognizes that there can be leakage in plumbing systems and agrees that leakage from a ball joint integral to a showerhead should be captured in the overall; flow rate

In addition, DOE believes that proposed amendments to the DOE test procedure, which reference ASME A112.18.1, adequately capture ball joint leakage. ASME A112.18.1 has two optional discharge capacity test schematics allowed for testing flow rate: (1) A metered test set up that measures the flow rate through the specimen, as provided in section 5.4.2.2(c) or; (2) a time-volume test set up, which collects showerhead flow in a receiving container over a given period of time to calculate flow rate, as provided in section 5.4.2.2(d). The metered test set up measures all of the flow through the specimen and therefore will capture ball joint leakage. The time-volume test set up will account for ball joint leakage as long as the container is placed in such a way as to capture all of the flow from the showerhead. Also, DOE notes that ASME A112.18.1, section 5.3.5, sets a maximum leakage rate of 0.01 gallons per minute (gpm) from showerhead ball joints. While DOE does not require compliance with this provision, it serves as an indication that the amount of leakage expected for products that comply with current industry standards is relatively small. Based on this

information, DOE will not require a separate test procedure to measure ball joint leakage, but considers ball joint leakage a part of the total flow rate of a showerhead and has included an instruction in the showerhead test procedure in Appendix S that if the time/volume method is used, the container must be positioned as to collect all water flowing from the showerhead, including any leakage from the ball joint.

4. Showerhead Test Pressure

At the July 24, 2012 public meeting, NRDC stated that the requirement in ASME A112.18.1–2011 that showerheads be tested at 80 pounds per square inch (psi) is not representative of pressures experienced in an installation and, in fact, is excessive. (NRDC, Public Meeting Transcript, No. 11 at pp. 22–23) ICC agreed with NRDC that the 80 psi test pressure is excessive and urged DOE to ''correct this obviously excessive number.'' (ICC, Public Meeting Transcript, No. 11 at pp. 24–25) Although ICC presented anecdotal data at the public meeting, no one provided technical information to DOE as part of the written comments regarding pressures experienced in actual showerhead installations. Additionally, in the public meeting ICC stated that the pressure experienced by a showerhead ''depends on the supply pressure and that varies significantly as you move across the country, and depends significantly on the shower valve and the plumbing system.'' (ICC, Public Meeting Transcript, No. 11 at p. 26)

Currently DOE does not have sufficient data to provide a basis for revising the showerhead test pressure specified in ASME A112.18.1. Therefore, this final rule does not amend the test pressure for showerheads, but retains the 80 psi requirement present in ASME A112.18.1.

5. Use of Time-Volume Test Method

During the public meeting, NRDC questioned the efficacy of the time-volume test method for showerheads in ASME A112.18.1 and indicated that this test method may increase the amount of error in measured flow rates compared with tests using a flow meter, particularly due to leakage in the fixture and water splashing out of the receiving vessel during testing. (NRDC, Public Meeting Transcript, No. 11 at pp. 22–24) In their joint written comments, NRDC and ASAP stated that Figure 3 in the ASME A112–18.1 test procedure has shortcomings, including the following: (1) It cannot ensure that water will not splatter out of the container during the test; (2) it lacks instructions for measuring the volume of water collected; (3) it does not specify the incremental resolution of the receiving vessel; (4) it does not provide specifics for timing the test; (5) it does not state how many times the test must be repeated; and (6) it does not provide a method for weighting or averaging the results of multiple tests. NRDC and ASAP concluded that the time-volume test method set forth in ASME A112.18.1 ''is not specified in sufficient detail to ensure accurate and repeatable results, and should not be part of the federal test method.'' (NRDC/ASAP, No. 14 at p. 2) DOE understands the concerns of NRDC and ASAP regarding these issues. However, DOE's review of the updated test procedure for showerheads provided no evidence that the time-volume test method in ASME A112.18.1 does not meet the statutory requirement for DOE to prescribe test procedures that are reasonably designed to produce test results that measure water use during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(3)) Thus, this final rule retains the option to use the time-volume test method as specified in ASME A112.18.1.

6. Testing of Shower Tower Assemblies

In the April 2013 SNOPR, DOE sought to clarify how the requirements of the DOE test procedure apply to shower tower (also known as ''shower panel'') assemblies. DOE provided context by explaining that ''the term shower tower is typically used in reference to single supply fittings that are designed for attachment to one or more hot and cold water connections in a shower or bath and that are composed of at least one showerhead and one or more body sprays, but that may also include a hand-held showerhead and either a valve for selecting spraying components, a thermostatic mixing valve, or both.'' 78 FR at 20835 (Apr. 8, 2013). Because DOE had proposed in the SNOPR a definition of the term ''showerhead'' that did not include body sprays, DOE also proposed in the SNOPR requiring parties to turn off the body spray component(s) of shower towers during testing of the integral showerhead. 78 FR 20835 (Apr. 8, 2013).

NRDC and ASAP and MaP submitted comments disagreeing with DOE's proposal to require that body sprays be turned off when testing a shower tower. NRDC and ASAP stated that the ''approach will yield test results that are not indicative of the water consumption in actual practice . . .'' (NRDC/ASAP, No. 26 at p. 2) MaP stated that ''there is no reason to 'turn off' a portion of a water using system simply because it is not considered to be included within the strict definition of a showerhead.'' (MaP, No. 29 at p. 2) Conversely, Kohler and Moen agreed with DOE's proposal to turn off body spray components of shower towers for testing. (Kohler, No. 27 at p. 1; Moen, No. 30 at p. 2)

Based on the comments received and further research into shower towers/shower panels, DOE concluded that these products contain components that are currently subject to water conservation standards, namely showerheads and hand-held showerheads. Therefore, in the final rule DOE requires that when testing shower towers/shower panels, the showerhead portion that is subject to standards must be tested in accordance with the DOE test procedure. When testing a covered product for maximum flow in accordance with Appendix S, which incorporates by reference ASME A112.18.1 section 5.4, the full flow shall be diverted to the covered component being tested. Where it is not possible to isolate the portion of the shower tower subject to the water consumption standard, all components shall be flowing at the maximum rate and the showerhead measured separately.

B. Water Closets and Urinals

1. Dual-Flush Water Closets

In the May 2012 NOPR, DOE proposed a test method to account for the reduced average water use of dual-flush water closets, which are capable of being flushed in either a full-volume flush mode (full flush) or in a reduced-volume mode (reduced flush). Under the proposed test procedure, the flush volume of the reduced flush would be measured using section 7.4 of ASME A112.19.2 in the same manner as the full flush, and the average representative water use would be calculated using the composite average of two reduced flushes and one full flush. 77 FR at 31746 (May 30, 2012). This proposed method was based upon the test method used by the Environmental Protection Agency (EPA) WaterSense program [7] for measuring the flush volume of dual-flush water closets and used a weighted average of the full and reduced flush volumes.

However, since the Federal water consumption standard is based upon the

[7] WaterSense is a voluntary partnership program administered by the EPA that, among other activities, promotes water conservation by providing certification and labeling for water consuming products, including water closets, that meet certain water conservation standards. Further information is available at *www.epa.gov/WaterSense/index.html.*

maximum water use, DOE did not propose to make this test method the required means for testing dual-flush water closets for the purposes of certification in accordance with 10 CFR part 429. Rather, the intent in including this test method was to provide manufacturers with a potential means to evaluate the representative water use of these products under conditions of expected consumer use for the purposes of labeling and other representations. For products that do not have dual-flush capability, the method required for certification would remain the standard full-flush volume test procedure.

In response to the NOPR, DOE received several comments that opposed incorporation of the proposed test method for dual-flush products. The Alliance for Water Efficiency (AWE), Kohler, Moen, and Sloan Valve commented that because of DOE's statutory authority, which addresses only the maximum water use of water closets, dual-flush water closets should only be tested in full-flush mode in accordance with ASME A112.19.2. (AWE, No. 13 at p. 2; Kohler, No. 9 at pp. 2–3; Moen, No. 4, p. 2; Sloan Valve, No. 12, p. 2). Also, AWE, ICC, Kohler, MaP, Moen, NRDC and ASAP, and Sloan Valve stated that the weighted-average approach was unproven and that the particular ratio required further evaluation to confirm its representativeness. (AWE, No. 13 at p. 2; ICC, Public Meeting Transcript No. 11 at pp. 36–37; Kohler, No. 9 at pp. 2– 3; MaP, No. 10 at pp. 3–4; Moen, No. 4 p. 2; NRDC/ASAP, No. 14 at pp. 3–4; Sloan Valve, Public Meeting Transcript, No. 11 at pp. 38–39) In addition, Kohler, Moen, and Sloan Valve stated that confusion in the marketplace might result if DOE were to issue a method different from the WaterSense method to determine the representative average flush volume for dual-flush water closets. (Kohler, No. 9 at pp. 2–3; Moen, No. 4 at p. 2; Sloan Valve, No. 12 at p. 2)

As a result of these comments, DOE proposed in the April 2013 SNOPR to not include a dual-flush test method in appendix T to subpart B of 10 CFR part 430, and instead to indicate specifically in § 429.30 of 10 CFR part 429 that the flush volume to be reported to DOE in certifications of compliance for water closets is the full-flush volume. The California Investor Owned Utilities (CA IOUs) subsequently submitted multiple comments that revolved around the issue of adopting test procedures to accurately estimate flush volume of dual-flush water closets. Specifically, the CA IOUs commented that: (1) DOE should establish an appropriate ratio of full-volume to reduced-volume flushes that is to be used in determining a representative flush volume for dual-flush water closets; (2) there is evidence that a 2:1 ratio is too high and is variable, depending on the application; (3) DOE should conduct research to determine the appropriate ratio; (4) a nationally established representative flush volume would resolve conflicts between different test procedures adopted by states and lessen the burden on manufacturers; (5) the definition of a water closet needs to be modified to incorporate the ratio of reduced- to full-volume flushes; (6) if DOE intends to establish a standard based on effective flush volume, DOE should use this rulemaking to develop a test procedure; and (7) manufacturers should be required to certify dual-flush water closets for both flush rates. (CA IOUs, No. 24 at pp. 2–3) NRDC and ASAP stated that they believe DOE should establish a procedure for representative average flush rate for dual-flush water closets, but recommended that this be done in another rulemaking. (NRDC/ASAP, No. 26 at p. 3)

In contrast with these comments, Chicago Faucets submitted a comment that stated, ''We believe that the DOE mandate is to enforce the maximum flush volume of 1.6 gallons per flush (gpf).

The best method to achieve this is to maintain the references to the test protocols of the ANSI accredited standard ASME A112.19.2/CSA B45.1. There is no justification for DOE to create a new standard.'' Chicago Faucets added that it believes a 2:1 ratio of reduced- to full-volume flush is conservative, and that 3:1 or 4:1 is likely more representative of actual water use in dual-flush water closets. (Chicago Faucets, No. 28 at p. 2)

For clarification, DOE did not intend to establish through its proposal a separate standard for dual-flush products or to require separate certification requirements for these products, and emphasizes that manufacturers of any type of covered water closet are only required to certify maximum water use (*see* 10 CFR 429.30(b)(2)). DOE also notes that the manufacturer would not have been required under the NOPR proposal to test dual-flush toilets in both the full-flush modes and the reduced-flush modes if the manufacturer did not intend to make representations regarding average water use of dual-flush water closets.

However, based on the comments submitted, DOE has determined that it does not have sufficient evidence on which to base a test procedure for average representative water use for dual-flush water closets. Therefore, DOE is not adopting a test procedure to calculate average representative water use for dual-flush water closets.

Regardless, DOE emphasizes that because DOE is not adopting a test procedure to calculate average representative water use for dual-flush water closets, manufacturers, distributors, retailers, and private labelers are not permitted to make any representations of water use (*e.g.,* average representative water use reflecting an average of the full and reduced flush modes) for dual-flush water closets other than the maximum flush volume. Under 42 U.S.C. 6293(c)(1) and (2), none of these regulated parties may make any representation with respect to the water use of a water closet unless that representation is based on testing conducted in accordance with the relevant DOE test procedure. In this case, because DOE is not adopting a test procedure to calculate average representative water use, parties may not state, in writing or in any broadcast advertisement, a specific value for the average representative water use of a dual-flush water closet. Reported flush volumes may only represent the flush volume of the full-flush mode in accordance with the DOE test procedure. Parties may state that a dual-flush water closet complies with the requirements of EPA's WaterSense program, either in writing or through use of the appropriate WaterSense label, as long as such representations are made in accordance with EPA specifications and such representations do not include a specific value of average representative water use.

During the July 24, 2012 NOPR public meeting, ASAP inquired whether WaterSense would be required to use the same test procedure proposed by DOE in the NOPR for representative average water use for dual-flush water closets. (ASAP, Public Meeting Transcript, No. 11 at p. 33) This rule is not adding a test procedure for representative average water use of dual flush water closets and therefore will have no effect on the WaterSense specification. In addition, since WaterSense is a voluntary program, the specifications for labeling WaterSense products may include additional requirements that are beyond the requirements of the DOE test procedure as long as the DOE test procedure is the basis for measuring water consumption.

At the July 24, 2012 NOPR public meeting, ICC inquired whether dual-flush devices intended to retrofit single flush flushometer-style water closets are

required to meet the appropriate flush volume standards. (ICC, Public Meeting Transcript, No. 11 at p. 38) (See 10 CFR 430.32(q).) Retrofit devices are not covered products because they do not meet the definition of a water closet in 10 CFR 430.2 and therefore are not required to be tested under the DOE test procedures for maximum flush volume.

2. Static Test Pressure for Flushometer Valve Siphonic and Blowout Water Closets

In written comments submitted to DOE following publication of the May 2012 NOPR, NRDC and ASAP recommended that DOE evaluate the effect of averaging test results that have been obtained at different test pressures of siphonic flushometer style water closets, which is the general method used in both ASME/ANSI A112.19.6–1995 referenced in the DOE test procedure for water closets and in the newer ASME A112.19.2–2008. (NRDC/ASAP, No. 14 at p. 2) NRDC and ASAP further suggested that DOE should require reporting of the higher water consumption value obtained by (1) averaging three tests at 80 psi and (2) averaging three tests at 35 psi for siphonic flushometer water closets and, at a minimum, should discard the 2:1 ratio of test results at the lower pressure. (NRDC/ASAP, No. 14 at p. 2) Although not specifically mentioned by NRDC and ASAP in their comments, DOE also proposed in the May 2012 NOPR to require an additional low pressure test at 45 psi for blowout flushometer water closets that would result in a 2:1 ratio of results. 77 FR at 31745.

In the April 2013 SNOPR, DOE agreed that the use of a 2:1 ratio for averaging water consumption of flushometer siphonic and blowout water closets at the pressures currently indicated in Table 5 of ASME A112.19.2–2008 could lead to results that are not representative across a range of pressures. For this reason, DOE proposed that the test pressures for flushometer valve water closets with a siphonic bowl be 80 psi and 35 psi. For flushometer valve water closets with a blowout bowl, DOE proposed that the test pressures be 80 psi and 45 psi. According to this proposal, the test shall be run three times at each pressure as specified in section 7.4.3, ''Procedure,'' of ASME A112.19.2–2008. 78 FR at 20842.

In comments on the April 2013 SNOPR, NSF, PMI, IAPMO, Kohler, and Chicago Faucet stated that the requirements in Table 5 of ASME A112.19.2–2008 were published incorrectly. (NSF, No. 22 at p. 3; PMI, No. 23 at pp. 5–6; IAPMO, No. 25 at p. 2; Kohler, No. 27 at pp. 2–3; Chicago Faucet, No. 28 at p. 2) The commenters stated that the ASME A112 committee has addressed the error and in 2013 will publish a revision to the standard mirroring DOE's April 2013 SNOPR proposal.[8]

NRDC and ASAP re-stated their recommendation that, in order to ensure that test reporting does not obscure efficiency actually experienced by building owners, DOE ''should require reporting of the higher water consumption value obtained by the average of three tests at 80 psi and the average of three tests at 35 psi. At a minimum, these values should be reported separately even if averaging is permitted to demonstrate compliance.'' (NRDC/ASAP, No. 26 at p. 3)

Based on the comments received in response to the SNOPR, DOE, in this final rule, adopts the requirement that water consumption tests be conducted at two static pressures, with three tests at each pressure (*i.e.,* six total tests, rather than nine). For flushometer valve water closets with a siphonic bowl, DOE requires that the test pressures be 80 psi and 35 psi. For flushometer valve water closets with a blowout bowl, DOE requires that the test pressures be 80 psi and 45 psi. According to this amendment, the water consumption test shall be run three times at each pressure as specified in section 7.4.3, ''Procedure,'' of ASME A112.19.2–2008. The recorded flush volume for each tested unit shall be the average of the total flush volumes obtained over the range of pressures specified above.

3. Water Closet and Urinal Sensor-Activated Flush Testing

NRDC and ASAP commented that water closet and urinal flush valves that are activated automatically by a sensor are not adequately tested under the ASME test procedures. NRDC and ASAP claimed that these types of sensor-activated flush valves can cause ''phantom flushing'' (*i.e.,* unintended flushing by the sensored-valve) and lead to excessive water use. NRDC and ASAP requested that DOE develop test procedures to address this issue. (NRDC/ASAP, No. 14 at p. 3) While DOE understands that such phantom flushing may be a concern, the DOE water consumption standards for water closets and urinals, found at 10 CFR sections 430.32(q) and 430.32(r), respectively, are measured in gallons per flush and do not include annual water consumption. While phantom flushes affect the annual water consumption of these products, they do not affect the water use of a single flush. The test procedures for flush valves for water closets and urinals are only intended to measure the flush volume of a single flush. The purpose of this rulemaking is to update the DOE test procedures. Introduction of a new test procedure for sensor-activated flush valves is outside of the scope of this rulemaking.

4. Test Procedure Amendments for Gravity Flush Tank Water Closet Trim Adjustments

In written comments submitted to DOE and in oral comments made during the July 24, 2012 NOPR public meeting, NRDC and ASAP urged DOE to consider requiring manufacturers to adjust the tank trim components to the maximum flush volume setting during testing. (NRDC, Public Meeting Transcript, No. 11 at pp. 70–71; NRDC/ASAP, No. 14 at p. 3) The term ''tank trim'' refers to the components in the tank that can be adjusted by the consumer such as the water level, fill valve timing, and related components. While DOE's current test procedure does not address this issue, ASME A112.19.2–2008, section 7.1.2, specifies that for gravity flush tank water closets, the water level in the tank and fill time shall be adjusted in accordance with the manufacturer's instructions and specifications at each test pressure. Table 5 in ASME A112.19.2–2008 specifies that ''[a]djustments to tank trim components shall be permitted only when changes to test pressures are indicated'' and that ''[n]o adjustments shall be allowed between tests employing like pressures.'' These provisions ensure that once the trim is set to the manufacturer's specifications, the water level and fill time adjustments remain the same for tests that use like pressures, which simulates how water closets are used in real-world application.

After receiving comments from NRDC and ASAP, DOE investigated water closet manufacturers' instructions on gravity flush tank trim adjustments. Based upon a review of installation instructions for representative models from eight separate manufacturers, which represent a significant sampling of major manufacturers of tank-type water closets currently on the market, DOE believes it to be likely that the majority of manufacturers' installation instruction manuals for gravity flush tank water closets specify the tank water

[8] At the time of this final rule, ASME A112.19.2–2013 had just been published. Because DOE did not have sufficient time in which to review the revised version, DOE was unable to incorporate the revised version by reference in this rule. DOE will consider adoption of the 2013 version of A112.19.2 in a future rulemaking.

level and also provide directions on adjusting the tank's water level. However, DOE found that few manufacturers provide information on the recommended adjustment of other trim components, such as the flapper valve or fill valve. Section 7.1.2 of ASME A112.19.2–2008 only specifies adjustments made to the tank water level and fill time and does not specify adjustments made to other trim components such as the flapper valve. Taking into account the variety of water closet designs on the market, it is unclear whether the impact on flush volume of trim adjustments that are not specified in manufacturer's instructions or in ASME A112.19.2–2008 is significant.

Based on these findings, in the April 2013 SNOPR, DOE proposed to amend the test procedures for gravity flush tank toilets to require that, at each test pressure specified in Table 5 of ASME A112.19.2–2008, trim components of gravity flush tank water closets that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and tank water level, be set in accordance with the printed installation instructions supplied by the manufacturer. For products with instructions that do not specify trim setting adjustments, DOE proposed to require that these trim components be adjusted to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. In this context, DOE interprets ''malfunction or leak'' to mean that the product is otherwise unable to meet the requirements of the ASME A112.19.2 standard for basic functionality. In addition, the water level in the tank would be set to the maximum level indicated in the printed installation instructions supplied by the manufacturer or the water line indicated on the tank itself, whichever is higher. DOE also proposed to require that if the product's installation instructions or the water closet tank do not indicate a water level, the water level must be adjusted to 1 ± 0.1 inches below the top of the overflow tube or 1 ± 0.1 inches below the top rim of the water-containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2–2008.

In response to this proposal in the SNOPR, American Standard, NSF, PMI, and Chicago Faucets submitted comments stating that trim adjustments to gravity tank water closets are already covered in ASME A112.19.2–2008, and that there is no need to deviate from this national standard. These comments also stated that any adoption of changes to trim adjustments should be managed by ASME through a consensus process. (American Standard, No. 21 at p. 1; NSF, No. 22 at p. 3; PMI, No. 23 at p. 5; Chicago Faucets, No. 28 at p. 2) American Standard argued that consumers would be less satisfied with the proposed adjustments because of the reduced water pressure brought about by a lower water level. (American Standard, No. 21 at p. 1)

Chicago Faucets specifically commented that proposed trim adjustments will not reduce water consumption in water closets and ''adjusting the time of the fill valve in a wash down gravity flush water closet does not affect the flush volume . . . . If the valves are not adjustable then the instructions are not relevant.'' (Chicago Faucets, No. 28 at p. 2)

Comments received from Kohler and IAPMO agreed with DOE's proposed gravity tank water closet trim adjustments and states that a majority of manufacturers provide adequate instructions pertaining to proper tank component settings at the intended flush volumes. (Kohler, No. 27 at pp. 2–3; IAPMO, No. 25 at p. 2)

Based on comments received and research conducted, DOE has concluded the specifications in ASME A112.19.2–2008 may not be adequate to ensure that manufacturers test gravity tank water closets at the maximum flush volume. DOE does not believe that trim adjustments will cause consumers to be less satisfied with the water closet performance. The water closet design should provide a proper flush performance that does not exceed the maximum flush volume, and the tank water level and other component settings (such as the flapper valve) should be adequate in meeting this requirement. Therefore, in this final rule, DOE is establishing a requirement that at each test pressure specified in Table 5 of ASME A112.19.2–2008, trim components of gravity flush tank water closets that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and water tank level, shall be set in accordance with the printed installation instructions supplied by the manufacturer. For products with instructions that do not specify trim setting adjustments, trim components shall be adjusted to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. In this context, DOE interprets ''malfunction or leak'' to mean that the product is otherwise unable to meet the requirements of the ASME A112.19.2–2008 standard for basic functionality. In addition, the water level in the tank shall be set to the maximum level indicated in the printed installation instructions supplied by the manufacturer or the water line indicated on the tank itself, whichever is higher. If the product's installation instructions or the water closet tank do not indicate a water level, the water level shall be adjusted to 1 ± 0.1 inches below the top of the overflow tube or 1 ± 0.1 inches below the top rim of the water-containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2–2008.

MaP, NRDC and ASAP, and PMI recommended that DOE follow the WaterSense specification for gravity tank water closet trim adjustments and stated that the WaterSense specification is a validated procedure that has been used on thousands of products. (MaP, No. 29 at p. 2; NRDC/ASAP, No. 26 at pp. 2–3; PMI, No. 23 at p. 5) Specifically, NRDC and ASAP stated, ''field adjustability is a significant cause of excessive water consumption by nominally compliant tank-type water closets at the point of use and the US EPA WaterSense specification for tank-type toilets incorporates specific language on field adjustability, and limits the effects of adjustability to 0.4 gallons per flush in additional consumption.'' NRDC and ASAP went on to state, ''Although the specific allowance of 0.4 gpf used by WaterSense should be examined further by DOE before incorporation into the federal test procedure, the frame developed by WaterSense is one that the Department should consider in this rule-making.'' (NRDC/ASAP, No. 26 at pp. 2–3)

After consideration of these comments, DOE will not adopt the WaterSense specifications for gravity tank water closet trim adjustments. The WaterSense specification provides a special allowance to address field adjustments to trim settings, which are outside the scope of the water consumption test required by DOE and which may add confusion to compliance with Federal requirements if added to the regulations. Specifically, the WaterSense specification permits the maximum volume of water that can be discharged by the water closet when field adjustment of the tank trim is set at the maximum use setting to be as high as the following values: 1.68 gpf for single-flush water closets and 2.00 gpf for dual-flush water closets in the full-flush mode. (*See* EPA WaterSense

Specification for Tank-Type Toilets version 1.1, section 5.2, available at *http://www.epa.gov/WaterSense/docs/revised_het_specification_v1.1_050611_final508.pdf,* or DOE Docket Number EERE–2011–BT–TP–0061, No. 1, p. 3) DOE views the water level and trim settings identified by the manufacturer through the printed instructions supplied with the water closet and marked on the tank as the settings for expected consumer use, and would require use of the maximum settings only in cases where the manufacturer has provided no instructions or markings regarding these settings. Because the allowances in the WaterSense specification address water consumption under conditions outside of those which DOE has previously determined to be representative of expected consumer use, DOE declines to adopt these specifications. DOE notes that any basic model that, under the DOE test procedure, must be tested using the maximum trim setting must meet the applicable Federal standard when tested using that maximum trim setting.

5. Annual Water Consumption Metric

During the July 24, 2012 NOPR public meeting and in written comments, NRDC and ASAP proposed that DOE consider the use of an annual water consumption metric and associated test procedure for water closets, reasoning that ''if all new water closets were required to certify an annual consumption rate that incorporated a reasonable limitation on losses due to leakage, the federal efficiency standard would more effectively encourage the use of designs and materials that eliminate leakage altogether.'' (NRDC, Public Meeting Transcript, No. 11 at pp. 72–73; NRDC/ASAP, No. 14 at p. 4) More specifically, NRDC and ASAP recommended the incorporation by reference of ASME A112.19.5–2011, ''Flush valves and spuds for water closets, urinals, and tanks,'' which addresses leakage for those products. (NRDC/ASAP, No. 14 at p. 4)

DOE notes that the purpose of the current rulemaking is to update the existing DOE test procedures, which are prescribed primarily for measuring the maximum flush volume of water closets and for verifying compliance with the applicable Federal water consumption standards. The Federal standard does not include a limit on annual water use, nor do DOE's test procedures include a measurement of annual water use. Further, in accordance with EPCA, DOE is required to consider the most current version of industry standards, which do not address annual water use of these products. 42 U.S.C. 6293(b)(8) Finally, DOE does not currently have enough data to develop a test procedure for quantifying annual water use of water closets. Development of such a metric would likely require consideration of issues such as usage patterns for the products, flushing patterns of sensor-operated valves, and leakage. Thus, introduction of an annual water use metric is outside of the scope of the current rulemaking.

6. Trough Urinal Reporting Requirements

In the April 2013 SNOPR, DOE noted that the reporting requirement for trough urinals in § 429.31(b)(2) requires reporting of water consumption for these products in gallons per minute (gpm). DOE stated that the appropriate unit of measurement for reporting water consumption of trough-type urinals should be gpf in accordance with the Federal standard contained in 10 CFR 430.32(r) and proposed to update the requirement in § 429.31(b)(2) to reflect that the water consumption of urinals be reported in gpf. 78 FR at 20841.

In response, three interested parties provided feedback on the proposal. PMI, IAPMO, and Kohler all commented that trough-type urinals are not equipped with a flushing mechanism and therefore water consumption cannot be measured using gpf. (PMI, No. 23 at p. 6; IAPMO, No. 25 at p. 2; Kohler, No. 27 at p. 3)

Based on these comments, DOE reviewed the requirements of 10 CFR sections 429.31(b)(2) and 430.32(r) and found that it was in error in the April 2013 SNOPR. DOE water conservation standards for trough urinals are based on maximum flow rate (*i.e.,* gallons per minute, not gallons per flush). Therefore, DOE withdraws the proposal set forth in the April 2013 SNOPR to require water consumption for trough-type urinals to be reported in gallons per flush. The language currently contained in 10 CFR 429.31(b)(2) regarding the reporting of water consumption of trough-type urinals will remain unchanged.

C. Commercial Prerinse Spray Valves

In the May 2012 NOPR, DOE proposed to update its test procedures to adopt the industry standard for prerinse spray valve testing to ASTM standard F2324–2009. DOE noted in the NOPR that no changes had been made to the standard, and that only the date had been updated from 2003 to 2009. 77 FR 31746 (May 30, 2012). MaP, NRDC, and Chicago Faucets commented that test procedures for prerinse spray valves in ASTM standard F2324–09 were being updated to reflect new performance tests that correlate with user satisfaction. (MaP, No. 10 at p. 5; NRDC, Public Meeting Transcript, No. 11 at pp. 43–44; Chicago Faucets, Public Meeting Transcript, No. 11 at pp. 44–45) DOE notes that it has statutory authority only as it relates to maximum flow rate of prerinse spray valves and does not have statutory authority over product performance as it relates to user satisfaction. DOE also notes that the revised test procedure does not change the maximum flow rate for prerinse spray valves. The new version of ASTM standard F2324 has not been finalized at the time of this final rule, and DOE cannot incorporate by reference a draft test procedure. Thus, this final rule incorporates by reference ASTM standard F2324–09 for testing of commercial prerinse spray valves.

D. Incorporation by Reference of Standards

1. ASME Standards

In the May 2012 NOPR, DOE proposed to adopt the updated ASME standard (ASME A112.18.1M–2011) to align the DOE test procedures for faucets and showerheads with industry practice. 77 FR 31746 (May 30, 2012). DOE received comments from Moen and Kohler supporting the incorporation of the updated ASME standard (Moen, No. 4 at p. 1; Kohler, No. 9 at p. 1). PMI, Sloan Valve, and AWE also commented in favor of DOE adopting the updated reference to ASME A112.18.1, but included a statement that the standard should be incorporated in its entirety without edits, modifications, or exceptions. (PMI, No. 8 at p. 2; Sloan Valve, No. 12 at p. 1; AWE, No. 13 at p. 1) NSF and PMI submitted similar comments following publication of the April 2013 SNOPR. (NSF, No. 22 at pp. 2–3; PMI, No. 23 at pp. 2–3) DOE did not receive any comments objecting to the proposal.

Subsequently, ASME A112.18.1–2012, which is identical to ASME A112.18.1–2011 in the sections referenced by DOE, has been reviewed by the American National Standards Institute (ANSI) and was approved in December 2012. Furthermore, ASME A112.18.1–2012 has been adopted by the Canadian Standards Association (CSA) as CSA B125.1. DOE has reviewed ASME A112.18.1–2012 and finds that it meets the requirements of 42 U.S.C. 6293(b)(7)(B). In response to the comment that the entire standard should be incorporated, DOE is only incorporating those sections relevant to measurement of the flow rate of these covered products. Therefore, this final

rule incorporates by reference section 5.4, Flow Rate, of ASME A112.18.1–2012, ''Plumbing Supply Fittings,'' for faucets and showerheads.

In the May 2012 NOPR, DOE also proposed to adopt the updated ASME standard (ASME A112.19.2–2008) to align the DOE test procedures for water closets and urinals with industry practice. 77 FR 31746 (May 30, 2012). ASME A112.19.2–2008 has been reviewed by ANSI and was approved on August 1, 2008. Furthermore, ASME A112.19.2–2008 has been adopted by CSA as CSA B45.1–08. Moen and Kohler submitted comments supporting the incorporation of the updated standard (Moen, No. 4 at p. 2; Kohler, No. 9 at p. 2). PMI, Sloan Valve, and AWE also commented in favor of DOE adopting the updated reference to ASME A112.19.2–2008, but included a statement that the standard should be incorporated in its entirety without edits, modifications, or exceptions. (PMI, No. 8 at p. 3; Sloan Valve, No. 12 at p. 2; AWE, No. 13 at p. 2) NSF and PMI submitted similar comments following publication of the April 2013 SNOPR (NSF, No. 22 at p. 3; PMI, No. 23 at p. 5). In response to the comment that the entire standard should be incorporated, DOE is only incorporating those sections relevant to measurement of the water consumption of these covered products. DOE has reviewed ASME A112.19.2–2008 and finds it meets the requirements of 42 U.S.C. 6293(b)(7)(B).

Therefore, this final rule incorporates by reference section 7.1, ''General,'' and subsections 7.1.1, 7.1.2, 7.1.3, 7.1.4, and 7.1.5 as well as section 7.4, ''Water Consumption Test,'' of ASME A112.119.2–2008, ''Ceramic Plumbing Fixtures,'' for water closets. For the testing of urinals, this final rule incorporates by reference section 8.2, ''Test Apparatus and General Instructions,'' subsections 8.2.1, 8.2.2, and 8.2.3 as well as section 8.6, ''Water Consumption Test,'' of ASME A112.19.2–2008, ''Ceramic Plumbing Fixtures.''

2. Automatic Incorporation of Standards

Moen and Kohler recommended that DOE eliminate a reference to a specific version of the ASME standards and instead incorporate language in the CFR that requires compliance with the latest revision of the applicable ASME standard within two years after its publication by ASME. (Moen, No. 4 at pp. 1–2; Kohler, No. 9 at pp. 1–2) EPCA specifies that if the test procedure requirements of ASME/ANSI standard A112.18.1M–1989 and ASME/ANSI standard A112.19.6–1995 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures to conform to such revised ASME/ANSI requirements unless the Secretary determines by rule that to do so would not meet the requirements of paragraph 42 U.S.C. 6293(b)(3). 42 U.S.C. 6293(b)(7)(B)–(8)(B) EPCA directs that any test procedure prescribed or amended by DOE shall be reasonably designed to produce test results that measure water use or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct. 42 U.S.C. 6293(b)(3)(B) Automatically updating the Code of Federal Regulations (CFR) to the latest published version of the ASME standard does not allow DOE to review the changes made to ensure that the revisions meet the requirements in 42 U.S.C. 6293(b)(3) regarding representativeness of measurements and the associated test burden of the procedure. It also would not address the requirement in EPCA for DOE to review test procedures for all covered products every 7 years. 42 U.S.C. 6293(b)(1)(A). Further, the Administrative Procedure Act requires that any substantive amendment to an existing rule be subject to prior notice and an opportunity for public comment. Therefore, DOE is not adopting the recommendation from Moen and Kohler.

3. ASTM Standard

In the May 2012 NOPR, DOE proposed to adopt the updated ASTM standard F2324–09 to align the DOE test procedures for prerinse spray valve maximum flow rate measurement with industry practice. 77 FR 31746 (May 30, 2012). Moen, PMI, MaP, and AWE all commented in favor of DOE adopting the updated reference to ASTM standard F2324–09. (Moen, No. 4 at p. 2; PMI, No. 8 at p. 3; PMI, Public Meeting Transcript, No. 11 at pp. 42–43; MaP, No. 10 at p. 5; AWE, No. 13 at p. 2) DOE has reviewed ASTM standard F2324–09 and finds that it meets the requirements of 42 U.S.C. 6293(b)(7)(B). Therefore, this final rule incorporates by reference ASTM standard F2324–09, ''Standard Test Method for Prerinse Spray Valves.''

E. Definition of Basic Model

In the May 2012 NOPR, DOE provided information on the water closet and urinal basic model definition and requested comments on the interpretation of the current definition of a basic model and factors that DOE should consider in clarifying the definition of basic model. DOE considered evaluation of this issue to be of importance since the water consumption of some types of water closets and urinals, particularly those that use a flushometer valve, must be measured by combining a flushing mechanism and bowl that are distributed in commerce separately, which could complicate the identification of basic models for the purposes of testing and certification. During the July 24, 2012 public meeting, NRDC commented that it is unclear how DOE expects the valve/bowl pairing combination to work in practice with respect to the basic model definition. To illustrate the lack of clarity, NRDC pointed to DOE's own language indicating that different valve and bowl combinations could result in different flush volumes. (NRDC, Public Meeting Transcript, No. 11 at pp. 60–61) In follow-up written comments submitted jointly, NRDC and ASAP stated that DOE's explanation in the NOPR of how the compliance certification accounts for all possible combinations of a valve and bowl failed to ''clarify how a fixture manufacturer can establish that its bowl cannot be paired with a flushing device that would provide a higher flush volume and still function properly.'' (NRDC/ASAP, No. 14 at p. 6) NRDC stated that because DOE is aware of the variability of flush volume based on the valve/bowl combination, it must find a way to verify that products shipped to commerce can reliably meet the standard. Finally, NRDC and ASAP suggested that DOE consider expanding the definition of ''tested combination'' in 10 CFR 430.2 to include information specific to water closets and urinals along with their associated flushing devices. (NRDC/ASAP, No. 14 at p. 6) NRDC and ASAP also inquired as to whether new valves shipped into commerce that are not paired with a bowl are covered products and require certification. (NRDC, Public Meeting Transcript, No. 11 at p. 62; ASAP, Public Meeting Transcript, No. 11 at p. 64)

Based on the comments received, DOE further investigated the issues revolving around the basic model definition and certification of water closets and urinals. In the April 2013 SNOPR, DOE provided information on the definitions of water closet and urinal contained in ASME A112.19.2 and 10 CFR 430.2, which both state that these products are receiving vessels that, upon actuation, convey waste through a trap to a drainage system. The flushing device, such as a flushometer valve, does not meet the definition of a

water closet or urinal, and therefore is not itself a covered produce under DOE's regulations. 78 FR at 20838 (Apr. 8, 2013). DOE noted that manufacturers are only required to certify the water closet bowl or urinal body, but for proper operation, the receiving vessel must be paired with a valve during testing and operation. 78 FR at 20839 (Apr. 8, 2013). Additionally, water closet bowls and urinal bodies are designed for specified flush volumes and must be paired with a valve designed to deliver that volume to ensure proper operation.

In order to clarify the requirement for pairing a valve and bowl together for testing, DOE proposed to incorporate by reference section 7.1.5.2 of ASME A112.19.2–2008, which clearly states that a flushometer valve must be connected to the test bowl, and specifies that while conducting the water consumption test the valve is required to maintain a peak flow rate. 78 FR at 20839 (Apr. 8, 2013). A similar provision for flushometer urinals was proposed to be incorporated in the May 2012 NOPR. 77 FR at 31745 (May 30, 2012). DOE further proposed to modify the certification requirements in 10 CFR 429.30(b)(2) for water closets and 429.31(b)(2) for urinals to require manufacturers to identify the flushometer valve that was used during the water consumption test.

Following the April 2013 SNOPR, NRDC and ASAP again commented on the definition of basic model and certification requirements. NRDC and ASAP stated that the proposal fails to require the valve that is actually shipped to be tested and certified and also points out that there is no way to establish that the flush volume rating of the valve used in the test represents the valve flush volume that will be paired with the covered product because other valves are not subject to federally recognized testing and certification. The comment lists other key attributes that NRDC and ASAP believe DOE's proposal fails to account for, which include the following: (1) The product category for flushometer water closets and urinals should encompass the valve and the china because neither alone would meet the product definition; (2) flushometer valves are commonly shipped separately from the china; (3) water closet bowls and urinal bodies are often shipped without a valve; and (4) ASME A112.19.2–2008 is essentially a test of the valve. (NRDC/ASAP, No. 26 at pp. 3–4). NRDC and ASAP restated their previous proposal that DOE include language in 10 CFR 430.2, ''Tested Combination'' to include language and procedures specific to water closets and urinals and their associated flushing devices.

DOE also received comments from NSF, PMI and IAPMO that supported the definition of basic model proposed by DOE in the April 2013 SNOPR as well as the incorporation of ASME A112.19.2–2008, Section 7.1.5.2. (NSF, No. 22 at p. 4; PMI, No. 23 at p. 6; IAPMO, No. 25 at p. 2) Kohler requested clarification that the ''valve'' is meant to refer to a flushometer valve and not a flush valve housed in a toilet tank. Kohler further stated that standard industry practice ''is such that if a specific flushing device is required to be used with a fixture, this requirement is indicated on the fixture specification sheet. In the event the fixture specification sheet does not indicate a specific flushing device, any flushing device that operates at the rated marking on the fixture can be used.'' (Kohler, No. 27 at p. 3)

In response to these comments, DOE notes that the purpose of the information presented in both the May 30, 2012 NOPR and April 8, 2013 SNOPR was not to change the existing definition of a basic model of a water closet or urinal, but to clarify for manufacturers how individual models could be grouped together as a single basic model for the purposes of testing and reporting water consumption in accordance with 10 CFR 429.12. Reported consumption must be based on the maximum flow for a given valve/china combination. When a manufacturer certifies a given pairing as a basic model, an assurance is provided to DOE that the rating, based on the basic model pair, represents the maximum flush volume that the basic model pair is designed to provide.

Therefore, in this final rule, DOE retains the existing definition of basic model for water closets and urinals, and incorporates by reference section 7.1.5.2 of ASME A112.19.2–2008, which clearly states that a flushometer valve must be connected to the test bowl and specifies that while conducting the water consumption test for water closets, the valve is required to maintain a peak flow rate. However, because the addition of new items to the existing reporting requirements requires separate review that is not being conducted as part of this rulemaking, DOE declines to adopt the requirement that the flushometer valve used during the water consumption testing of water closets and urinals be included on the certification report, and will address that proposal as part of a separate rulemaking.

F. Statistical Sampling Plans

In the May 2012 NOPR, DOE requested comment on the provisions of the statistical sampling plans for faucets, showerheads, water closets, urinals, and commercial prerinse spray valves specified in 10 CFR sections 429.28, 429.29, 429.30, 429.31, and 429.51, including the confidence limits and potential revisions to the respective sampling plans that might better reflect the level of repeatability that is achievable for each test. 77 FR 31746 (May 30, 2012). Moen, PMI, Kohler, Sloan Valve, and AWE all supported retaining the existing statistical sampling plans and no dissenting comments were received. (Moen, No. 4 at p. 4; PMI, No. 8 at pp. 4–5; Kohler, No. 9 at p. 4; Sloan Valve, No. 12 at p. 3; AWE, No. 13 at p. 3) Therefore, in this final rule DOE retains the existing statistical sampling plans without change.

G. Information To Be Provided in Certification Reports

In the May 2012 NOPR, DOE proposed to retain the existing general reporting requirements as they are listed in 10 CFR 429.12, as well as product-specific requirements in 10 CFR 429.28 (for faucets), 429.29 (for showerheads), 429.30 (for water closets), 429.31 (for urinals), and 429.51 (for commercial prerinse spray valves). DOE also proposed to move the rounding provisions for all five products to 10 CFR part 429 to clarify that rounding of the final rated value of water consumption for a basic model should occur after application of the sampling statistics. 77 FR 31749. No comments were received in response to this proposal.

In the April 2013 SNOPR, DOE proposed to change the certification requirements in 10 CFR 429.30(b)(2) for water closets and 429.31(b)(2) for urinals to require manufacturers to identify in their certification reports the flushometer valve used during the water consumption test. 78 FR 20839. Under this proposal, the flushometer valve listed on the certification report must represent the flush volume of the water closet and urinal if used with any other valve with the same flush volume rating or less, and must represent the maximum design flush volume of the water closet or urinal.

PMI and IAPMO commented that there was no objection to the reporting of the flushometer valve used during testing provided there was no implication that only the test valve listed could be used with each tested water closet bowl or urinal body. (PMI,

No. 23 at p. 6; IAPMO, No. 25 at p. 2) No comments were received opposing the proposal to require reporting of the flushometer valve used during testing in certification reports.

Based on the comments received, DOE intends to adopt a requirement for the flushometer valve used during the water consumption testing of water closets and urinals to be included on the certification report. However, because the addition of new items to the existing reporting requirements requires separate review that is not being conducted as part of this rulemaking, DOE is not adopting this requirement in this final rule and will revisit this proposal as part of a future rulemaking.

H. Changes in Measured Water Use

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 or energy use, or, in the case of this rulemaking, water use, 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 water use of a covered product, DOE must amend the applicable water conservation standard accordingly. (42 U.S.C. 6293(e)(2))

In this final rule, DOE incorporates by reference updated versions of ASME A112.18.1–2012, test procedure for faucets and showerheads; ASME A112.19.2–2008, test procedure for water closets and urinals; and ASTM F2324–09, test procedure for prerinse spray valves. The updated industry standards incorporate minor adjustments in test methodology, such as changes in temperatures and inclusion of instrument tolerances that were not previously specified and, DOE has determined, do not alter the measured water consumption.

In addition, the final rule adds rounding instructions for certification reporting requirements for measures of water use for these products. Similarly, the addition of the rounding instructions for certification reporting does not affect the measured water consumption.

Therefore, based on a consideration of the above, DOE determines that the amended test procedure would not alter the measured water use of a covered product and that revisions to the water conservation standards due to the amended test procedure are not warranted under 42 U.S.C. 6293(e)(2).

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget 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 (IRFA) 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 (August 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 at 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://www.gc.doe.gov/gc/office-general-counsel*.

DOE reviewed the amendments to the test procedures for plumbing equipment including showerheads, faucets, water closets, urinals and commercial prerinse spray valves under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the amendments would not result in significant economic impacts on small entities. The factual basis for this certification is set forth in this rulemaking.

For the plumbing equipment manufacturing industry, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purpose of the statute. DOE used the SBA's size standards to determine whether any small entities would be required to comply with the rule. The size standards are codified at 13 CFR part 121. The standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*. Plumbing equipment manufacturers are classified under NAICS 332913, ''Plumbing Fixture Fitting and Trim Manufacturing,'' and NAICS 327111, ''Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing.'' The SBA sets a threshold of 500 employees or less for NAICS 332913, and 750 employees or less for NAICS 327111, for an entity to be considered a small business within these categories.

DOE conducted a focused inquiry into small business manufacturers of products covered by this rulemaking. During its market survey, DOE used all available public information to identify potential small manufacturers. DOE's research involved the review of industry trade association membership directories (including the American Society of Plumbing Engineers), product databases (*e.g.,* Federal Trade Commission (FTC), the Thomas Register®, California Energy Commission (CEC), and ENERGY STAR databases), individual company Web sites, and marketing research tools (*e.g.,* Dun and Bradstreet reports, and Manta) to create a list of companies that manufacture or sell plumbing products covered by this rulemaking. Using these sources, DOE identified 83 manufacturers of showerheads, faucets, water closets, urinals, and commercial prerinse spray valves.

DOE then reviewed this data to determine whether the entities met the SBA's definition of a small business manufacturer of covered plumbing products and screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned and operated. Based on this review, DOE has identified 48 manufacturers that would be considered small businesses that would be affected by this rulemaking. Through this analysis, DOE determined the expected impacts of the rule on affected small businesses and whether an IRFA was needed (*i.e.,* whether DOE could certify that this rulemaking would not have a significant economic impact on a substantial number of small entities).

Table IV.1 stratifies the small businesses according to their number of employees. The smallest company has 4 employees and the largest company 375 employees. The majority of the small businesses affected by this rulemaking (88 percent) have fewer than 100 employees. Annual revenues associated with these small manufacturers were estimated at $492.5 million ($10.3

million average annual sales per small manufacturer). According to DOE's analysis, small entities constitute 58 percent of the entire plumbing equipment manufacturing industry covered by the rule.

TABLE IV.1—SMALL BUSINESS SIZE BY NUMBER OF EMPLOYEES

Number of employees	Number of small businesses	Percentage of small businesses	Cumulative percentage
1–10	8	16.7	16.7
11–20	10	20.8	37.5
21–30	3	6.3	43.8
31–40	11	22.9	66.7
41–50	3	6.3	72.9
51–60	1	2.1	75.0
61–70	0	0.0	75.0
71–80	5	10.4	85.4
81–90	0	0.0	85.4
91–100	1	2.1	87.5
101–110	0	0.0	87.5
111–120	0	0.0	87.5
121–130	0	0.0	87.5
131–140	0	0.0	87.5
141–150	0	0.0	87.5
151–200	2	4.2	91.7
201–300	2	4.2	95.8
301–400	2	4.2	100.0
401–500	0	0.0	100.0
Total	48		

As noted in the Background and Summary sections (I and II) of this rule, EPCA requires that DOE review its test procedures for covered products at least once every 7 years and to amend them if the Secretary determines that to do so would provide test procedures that would more accurately or completely measure water use and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(1)) To comply with EPCA, this rule incorporates amendments to ASME test procedures, which have been updated for faucets, showerheads, water closets and urinals. Additionally, EPCA prescribes use of the ASTM standard F2324 for commercial prerinse spray valves, which is a product that is also covered in this rulemaking.

Showerheads and Faucets

DOE is updating its test procedures for showerheads and faucets by incorporating by reference AMSE standard A112.18.1–2012. These incorporated changes involve minor adjustments in test methodology, such as changes in temperatures and inclusion of instrument tolerances that were not previously specified, none of which would require any additional equipment and are not expected to lengthen the time required to complete the test. Because there are no major changes in testing the test procedures, calculation methodology or certification requirements associated with these amendments, DOE has determined there is no incremental cost burden to small entities associated with this change.

Water Closets and Urinals

DOE is updating its water closet and urinal test procedures from those set forth in ASME/ANSI standard A112.19.6–1995 to ASME standard A112.19.6–2008. The changes involve minor adjustments in test setup, the specification of certain instrumentation tolerances, and minor adjustment to test pressures, none of which would require additional equipment or lengthen the time required to complete the test. Because there are no major changes in the test procedures or requirements for these products, DOE incorporates this change by reference. The changes adopted in this rule will not alter current testing procedures, calculation methodologies, or enforcement. Therefore, DOE has concluded there is no incremental cost burden to small manufacturers associated with the non-substantive changes in this rule.

Commercial Prerinse Spray Valves

DOE currently requires that commercial prerinse spray valves be tested according to the ASTM ''Standard Test Method for Prerinse Spray Valves'' (ASTM F2324–03). This rule does not make any alterations to this test, as it has not been updated since the 2003 version that DOE incorporated in the CFR. 70 FR 60407 (Oct. 18, 2005). Thus, DOE determines there is no incremental cost burden to manufacturers of commercial prerinse spray valves associated with this rule.

As indicated in the discussion associated with small business listed in Table IV.1, DOE has analyzed the manufacturing industry for showerheads, faucets, water closets, urinals, and commercial prerinse spray valves and has determined that 58 percent of all plumbing equipment manufacturers could be classified as small entities according to the SBA classification. Although 58 percent of the market is a significant portion of the overall industry, these manufacturers would not be significantly affected by this rule because there are no incremental costs to any entity due to its implementation. In the absence of potential cost impacts, the rule by definition would not have disproportionate effects on small businesses.

Based on the criteria outlined above, DOE has determined that the proposed testing procedure amendments would not have a ''significant economic impact on a substantial number of small entities,'' and the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of showerheads, faucets, water closets, urinals, and

commercial prerinse spray valves must certify to DOE that their products comply with any applicable water conservation standards. In certifying compliance, products must be tested according to the DOE test procedures for showerheads, faucets, water closets, urinals, and commercial prerinse spray valves, 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 showerheads, faucets, water closets, urinals, and commercial prerinse spray valves. 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). 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. This requirement has been approved by OMB under OMB control number 1910–1400.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its test procedure for showerheads, faucets, water closets and urinals to improve the ability of DOE's procedures to more accurately account for the water consumption of these products. 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 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 water 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 at 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 as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent and according to 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. Pub. L. 104–4, 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://www.gc.doe.gov/gc/office-general-counsel*. DOE examined this 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. This 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 this 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.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would 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 (FEAA), 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.

The modifications to the test procedures addressed by this action incorporate testing methods contained in section 5.4 of commercial standard ASME A112.18.1–2012 and sections 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.4, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.6, Table 5, and Table 6 of commercial standard ASME A112.19.2–2008. DOE has evaluated these two versions of these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were 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 this 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).

V. 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

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Intergovernmental relations, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on September 30, 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, 430, and 431 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 429.28 is amended by revising paragraph (b)(2) to read as follows:

§ 429.28 Faucets.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: For non-metering faucets, the maximum water use in gallons per minute (gpm) rounded to the nearest 0.1 gallon; for metering faucets, the maximum water use in gallons per cycle (gal/cycle) rounded to the nearest 0.01 gallon; and for all faucet types, the flow water pressure in pounds per square inch (psi).

■ 3. Section 429.29 is amended by revising paragraph (b)(2) and removing paragraph (b)(3).

The revision reads as follows:

§ 429.29 Showerheads.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per minute (gpm) rounded to the nearest 0.1 gallon, the maximum flow water pressure in pounds per square inch (psi), and a declaration that the showerhead meets the requirements of § 430.32(p) pertaining to mechanical retention of the flow-restricting insert, if applicable.

■ 4. Section 429.30 is amended by revising paragraph (b)(2) to read as follows:

§ 429.30 Water closets.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gallon. For dual-flush water closets, the maximum water use to be reported is the flush volume observed when tested in the full-flush mode.

■ 5. Section 429.31 is amended by revising paragraph (b)(2) to read as follows:

§ 429.31 Urinals.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gallon, and for trough-type urinals, the maximum flow rate in gallons per minute (gpm), rounded to the nearest 0.01 gallon, and the length of the trough in inches (in).

■ 6. Section 429.51 is amended by revising paragraph (b)(2) to read as follows:

§ 429.51 Commercial prerinse spray valves.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum flow rate in gallons per minute (gpm), rounded to the nearest 0.1 gallon.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 7. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 8. Section 430.2 is amended by removing the definition for ''Blowout''; adding, in alphabetical order, definitions for ''Blowout toilet,'' ''Dual-flush water closet,'' ''Fitting,'' and ''Hand-held showerhead;'' and by revising the definitions of ''Low consumption'' and ''Showerhead'' to read as follows:

§ 430.2 Definitions.

* * * * *

Blowout toilet means a water closet that uses a non-siphonic bowl with an integral flushing rim, a trap at the rear of the bowl, and a visible or concealed jet that operates with a blowout action.

* * * * *

Dual-flush water closet means a water closet incorporating a feature that allows the user to flush the water closet with either a reduced or a full volume of water.

* * * * *

Fitting means a device that controls and guides the flow of water.

* * * * *

Hand-held showerhead means a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose.

* * * * *

Low consumption has the meaning given such a term in ASME A112.19.2–2008. (*see* § 430.3)

* * * * *

Showerhead means a component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, excluding safety shower showerheads.

* * * * *

■ 9. Section 430.3 is amended by revising paragraphs (g)(1) and (2) to read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(g) * * *

(1) ASME A112.18.1–2012, (''ASME A112.18.1–2012''), ''Plumbing supply fittings,'' section 5.4, approved December, 2012, IBR approved for appendix S to subpart B.

(2) ASME A112.19.2–2008, (''ASME A112.19.2–2008''), ''Ceramic plumbing fixtures,'' sections 7.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.5, 7.4, 8.2, 8.2.1, 8.2.2, 8.2.3, 8.6, Table 5, and Table 6 approved August 2008, including Update No. 1, dated August 2009, and Update No. 2, dated March 2011, IBR approved for § 430.2 and appendix T to subpart B.

* * * * *

■ 10. Appendix S to subpart B of part 430 is amended by adding a note after the appendix heading and revising section 2, ''Flow Capacity Requirements,'' to read as follows:

Appendix S to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads

Note: After April 21, 2014, any representations made with respect to the water consumption of showerheads or faucets must be made in accordance with the results of testing pursuant to this appendix.

Manufacturers conducting tests of showerheads or faucets November 22, 2013 and prior to April 21, 2014, must conduct such test in accordance with either this appendix or appendix S as it appeared at 10 CFR part 430, subpart B, appendix S, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2013. Any representations made with respect to the water consumption of such showerheads or faucets must be in accordance with whichever version is selected. Given that after April 21, 2014 representations with respect to the water consumption of showerheads and faucets must be made in accordance with tests conducted pursuant to this appendix, manufacturers may wish to begin using this test procedure as soon as possible.

* * * * *

2. Flow Capacity Requirements

a. Faucets—The test procedures to measure the water flow rate for faucets, expressed in gallons per minute (gpm) and liters per minute (L/min), or gallons per cycle (gal/cycle) and liters per cycle (L/cycle), shall be conducted in accordance with the test requirements specified in section 5.4, Flow Rate, of ASME A112.18.1–2012 (incorporated by reference, *see* § 430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations shall be rounded off to the same number of significant digits as the previous step. The final water consumption value shall be rounded to one decimal place for non-metered faucets, or two decimal places for metered faucets.

b. Showerheads—The test procedures to measure the water flow rate for showerheads, expressed in gallons per minute (gpm) and liters per minute (L/min), shall be conducted in accordance with the test requirements specified in section 5.4, Flow Rate, of the ASME A112.18.1–2012 (incorporated by reference, *see* § 430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations shall be rounded off to the same number of significant digits as the previous step. The final water consumption value shall be rounded to one decimal place. If the time/volume method of section 5.4.2.2(d) is used, the container must be positioned as to collect all water flowing from the showerhead, including any leakage from the ball joint.

■ 11. Appendix T to subpart B of part 430 is amended by adding a note after the appendix heading; and revising section 2, ''Test Apparatus and General Instructions,'' and section 3, ''Test Measurement,'' to read as follows:

Appendix T to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Water Closets and Urinals

Note: After April 21, 2014, any representations made with respect to the water consumption of water closets or urinals must be made in accordance with the results of testing pursuant to this appendix.

Manufacturers conducting tests of water closets or urinals after November 22, 2013 and prior to April 21, 2014, must conduct such test in accordance with either this appendix or appendix T as it appeared at 10 CFR part 430, subpart B, appendix S, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2013. Any representations made with respect to the water consumption of such water closets or urinals must be in accordance with whichever version is selected. Given that after April 21, 2014 representations with respect to the water consumption of water closets and urinals must be made in accordance with tests conducted pursuant to this appendix, manufacturers may wish to begin using this test procedure as soon as possible.

* * * * *

2. Test Apparatus and General Instructions

a. The test apparatus and instructions for testing water closets shall conform to the requirements specified in section 7.1, General, subsections 7.1.1, 7.1.2, 7.1.3, 7.1.4, and 7.1.5 of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3). The flushometer valve used in the water consumption test shall represent the maximum design flush volume of the water closet. Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

b. The test apparatus and instructions for testing urinals shall conform to the requirements specified in section 8.2, Test Apparatus and General Instructions, subsections 8.2.1, 8.2.2, and 8.2.3 of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3). The flushometer valve used in the water consumption test shall represent the maximum design flush volume of the urinal. Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

3. Test Measurement

a. Water closets:

(i) The measurement of the water flush volume for water closets, expressed in gallons per flush (gpf) and liters per flush (Lpf), shall be conducted in accordance with the test requirements specified in section 7.4, Water Consumption Test, of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3). For dual-flush water closets, the measurement of the water flush volume shall be conducted separately for the full-flush and reduced-flush modes and in accordance with the test requirements specified section 7.4, Water Consumption Test, of ASME A112.19.2–2008.

(ii) Static pressure requirements: The water consumption tests of siphonic and blowout water closets shall be conducted at two static pressures. For flushometer valve water closets with a siphonic bowl, the test pressures shall be 80 psi and 35 psi. For flushometer valve water closets with a blowout bowl, the test pressures shall be 80 psi and 45 psi. The test shall be run three times at each pressure as specified in section 7.4.3 ''Procedure,'' of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3). The final measured flush volume for each tested unit shall be the average of the total flush volumes recorded at each test pressure as specified in section 7.4.5 ''Performance,'' of ASME A112.19.2–2008.

(iii) Flush volume and tank trim component adjustments: For gravity flush tank water closets, trim components that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and tank water level, shall be set in accordance with the printed installation instructions supplied by the manufacturer. If the installation instructions for the model to be tested do not specify trim setting adjustments, these trim components shall be adjusted to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. The water level in the tank shall be set to the maximum water line designated in the printed installation instructions supplied by the manufacturer or the designated water line on the tank itself, whichever is higher. If the printed installation instructions or the water closet tank do not indicate a water level, the water level shall be adjusted to 1±0.1 inches below the top of the overflow tube or 1± 0.1 inches below the top rim of the water-containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3).

b. Urinals—The measurement of water flush volume for urinals, expressed in gallons per flush (gpf) and liters per flush (Lpf), shall be conducted in accordance with the test requirements specified in section 8.6, Water Consumption Test, of ASME A112.19.2–2008 (incorporated by reference, *see* § 430.3). The final measured flush volume for each tested unit shall be the average of the total flush volumes recorded at each test pressure as specified in section 8.6.4 ''Performance,'' of ASME A112.19.2–2008.

■ 12. Section 430.32 is amended by revising paragraph (p) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(p) *Showerheads.* The maximum water use allowed for any showerheads manufactured after January 1, 1994, shall be 2.5 gallons per minute (9.5 liters per minute) when measured at a flowing pressure of 80 pounds per square inch gage (552 kilopascals). When used as a component of any such showerhead, the flow-restricting insert shall be mechanically retained at the point of manufacture such that a force of 8.0 pounds force (36 Newtons) or more is required to remove the flow-restricting insert, except that this requirement shall not apply to showerheads for which removal of the flow-restricting insert would cause water to leak significantly from areas other than the spray face.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 13. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6311–6317.

■ 14. Section 431.263 is revised to read as follows:

§ 431.263 Materials incorporated by reference.

(a) DOE incorporates by reference the following standard into part 431. The material listed has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect the DOE regulations unless and until amended by DOE. Material is incorporated as it exists on the date of the approval and a notice of any change in the material will be published in the **Federal Register**. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, this material is available for inspection at U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024, (202) 586–2945, or go to: *http://www1.eere.energy.gov/buildings/appliance_standards.* This standard can be obtained from the source below.

(b) *ASTM.* American Society for Testing and Materials International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, (610) 832–9585, or got to *http://www.astm.org.*

(1) ASTM Standard F2324–03 (Reapproved 2009), (''ASTM F2324–03 (2009)''), Standard Test Method for Prerinse Spray Valves, approved May 1, 2009; IBR approved for § 431.264.

(2) [Reserved].

■ 15. Section 431.264(b) is revised to read as follows:

§ 431.264 Uniform test method for the measurement of flow rate for commercial prerinse spray valves.

* * * * *

(b) *Testing and Calculations.* The test procedure to determine the water consumption flow rate for prerinse spray valves, expressed in gallons per minute (gpm) or liters per minute (L/min), shall be conducted in accordance with the test requirements specified in sections 4.1 and 4.2 (Summary of Test Method), 5.1 (Significance and Use), 6.1 through 6.9 (Apparatus) except 6.5, 9.1 through 9.5 (Preparation of Apparatus), and 10.1 through 10.2.5. (Procedure), and calculations in accordance with sections 11.1 through 11.3.2 (Calculation and Report) of ASTM F2324–03 (2009), (incorporated by reference, see § 431.263). Perform only the procedures pertinent to the measurement of flow rate. Record measurements at the resolution of the test instrumentation. Round off calculations to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place as follows:

(1) A fractional number at or above the midpoint between two consecutive decimal places shall be rounded up to the higher of the two decimal places; or

(2) A fractional number below the midpoint between two consecutive decimal places shall be rounded down to the lower of the two decimal places.

[FR Doc. 2013–24347 Filed 10–22–13; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 430 and 431

[Docket No: EERE–2013–BT–NOA–0047]

RIN 1904–AD08

Energy Conservation Program: Energy Conservation Standards for Certain Consumer Products and Commercial and Industrial Equipment

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

ACTION: Final rule; technical amendment.

SUMMARY: The recently enacted American Energy Manufacturing Technical Corrections Act amended the Energy Policy and Conservation Act as to certain consumer products and commercial and industrial equipment. The amendments include new and revised energy conservation standards and definitions, as well as technical corrections, which the Department of Energy (DOE) is incorporating into its regulations in this technical amendment. DOE is also making additional limited changes to the language of its regulations, as necessitated by the statutory amendments.

DATES: *Effective* October 23, 2013. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of October 23, 2013.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION:

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I. Background

The American Energy Manufacturing Technical Corrections Act (AEMTCA; H.R. 6582), Public Law 112–210, was signed into law on December 18, 2012. Among its provisions are amendments to Part B [1] of Title III of the Energy Policy and Conservation Act of 1975 (EPCA or ''the Act'') (42 U.S.C. 6291–6309, as codified), which provides for an energy conservation program for consumer products other than automobiles, and to Part C [2] of Title III of EPCA (42 U.S.C. 6311–6317, as codified), which provides for an energy conservation program for certain commercial and industrial equipment, similar to the one in Part B for consumer products.[3] Some of the AEMTCA amendments to EPCA establish or modify certain energy conservation standards and related definitions, and make technical changes to the Act. Other AEMTCA amendments to EPCA prescribe criteria for the conduct of rulemakings to promulgate energy conservation standards for various consumer products and commercial and industrial equipment, or direct the Department of Energy (DOE) to undertake rulemakings under EPCA.

By this action, DOE is including in the Code of Federal Regulations (CFR) the new and modified standards and definitions, and certain of the technical changes, prescribed by the AEMTCA. DOE is also making additional changes to the language of its regulations that are necessitated by certain statutory language contained in AEMTCA's new and revised standards and definitions. This is a purely technical amendment, and at this time DOE is not exercising

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[3] All references to EPCA in this document refer to the statute as amended through the enactment of the AEMTCA.

any of the authority that Congress has provided in the AEMTCA for the Secretary of Energy to revise definitions and energy conservation standards.

II. Summary of This Action

A. Walk-in Coolers and Walk-in Freezers

Walk-in coolers and walk-in freezers are two types of commercial equipment (hereinafter referred to collectively as ''walk-ins'') that consist of a refrigerated storage space that an individual can walk into. See 10 CFR 431.302. DOE regulations currently provide, as required by EPCA, that walk-ins must contain wall, ceiling, and door insulation of R–25 for coolers and R–32 for freezers, but that glazed doors and structural members of walk-ins are not subject to these requirements. (42 U.S.C. 6313(f)(1)(C); 10 CFR 431.306(a)(3)) Section 2 of the AEMTCA added to EPCA a provision that the applicable walk-in insulation requirement will not apply to any walk-in component if its manufacturer demonstrates to the satisfaction of the Secretary of DOE that the component reduces energy consumption at least as much as if the insulation requirement were to apply. (42 U.S.C. 6313(f)(6)) This provision also states that, in support of any such demonstration, the manufacturer must provide all data and technical information necessary to evaluate its application. Id.

In this rule, DOE has amended 10 CFR 431.306(a)(3) to implement this new exception to the walk-in insulation requirements. The amendment makes clear, in accordance with the language that the AEMTCA added to EPCA, that the exception applies to a component only if the component manufacturer provides the data and technical information necessary to fully evaluate whether the component reduces energy consumption at least as much as if the insulation requirement were to apply. The amendment also states that any demonstration of such reduction in energy use must be made to the Assistant Secretary for Energy Efficiency and Renewable Energy, who is the individual that the Secretary of DOE has delegated responsibility for implementing DOE's energy conservation program for commercial and industrial equipment.

B. Service Over the Counter Commercial Refrigeration Equipment

Prior to the enactment of the AEMTCA, service over the counter commercial refrigeration equipment was not specifically defined or identified in EPCA. Service over the counter commercial refrigerators are a type of commercial refrigerator, see 42 U.S.C. 6311(9) and 10 CFR 431.62, that display merchandise (usually food) to potential customers, serve as a counter, and from which sales personnel sell the products on display. Prior to the enactment of the AEMTCA, EPCA defined commercial refrigeration equipment such that the equipment was covered by DOE's energy conservation standards, incorporated from EPCA, for commercial refrigerators with a self-contained condensing unit and designed for holding temperature applications. 10 CFR 431.66(b); 42 U.S.C. 6313(c)(2). Section 5 of the AEMTCA amended EPCA by adding to the Act a definition and new standards that apply specifically to service over the counter, self-contained, medium temperature commercial refrigerators. (42 U.S.C. 6313(c)(1)(C); 6313(c)(4))

In this rule, DOE has incorporated into its regulations EPCA's new denomination of the equipment as ''service over the counter, self-contained, medium temperature commercial refrigerator'' (''SOC–SC–M''), and the Act's new definition for theis term. However, DOE also added to this definition to clarify that ''medium temperature'' means equal to or greater than 32 °F. This addition reflects DOE's standard usage of the term ''medium temperature'' in its standards for commercial refrigeration equipment (CRE). 10 CFR 431.66(d)(1).

This rule adopts the new standard that the AEMTCA prescribes for this SOC–SC–Ms and adds language to 10 CFR 431.66(b) to make clear that the current standards for commercial refrigerators, set forth in 10 CFR 431.66(b)(1), no longer apply to to service over the counter equipment. One element of the new standard applicable to SOC–SC–Ms is the ''TDA'' (total display area) of the equipment. (42 U.S.C. 6313(c)(4)) The AEMTCA adds to EPCA a definition of TDA, as being the display area of the case as defined in AHRI Standard 1200. (42 U.S.C. 6313(c)(1)(D)) Because Congress did not specify a version of the relevant industry standard (AHRI Standard 1200), DOE is using its rulemaking authority to clarify this ambiguity by specifying the current version, which is AHRI Standard 1200–2010. Therefore, in conjunction with adopting the new standard, in this rule, DOE incorporates AHRI Standard 1200–2010 into the new EPCA definition of TDA that it also adopts.

Finally, because TDA is an element of many of DOE's existing CRE standards, the DOE regulations already contain the same definition for TDA that AEMTCA has added to EPCA, except that the existing DOE definition does not refer to the current version of AHRI 1200. 10 CFR 431.66(a)(3). DOE intends to update this reference, and amend its rules to have a single definition of TDA, in a future final rule. In the meantime, in this rule, DOE is adding language to 10 CFR 431.66(a)(3) to make clear that the definition of TDA in 10 CFR 431.66(a)(3) does not apply to SOC–SC–Ms.

C. Niche Residential Central Air Conditioners

Small duct high velocity systems (SDHVs) and through-the-wall central air conditioners and heat pumps (TTWs) are residential central air conditioners and heat pumps (CACs) that are used for specialized applications and that have physical characteristics differentiating them from typical CACs. Prior to enactment of the AEMTCA, EPCA did not explicitly address either SDHVs or TTWs.

Nonetheless, DOE created a separate product class and the current DOE definition for SDHVs. 67 FR 36368, 36405–06 (May 23, 2002); 10 CFR 430.2. Also existing DOE regulations include energy conservation standards specifically for SDHVs in two tables that contain standards for all CACs—one table for products manufactured on and after January 23, 2006, and before January 1, 2015, and the other for units manufactured thereafter. 10 CFR 430.32(c)(2)–(3). The SDHV standard levels in the two tables are the same (a seasonal energy efficiency ratio (SEER) of not less than 13 and a heating seasonal performance factor (HSPF) of not less than 7.7). However, DOE granted two of the principal SDHV manufacturers relief from these standards under section 504 of the Department of Energy Organization Act (42 U.S.C. 7194), allowing them to produce, prior to January 1, 2015, SDHVs that performed at or above 11 SEER and 6.8 HSP. See, Department of Energy: Office of Hearings and Appeals, Decision and Order, Case #TEE 0010 (2004) (available at: *http://www.oha.doe.gov/cases/ee/tee0010.pdf*) (last accessed September 2010); 76 FR 37408, 37514, 37541–42 (June 27, 2011). This grant of relief, however, will not apply to products that the designated manufacturers manufacture on or after January 1, 2015. 76 FR 37541–42.

Section 5 of the AEMTCA added to EPCA a definition and standards specifically for SDHVs. (42 U.S.C. 6295(d)(4)) The new EPCA definition (42 U.S.C. 6295(d)(4)(A)(i)) repeats verbatim the wording of DOE's definition of SDHV, with one minor

editorial change. In this rule, DOE incorporates this change into its definition of SDHV. EPCA's new standards for SDHVs are for the same time periods as DOE's existing SDHV standards and establish that SDHV units manufactured on or after January 23, 2006 and before January 1, 2015, must perform at or above 11 SEER and 6.8 HSP and SDHV units manufactured on January 1, 2015, and thereafter must perform at or above 12 SEER and 7.2 HSP. In this rule, DOE has replaced its current standards for SDHVs with these new EPCA standards.

As with SDHVs, DOE currently has in place a definition for TTWs. 10 CFR 430.2 One of the criteria in the definition was that the product be ''manufactured prior to January 23, 2010.'' *Id.* The table in DOE's regulations that has standards for CACs manufactured on and after January 23, 2006 and prior to January 1, 2015, includes standards specifically for TTWs. 10 CFR 432.32(c)(2) But a footnote to the term ''through-the-wall air conditioners and heat pumps'' in section 430.32(c) states that the two TTW product classes (for split system and single package products) only applied to products manufactured prior to January 23, 2010, and that any unit manufactured after that date, and that would previously have been classified as a TTW, must be included within another CAC product class, depending on the TTW's characteristics. *Id.* DOE further states in the footnote that it believes most units previously classified as TTWs would be assigned to one of the classes for ''space-constrained'' CACs. *Id.* An identical footnote also is appended to the table that sets forth the standards for CACs manufactured on or after January 1, 2015, but that table includes no standards specifically for TTWs. 10 CFR 432.32(c)(3) Thus DOE regulations contain no separate TTW classes for units manufactured beginning on January 23, 2010. Any unit manufactured on or after that date, and that previously would have been classified as a TTW, must be placed within one of the remaining CAC product classes, and must meet the standard(s) applicable to that class.

Again similar to the situation with SDHVs, DOE created the TTW definition and product classes, and the energy conservation standards that applied specifically to TTWs. (67 FR 36368, 36396, 36397, 36405–06 (May 23, 2002)) The AEMTCA amendments to EPCA add to the Act a definition for TTWs, but address TTW standards only by directing DOE to ''conduct subsequent rulemakings'' for TTWs (and SDHVs) as part of ''any rulemaking . . . to review and revise standards'' for other CACs. (42 U.S.C. 6295(d)(4)(A)(ii) and (d)(4)(C)) The new EPCA definition deviates significantly from DOE's existing TTW definition by eliminating the criterion that the product be manufactured prior to January 23, 2010, although it is otherwise identical to the DOE definition except for a few minor editorial changes. In this rule DOE is revising its definition for TTWs to conform to the new EPCA definition.

D. Lighting Products

EPCA prescribes, and DOE's regulations incorporate, two sets of standards for general service incandescent lamps (GSIL): one for lamps with a modified spectrum and another for lamps without a modified spectrum. (42 U.S.C. 6295(i)(1)(A); 10 CFR 430.32(x)(1)) Also, EPCA defines ''general service incandescent lamp,'' (42 U.S.C. 6291(30)) and DOE's existing regulations incorporated, with minor editorial changes, the definition that existed in EPCA prior to the enactment of the AEMTCA. (10 CFR 430.2) The DOE definition, and the pre-AEMTCA EPCA definition, define a GSIL as a lamp that ''has a lumen range of not less than 310 lumens and not more than 2,600 lumens.'' *Id.* No other lumen range is specified in these definitions. Section 10(a)(6) of the AEMTCA amends EPCA by modifying the Act's prior definition to add that a modified spectrum lamp can be a GSIL under EPCA only if its lumen range is ''not less than 232 lumens and not more than 1,950 lumens.'' (42 U.S.C. 6291(30)) As stated in AEMTCA, this change is retroactive and should be applied as if it were included in the Energy and Infrastructure Security Act of 2007 (EISA). (AEMTCA section 10(a)(13))

In this final rule, DOE has modified the regulatory definition of ''general service incandescent lamp'' to incorporate the language that the AEMTCA added to the EPCA definition of this term. The revised definition of GSIL reflects the fact that a modified spectrum GSIL will have a lower light output than a GSIL without a modified spectrum, assuming that all other characteristics of the lamps are the same. In addition, the change conforms the lumen range of modified spectrum GSILs covered by EPCA with the lumen range of such GSILs for which the Act prescribes standards. (*See* 42 U.S.C. 6295(i)(1)(A); 10 CFR 430.32(x)(1)(B))

Another element of EPCA's definition of ''general service incandescent lamp'' is that it excludes any lamp that is an ''appliance lamp,'' as that term is defined in the Act. 42 U.S.C. 6291(30)(D)(ii)(I), 6291(30)(T)); see also 10 CFR 430.2. Thus, a lamp that otherwise would be a GSIL need not meet EPCA requirements for GSILs if it is an ''appliance lamp.'' DOE's existing definition of ''appliance lamp,'' which is identical to the EPCA definition prior to enactment of the AEMTCA, includes the requirements that the lamp be ''sold at retail'' and that the lamp be labeled and marketed as an appliance lamp. 10 CFR 430.2 Section 10(a)(7) of the AEMTCA revised this prior EPCA definition by eliminating the requirement that a lamp be sold at retail to be an ''appliance lamp,'' and by adding a provision that the packaging and marketing criteria apply only to those lamps that are sold at retail. In this final rule, DOE has incorporated these revisions into its definition of ''appliance lamp,'' in conformance with the post-AEMTCA EPCA definition. As stated in AEMTCA, this change is retroactive and should be applied as if it were included in the Energy and Infrastructure Security Act of 2007 (EISA). (AEMTCA section 10(a)(13))

Finally, DOE regulations, incorporating EPCA provisions, excluded specified types of fluorescent lamp ballasts from the current energy conservation standards for ballasts. 10 CFR 430.32(m)(5)–(7). Among the excluded products were certain ballasts designed for use at ambient temperatures of 20 degrees F or less. 10 CFR 430.32(m)(7). Section 10(b)(1) of the AEMTCA amended EPCA by adding the word ''negative'' to this exclusion as it appears in EPCA, (42 U.S.C. 6295(g)(8)(C)), clarifying that the exclusion is intended to be for ballasts designed for use at ambient temperatures of *negative* 20 degrees F or less. Accordingly, in this final rule, DOE has made the same change to the language of this exclusion in its regulations at 10 CFR 430.32(m)(7). As stated in AEMTCA, this change is retroactive and should be applied as if it were included in the Energy Policy and Conservation Act of 2005. (AEMTCA section 10(b)(2))

E. Preemption of State and Local Standards

EPCA preempts any requirements of State and local governments concerning the energy efficiency or energy use of products and equipment covered by the Act, with certain exceptions. *See, e.g.,* 42 U.S.C. 6297(a)(2), (b), and (c), and 6316(a). Prior to the enactment of the AEMTCA, one exception in EPCA to the general rule of preemption permitted States other than California and Nevada to adopt or modify a state standard for general service lamps to conform with Federal standards, and DOE

incorporated this provision into its regulations. 10 CFR 430.33(b)(3). Section 10(a)(9) of the AEMTCA amends EPCA by removing this provision, and in this final rule DOE likewise amends section 430.33(b) to remove this exception to general service lamp standard preemption.

The AEMTCA, in section 10(a)(5)(C), also amends EPCA by adding a new provision concerning preemption as to commercial or industrial equipment that EPCA does not list as ''covered equipment'' but that DOE classifies as covered under the Act. 42 U.S.C. 6316(a)(10). DOE addresses preemption of state regulations for ''covered equipment,'' other than electric motors and heating, ventilating, air conditioning, and water heating equipment, in 10 CFR 431.408. This section includes references to the EPCA provisions that contain exceptions to the general rule of preemption. In this final rule, DOE amends this section to add a reference to the new EPCA provision concerning preemption, as set forth at 42 U.S.C 6316(a)(10).

III. Final Action

DOE has determined, pursuant to 5 U.S.C. 553(b)(B), that prior notice and an opportunity for public comment on this final rule are unnecessary. DOE is merely placing in the CFR new and revised energy conservation standards and definitions for certain consumer products and commercial and industrial equipment, as well as technical corrections, prescribed by the Congress in the AEMTCA and making other limited revisions to its regulations as necessitated by the new and revised statutory requirements. DOE is not exercising any of the discretionary authority that the Congress has provided to the Secretary of Energy in the AEMTCA. DOE, therefore, finds that good cause exists to waive prior notice and an opportunity to comment for this rulemaking. For the same reasons, DOE, pursuant to 5 U.S.C. 553(d)(3), finds that good cause exists for making this final rule effective upon publication in the **Federal Register**.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

This final rule is not a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563. Accordingly, this action was neither subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) nor public notice and comment.

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 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 (August 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 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*). DOE today is revising the Code of Federal Regulations to incorporate and implement, without substantive change, new and revised energy conservation standards and definitions, as well as technical corrections, prescribed by the American Energy Manufacturing Technical Corrections Act as amendments to the Energy Policy and Conservation Act. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

C. Review Under the Paperwork Reduction Act

This rulemaking imposes no new information or record keeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 et seq.)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969, DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to rulemakings that are strictly procedural. Therefore, DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this 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) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 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; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). 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 section 3(a) and section 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. Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result 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 ''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. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.* This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so the Unfunded Mandates Reform Act does 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. This rule would 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 would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the 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 Federal 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 this 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 OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates 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 should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action is not a significant energy action because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to 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).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Energy conservation, Commercial products, Incorporation by reference.

Issued in Washington, DC, on September 30, 2013.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby amends parts 430 and 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by:
■ a. Revising paragraph (1) and the introductory text of paragraph (2) in the definition of ''appliance lamp'';
■ b. Revising the introductory text in the definition of ''general service incandescent lamp''; and
■ c. Removing the word ''which'' and adding in its place, the word ''that'' in paragraph (2) of the definition of ''small duct, high velocity system.''

The revisions read as follows:

§ 430.2 Definitions.

* * * * *

Appliance lamp * * *

(1) Is specifically designed to operate in a household appliance and has a maximum wattage of 40 watts (including an oven lamp, refrigerator lamp, and vacuum cleaner lamp); and

(2) When sold at retail, is designated and marketed for the intended application, with

* * * * *

General service incandescent lamp means a standard incandescent or halogen type lamp that is intended for general service applications; has a medium screw base; has a lumen range of not less than 310 lumens and not more than 2,600 lumens or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens; and is capable of being operated at a voltage range at least partially within 110 and 130 volts; however this definition does not apply to the following incandescent lamps—

* * * * *

§ 430.31 [Amended]

■ 3. Section 430.31 is amended by removing the second sentence.

§ 430.33 [Amended]

■ 4. Section 430.33 is amended by:
■ a. Adding ''and'' at the end of paragraph (b)(1);
■ b. Removing ''; and'' and adding in its place a period at the end of paragraph (b)(2); and
■ c. Removing paragraph (b)(3).

PART 431—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 5. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 6. Section 431.62 is amended by adding in alphabetical order a definition of ''service over the counter, self-contained, medium temperature commercial refrigerator'' or ''SOC–SC–M'' to read as follows:

§ 431.62 Definitions concerning commercial refrigerators, freezers and refrigerator-freezers.

* * * * *

Service over the counter, self-contained, medium temperature commercial refrigerator or *SOC–SC–M* means a commercial refrigerator—

(1) That operates at temperatures at or above 32 °F;

(2) With a self-contained condensing unit;

(3) Equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

(4) That has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

* * * * *

§ 431.63 [Amended]

■ 7. Section 431.63 is amended, in paragraph (c)(2), by removing ''§ 431.64.'', and adding in its place ''§§ 431.64 and 431.66.''.

■ 8. Section 431.66 is amended by:
■ a. Revising paragraph (a)(3);
■ b. Adding in paragraph (b) the designation ''(1)'' immediately after ''(b)'' and revising newly designated paragraph (b)(1) introductory text; and
■ c. Adding paragraph (b)(2).

The revision and additions read as follows:

§ 431.66 Energy conservation standards and their effective dates.

(a) * * *

(3) Except as to service over the counter, self-contained, medium temperature commercial refrigerators manufactured on or after January 1, 2012, the term ''TDA'' means the total display area (ft^2) of the case, as defined in the ARI Standard 1200–2006, appendix D (incorporated by reference, see § 431.63).

(b)(1) Except for service over the counter, self-contained, medium temperature commercial refrigerators manufactured on or after January 1, 2012, each commercial refrigerator, freezer and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

* * * * *

(2) Each service over the counter, self-contained, medium temperature commercial refrigerator (SOC–SC–M) manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than $0.6 \times TDA + 1.0$. As used in the preceding sentence, ''TDA'' means the total display area (ft^2) of the case, as defined in the AHRI Standard 1200 (I–P)–2010, appendix D (incorporated by reference, see § 431.63).

* * * * *

■ 9. Section 431.306 is amended by revising paragraph (a)(3) to read as follows:

§ 431.306 Energy conservation standards and their effective dates.

(a) * * *

(3) Contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, except that this paragraph shall not apply to—

(i) Glazed portions of doors or structural members, or

(ii) A wall, ceiling or door if the manufacturer of that component has provided to the Assistant Secretary for Energy Efficiency and Renewable Energy all data and technical information necessary to fully evaluate whether the component reduces energy consumption at least as much as if this paragraph were to apply, and has demonstrated to the satisfaction of the Assistant Secretary that the component achieves such a reduction in energy consumption;

* * * * *

§ 431.408 [Amended]

■ 10. Section 431.408 is amended by adding, in the second sentence, ''(a)(10),'' immediately after ''345'' and before ''(e).''

[FR Doc. 2013–24353 Filed 10–22–13; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1024 and 1026

[Docket No. CFPB–2013–0031]

RIN 3170–AA37

Amendments to the 2013 Mortgage Rules Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: This rule amends provisions in Regulation Z and final rules issued by the Bureau of Consumer Financial Protection (Bureau) in 2013, which, among other things, required that consumers receive counseling before obtaining high-cost mortgages and that servicers provide periodic account statements and rate adjustment notices to mortgage borrowers, as well as engage in early intervention when borrowers become delinquent. The amendments clarify the specific disclosures that must be provided before counseling for high-cost mortgages can occur, and proper compliance regarding servicing requirements when a consumer is in bankruptcy or sends a cease communication request under the Fair Debt Collection Practices Act. The rule also makes technical corrections to provisions of other rules. The Bureau requests public comment on these changes.

DATES: This interim final rule is effective January 10, 2014. Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2013–0031 or RIN 3170–AA37, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Joseph Devlin, Counsel; Laura Johnson, Nicholas Hluchyj, and Marta Tanenhaus, Senior Counsels; Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of Interim Final Rule

In January 2013, the Bureau issued several final rules concerning mortgage markets in the United States pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) Public Law 111–203, 124 Stat. 1376 (2010) (2013 Title XIV Final Rules). Three of these rules were (1) the Mortgage Servicing Rules under the Real Estate Settlement Procedures Act (Regulation X) (2013 RESPA Servicing Final Rule);[1] (2) the Mortgage Servicing Rules under the Truth in Lending Act (Regulation Z) (2013 TILA Servicing Final Rule);[2] and (3) the High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act (Regulation X) (2013 HOEPA Final Rule).[3] The 2013 TILA Servicing Final Rule and the 2013 RESPA Servicing Final Rule are referred to collectively as the 2013 Mortgage Servicing Final Rules.

The Bureau is clarifying compliance requirements in relation to bankruptcy law and the Fair Debt Collection Practices Act (FDCPA) through this rule and through a contemporaneous compliance bulletin.[4] Bankruptcy law and the FDCPA both provide significant protections for consumers, and each strictly limits communications with consumers in certain circumstances. The Bureau has received a large number of questions from servicers about how the servicing rules intersect with the other two bodies of law generally and in particular on how to communicate effectively with borrowers in light of their status in bankruptcy. While the Bureau believes that some of these questions can be resolved by interpretations now, it has also concluded that further analysis and study are required to resolve other issues that cannot be completed before the 2013 Mortgage Servicing Final Rules take effect. In those cases, the Bureau is creating narrow exemptions from the servicing rules to allow time to complete the additional analysis.

Specifically, the Bulletin confirms that servicers must comply with certain requirements of the Dodd-Frank Act and respond to certain borrower communications in accordance with the Bureau's servicing rules even after a borrower has sent a cease communication request under the FDCPA. The Bulletin provides a safe harbor from liability under the FDCPA with regard to such communications. Separately in this rule, the Bureau is providing exemptions for two other servicing communications that are not specifically mandated by statute—the requirement in § 1026.20(c) for a notice of rate change for adjustable-rate mortgages (ARMs) and the early intervention requirements in § 1024.39—when a borrower has properly invoked the FDCPA's cease communication protections. The Bureau expects to explore the potential utility and application of such requirements in comparison to the FDCPA protections in a broader debt collection rulemaking. The interim final rule also exempts servicers from the early intervention requirements in § 1024.39 and from the periodic statement requirements under 12 CFR 1026.41 for borrowers while they are in bankruptcy. Again, the Bureau intends to engage in further analysis of how these servicing requirements intersect with bankruptcy law and how to ensure that servicer communications do not confuse borrowers regarding their status.

This interim final rule also amends the 2013 HOEPA Final Rule by clarifying which federally required disclosure must be used in counseling under 12 CFR 1026.34(a)(5) for a closed-end HOEPA loan not subject to the Real Estate Settlement Procedures Act (RESPA). The rule replaces language that could have been read to require provision of the Good Faith Estimate (GFE) or successor disclosure under RESPA, which are not required for transactions not covered by RESPA, and instead clarifies that counseling may be based on the HOEPA disclosures that are required for such transactions pursuant to TILA section 129(a) and Regulation Z section 1026.32(c).

This interim final rule also makes two technical corrections to Regulation Z, as revised by the May Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (May 2013 ATR Final Rule),[5] Amendments to the 2013 Mortgage Rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation X) (July 2013 Final Rule Amendments to the 2013 Mortgage Rules),[6] and the Amendments to the 2013 Mortgage Rules under the Equal Credit Opportunity Act (Regulation B), Real Estate Settlement Procedures Act (Regulation X), and the Truth in Lending Act (Regulation Z) (September 2013 Final Rule Amendments to the 2013 Mortgage Rules).[7] These changes correct section 1026.43(e)(4)(ii)(C) and comment 32(b)(1)(ii)–4.iii. This rule also makes another minor technical correction to the September 2013 Final Rule Amendments to the 2013 Mortgage Rules.

The Bureau seeks public comment on these changes.

II. Background

A. Title XIV Rules Under the Dodd-Frank Act

In response to an unprecedented cycle of expansion and contraction in the mortgage market that sparked the most severe U.S. recession since the Great Depression, Congress passed the Dodd-Frank Act, which was signed into law

[1] 78 FR 10695 (Feb. 14, 2013).

[2] 78 FR 10901 (Feb. 14, 2013).

[3] 78 FR 6855 (Jan. 31, 2013).

[4] CFPB Bulletin 2013–12, *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.*

[5] 78 FR 35429 (June 12, 2013).

[6] 78 FR 44685 (Jul. 24, 2013).

[7] 78 FR 60382 (Oct. 1, 2013).

on July 21, 2010. In the Dodd-Frank Act, Congress established the Bureau and, under sections 1061 and 1100A, generally consolidated the rulemaking authority for Federal consumer financial laws, including the Truth in Lending Act (TILA), in the Bureau.[8] At the same time, Congress significantly amended the statutory requirements governing mortgages with the intent to restrict the practices that contributed to and exacerbated the crisis. Under the statute, most of these new requirements would have taken effect automatically on January 21, 2013, if the Bureau had not issued implementing regulations by that date.[9] To avoid uncertainty and potential disruption in the national mortgage market at a time of economic vulnerability, the Bureau issued several final rules in a span of less than two weeks in January 2013 to implement these new statutory provisions and provide for an orderly transition. These rules included the 2013 HOEPA Final Rule, issued on January 10, and the 2013 Mortgage Servicing Final Rules, issued on January 17.

B. Implementation Plan for New Mortgage Rules

On February 13, 2013, the Bureau announced an initiative to support implementation of the new mortgage rules (Implementation Plan),[10] under which the Bureau would work with the mortgage industry to ensure that the 2013 Title XIV Final Rules could be implemented accurately and expeditiously. The Implementation Plan included: (1) Coordination with other agencies; (2) publication of plain-language guides to the new rules; (3) publication of additional interpretive guidance and corrections or clarifications of the new rules as needed; (4) publication of readiness guides for the new rules; and (5) education of consumers on the new rules.

This interim final rule makes narrow amendments to the 2013 Title XIV Final Rules and three technical corrections to the September 2013 Final Rule Amendments to the 2013 Mortgage Rules. The Bureau is proceeding by interim final rule to provide immediate certainty regarding compliance to the small sub-markets affected. For information and documents regarding other guidance and amendments under the Implementation Plan, please visit the Bureau's Regulatory Implementation Web page.[11]

III. Legal Authority

The Bureau is issuing this interim final rule pursuant to its authority under RESPA, TILA and the Dodd-Frank Act. Section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, including the Board of Governors of the Federal Reserve System (Board) and the Department of Housing and Urban Development (HUD). The Dodd-Frank Act defines ''consumer financial protection function'' to include ''all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.'' [12] RESPA, TILA, title X of the Dodd-Frank Act, and certain subtitles and provisions of title XIV of the Dodd-Frank Act are Federal consumer financial laws.[13] Accordingly, the Bureau has authority to issue regulations pursuant to RESPA, TILA, title X, and the enumerated subtitles and provisions of title XIV.

The Bureau is amending the 2013 HOEPA Final Rule and the 2013 Mortgage Servicing Final Rules with this interim final rule. The interim final rule relies on the broad rulemaking authority specifically granted to the Bureau by RESPA sections 6(k), 6(j)(3) and 19(a), and by TILA sections 105(a) and 105(f), and title X of the Dodd-Frank Act. Additionally, the interim final rule relies on the rulemaking authority used in connection with the 2013 HOEPA Final Rule,[14] including RESPA section 19(a), TILA section 129(p), and the specific rulemaking provision for the pre-loan counseling requirement, at TILA section 129(u)(3).

IV. Administrative Procedure Act

To the extent that notice and comment would otherwise be required, the Bureau finds that there is good cause to publish this interim final rule without notice and comment. *See* 5 U.S.C. 553(b)(3)(B).

First, with respect to the amendments of Regulation X section 1024.39 and Regulation Z sections 1026.20(c) and 1026.41, notice and comment is impracticable and contrary to the public interest. The amendments to these sections effectuate narrow exceptions to Regulation Z and the 2013 Mortgage Servicing Final Rules to facilitate compliance with the requirements of those rules with respect to the small number of borrowers under the protection of the Bankruptcy Code or provisions of the FDCPA that require debt collectors to cease communications upon request by the borrower. The 2013 Mortgage Servicing Final Rules, along with the other mortgage rules issued by the Bureau, implement fundamental reforms and important new consumer protections mandated by Congress to guard against practices that contributed to the nation's most significant financial crisis in nearly a century. The rulemakings as a whole implicate multiple processes for both mortgage originations and servicing. Congress mandated that a number of the rules be issued by January 21, 2013, and that they take effect by one year after issuance. Consequently, the 2013 Mortgage Servicing Final Rules, along with most of the other mortgage rules issued by the Bureau in January 2013, will take effect in January 2014. Although section 1026.20(c) of Regulation Z was not established by the new rules, compliance with that pre-existing provision must be worked in to servicers' overall compliance strategy for January. Because many financial institutions lock down their computer systems late in the calendar year due to high holiday processing volume and the need to generate year-end reports, institutions have relatively little time to institute programming changes before the January effective dates.

If the Bureau were to give advance notice of the amendment of these sections and even a two-week comment period, a rule could not reasonably be published in final form until early December. Servicers would experience a period of uncertainty in which they would have to continue to prepare for compliance with the original rules in case the exemptions were not finalized.

[8] Sections 1011 and 1021 of the Dodd-Frank Act, in title X, the ''Consumer Financial Protection Act,'' Public Law 111–203, secs. 1001–1100H, codified at 12 U.S.C. 5491, 5511. The Consumer Financial Protection Act is substantially codified at 12 U.S.C. 5481–5603. Section 1029 of the Dodd-Frank Act excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. 12 U.S.C. 5519.

[9] Dodd-Frank Act section 1400(c), 15 U.S.C. 1601 note.

[10] Consumer Financial Protection Bureau Lays Out Implementation Plan for New Mortgage Rules. Press Release. Feb. 13, 2013 available at *http://www.consumerfinance.gov/newsroom/consumer-financial-protection-bureau-lays-out-implementation-plan-for-new-mortgage-rules/.*

[11] *http://www.consumerfinance.gov/regulatory-implementation.*

[12] 12 U.S.C. 5581(a)(1).

[13] Dodd-Frank Act section 1002(14), 12 U.S.C. 5481(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws'' and the provisions of title X of the Dodd-Frank Act); Dodd-Frank Act section 1002(12), 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include RESPA and TILA), Dodd-Frank section 1400(b), 15 U.S.C. 1601 note (defining ''enumerated consumer laws'' to certain subtitles and provisions of title XIV).

[14] 78 FR 6855 (Jan. 31, 2013).

This would likely divert resources from activities that would have more beneficial impacts for consumers. If the Bureau adopted the exemptions in December, servicers would then be forced to change their systems in a rush before the effective date, potentially leading to severe compliance problems and harm to consumers.

Second, the Bureau finds that the notice-and-comment procedure is unnecessary for the amendments to §§ 1026.32, 1026.43, and 1026.34 and related commentary. As discussed more fully below in this preamble, the amendments correct inadvertent, technical errors with respect to these sections. First, a rule the Bureau adopted in May 2013 included the proper version of comment 32(b)(1)(ii)–4.iii, but a recent amendment erroneously reverted the comment to an old version. The Bureau is restoring the proper May 2013 version of the comment with a minor clarifying adjustment to remove an extraneous phrase and thereby avoid the misinterpretation that the comment is in conflict with the regulatory text. The Bureau believes that affected members of the public, including institutions subject to the rule, have understood that the removal of the May 2013 version of the comment was inadvertent, that the May 2013 version of the comment should not be understood to conflict with the regulatory text, and that the Bureau would correct the comment.

Second, the amendment to section 1026.43(e)(4)(ii)(C) corrects a similar technical error. The July 2013 rule included the proper version of section 1026.43(e)(4)(ii)(C) but a recent amendment inadvertently omitted language reiterating in the regulation text that matters wholly unrelated to ability to repay will not be relevant to the determination of QM status under that provision. No change in the standard was intended or made by the recent amendment, as is clear from the interpretation of that provision contained in comment 43(e)(4)–4. Finally, the amendment to section 1026.34(a)(5) corrects a failure to address a very narrow category of transactions for which the disclosures specified in the regulation are not required. In the absence of the correction, the existing language could be read to require new disclosures that would be unduly burdensome and unsuitable for consumers or simply to render the provision impossible to comply with for affected transactions. The interim final rule corrects the inadvertent omission by expressly referencing existing disclosures that are already required for the affected transactions.

V. Effective Date

This interim final rule is effective on January 10, 2014. As with the requirements of the 2013 HOEPA Final Rule which it amends, the change to § 1026.34(a)(5) applies to transactions for which the creditor received an application on or after that date. The servicing exemptions provided in this rule amending existing Regulation Z and the 2013 Mortgage Servicing Rules are available for use with any servicing account beginning on the effective date. The technical corrections to section 1026.32 and section 1026.43 take effect on January 10, 2014.

VI. Section-by-Section Analysis

A. Regulation X

General

In addition to the clarifications and amendments to Regulation X discussed below, the Bureau is making one correction to an amendatory instruction that relates to FR Doc. 2013–22752, published on October 1, 2013.

Section 1024.39 Early intervention requirements for certain borrowers

1024.39(d) Exemptions

The early intervention requirements in § 1024.39 are intended to provide delinquent borrowers with opportunities to pursue available loss mitigation options at the early stages of a delinquency by requiring that the servicer attempt to make live contact with the borrower and to issue a written notice. The requirements apply to each payment for which the borrower is delinquent, although the written notice must be provided only once every 180 days.[15] In this interim final rule, the Bureau is adding new § 1024.39(d)(1), exempting a servicer from the early intervention requirements while a borrower is a debtor in bankruptcy, and new § 1024.39(d)(2), exempting a servicer from the early intervention requirements when a borrower has invoked the cease communication provisions under the Fair Debt Collections Practices Act (FDCPA).[16]

The Bureau first proposed the early intervention requirements in § 1024.39 on August 10, 2012. In the preamble to the proposed rule, the Bureau noted that servicers may be subject to State and Federal laws related to debt collection practices, such as the FDCPA. In addition, the preamble acknowledged that the Bankruptcy Code's automatic stay provisions generally prohibit, among other things, actions to collect, assess, or recover a claim against a debtor that arose before the debtor filed for bankruptcy.[17] The Bureau invited comment on whether servicers may reasonably question how they could comply with the Bureau's proposal in light of those laws.

Several industry commenters expressed concern that the Bureau's rules overlap with and could conflict with existing State and Federal law. Several commenters requested guidance on whether servicers would be required to comply with the early intervention requirements if the borrower instructed the servicer to cease collection efforts, not to contact the borrower by telephone, or if the borrower refused to pay the debt. Several of these commenters requested that the Bureau include an exemption from the early intervention requirements in cases involving debt collection or bankruptcy law. One industry commenter requested that the Bureau clarify whether servicers would have immunity from claims of harassment or improper conduct under the FDCPA.

With respect to addressing potential conflicts between the Bureau's rules and existing State and Federal law as well as existing industry practice, commenters identified a variety of ways the Bureau could provide relief, including by not adopting rules that exceed or otherwise conflict with existing requirements, providing safe harbors (such as by clarifying that compliance with existing laws and agreements satisfies § 1024.39), adopting more flexible standards, providing exemptions, including a mechanism in the rule to resolve compliance conflicts, or broadly preempting State laws.

On January 17, 2013, the Bureau issued the 2013 RESPA Servicing Final Rule with early intervention requirements in § 1024.39 that included a conflicts of law provision specifying that servicers are not required to make contact with borrowers in a manner that may be prohibited by Federal laws, such as the FDCPA or the Bankruptcy Code's automatic stay provisions. The Bureau also added comment 39(c)–1, addressing borrowers in bankruptcy. The comment specified, ''Section 1024.39 does not require a servicer to communicate with a borrower in a manner that would be inconsistent with applicable bankruptcy

[15] The Bureau has issued guidance to clarify how a servicer may comply with the requirements in § 1024.39 to make good faith efforts to establish live contact with a borrower in CFPB Bulletin 2013–12, *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.*

[16] 15 U.S.C. 1692 *et seq.*

[17] *See* 11 U.S.C. 362 (automatic stay); *see also* 11 U.S.C. 524 (effect of discharge).

law or a court order in a bankruptcy case. To the extent permitted by such law or court order, servicers may adapt the requirements of § 1024.39 in any manner that would permit them to notify borrowers of loss mitigation options.'' In the preamble to the final rule, the Bureau stated that it did not seek to interpret the Bankruptcy Code through this comment, but instead intended to indicate that servicers could take a flexible approach to complying with § 1024.39 for borrowers in bankruptcy.

1024.39(d)(1) Borrowers in bankruptcy

After publication of the 2013 RESPA Servicing Final Rule, industry stakeholders expressed continued concerns to the Bureau about complying with certain servicing requirements for borrowers under the protection of bankruptcy law. In general, and as discussed further below with regard to periodic statement requirements, servicers asserted that simply providing flexibility in accommodating bankruptcy law restrictions on communications with borrowers was not sufficient because they faced a substantial legal burden in determining when and how bankruptcy law provisions applied in the first instance. Servicers also expressed concern about how to fulfill the servicing rules' requirements in a way that did not confuse borrowers with regard to their status in bankruptcy and the fact that servicers were not attempting to collect on accounts. Bankruptcy trustees raised similar concerns about the likelihood of servicers providing information that will be confusing to borrowers/debtors, debtor attorneys, and even courts and trustees. Specifically, with regard to early intervention, industry sought additional guidance on whether the Bureau would require some attempt at compliance even if there was an automatic stay and whether servicers would be subject to claims by private litigants asserting that bankruptcy was not an excuse for a servicer's lack of performance under § 1024.39.

Based on these inquiries, the Bureau believes that the potential interactions between the § 1024.39 early intervention requirements and bankruptcy law requirements can be highly varied and complex. The Bankruptcy Code itself provides a robust set of consumer protections for debtors, including oversight of debt repayment plans, where applicable. However, whether certain communications with the borrower may violate an automatic stay or discharge injunction are fact-specific inquiries and can vary depending on the Chapter of the Bankruptcy Code at issue, the intention of the debtor to retain the property, and the frequency and detailed contents of the communications.[18] Uncertainty with respect to loss mitigation-related communications has led federal regulators [19] and several bankruptcy courts [20] to issue guidelines or rules for servicers on the interaction between those communications and bankruptcy law. While some sources identified by the Bureau suggest that it is permissible for servicers to engage in loss mitigation negotiations with borrowers who have invoked bankruptcy protections, they do not address affirmative outreach directly to the borrower to solicit discussions about loss mitigation options.

In addition, when a borrower is under bankruptcy protections, the benefits of continuing early intervention contacts may depend on the context. Borrowers who became delinquent on their mortgage loans prior to filing bankruptcy will likely already have received early intervention contacts from the servicer and thus will already be on notice about the availability of potential loss mitigation options. In such cases, continuing contacts may have limited if any utility. And while the small group of borrowers who file bankruptcy without first becoming delinquent on their mortgage loans might benefit from information regarding the availability of loss mitigation information, the Bureau is concerned that additional guidance is needed to ensure that any early intervention contacts communicate effectively regarding the borrower's status in bankruptcy and do not instead create borrower confusion.

The Bureau believes that further study of these issues is warranted but cannot be concluded quickly enough to provide further calibration of the requirements before January 2014. Therefore, the interim final rule adds § 1024.39(d)(1), which exempts servicers from the requirements of § 1024.39 for a mortgage loan while the borrower is a debtor in bankruptcy. However, the Bureau is not taking any position on whether early intervention efforts generally may violate an automatic stay or discharge injunction and encourages servicers who communicate with borrowers in bankruptcy about loss mitigation options to continue such tailored communications so far as bankruptcy law permits. The Bureau believes that some borrowers facing the complexities of bankruptcy could benefit from receiving loss mitigation information in some tailored form that is appropriate to their circumstances.

Because of the new exemption addressing bankruptcy in § 1024.39(d)(1), the interim final rule removes comment 39(c)–1 and incorporates it into new commentary in § 1024.39(d)(1)–2, as discussed below. Comment 39(d)(1)–1 clarifies that the exemption begins once a petition has been filed commencing a case under Title 11 of the United States Code in which the borrower is a debtor. Comment 39(d)(1)–2 clarifies that with respect to any portion of the mortgage debt that is not discharged, a servicer must resume compliance with § 1024.39 after the first delinquency that follows the earliest of any of three potential outcomes in the borrower's bankruptcy

[18] *See infra* note 35; *see also In re Duke,* 79 F.3d 43 (7th Cir. 1996) (holding creditor does not violate automatic stay when sending ''nonthreatening and non-coercive'' offer to reaffirm Chapter 7 debtor's pre-petition debt); *In re Silva,* No. 09–02504, 2010 WL 605578 (Bankr. D. Haw. Feb. 19, 2010) (''Nothing in the Bankruptcy Code prevents or prohibits a chapter 7 or chapter 13 debtor or its secured creditors from entering into communications or negotiations about the possibility of a loan modification.'')

[19] *See, e.g.,* HUD, Mortgagee Letter 2008–32 (Oct. 17, 2008) (''[M]ortgagees *must,* upon receipt of notice of a bankruptcy filing, send information to *debtor's counsel* indicating that loss mitigation may be available, and provide instruction sufficient to facilitate workout discussions including documentation requirements, timeframes and servicer contact information . . . . Nothing in this mortgagee letter requires that mortgagees make direct contact with any *borrower* under bankruptcy protection.'') (emphasis added) *available at http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/2008ml.cfm;* U.S. Dep't of Treasury, *Making Home Affordable Program Handbook for Servicers of Non-GSE Loans,* v.4.3 at 77, 80 (Sept. 16, 2013) (''Borrowers in *active* Chapter 7 or Chapter 13 bankruptcy cases are eligible for HAMP at the servicer's discretion in accordance with investor guidelines, but servicers are *not required to solicit* these borrowers proactively for HAMP . . . . Borrowers who have received a Chapter 7 bankruptcy *discharge* in a case involving the first lien mortgage who did not reaffirm the mortgage debt under applicable law are eligible for HAMP . . . . [A] servicer is deemed to have made a Reasonable Effort to solicit [those] borrower[s] after sending two written notices to the last address of record in addition to the two required written notices. . . .'') (emphasis added) *available at http://www.makinghomeaffordable.gov/for-partners/understanding-guidelines/Documents/mhahandbook_43.pdf.*

[20] *See, e.g.,* Amended General Order Regarding Negotiations Between Debtor(s) and Mortgage Servicer(s) to Consider Loan Modifications (Bankr. D.N.J. July 24, 2009) (''[C]ommunications and/or negotiations between debtors and mortgagees/mortgage servicers about loan modification shall not be deemed as a violation of the automatic stay . . . . [A]ny such communication or negotiation shall not be used by either party against the other in any subsequent litigation . . . .'') *available at http://www.njb.uscourts.gov/sites/default/files/general-ordes/2009_07_27_generalOrderLoanModify2.pdf;* Bankr. W.D. Wash. R. 4001–2(b) (''A mortgage creditor's contact with the debtor and/or the debtor's counsel for the purposes of negotiating a loan modification shall not be considered a violation of the automatic stay imposed by 11 U.S.C. 362.''). While these two courts' rules might permit some communications regarding loan modifications, their approach is not necessarily generally accepted.

case: (i) the case is dismissed, (ii) the case is closed, or (iii) the borrower receives a discharge under 11 U.S.C. §§ 727, 1141, 1228, or 1328. However, this requirement to resume compliance does not require a servicer to communicate with a borrower in a manner that would be inconsistent with applicable bankruptcy law or a court order in a bankruptcy case. To the extent permitted by such law or court order, a servicer may adapt the requirements of § 1024.39 in any manner believed necessary. Compliance with § 1024.39 is not required for any portion of the mortgage debt that is discharged under applicable provisions of the U.S. Bankruptcy Code. If the borrower's bankruptcy case is revived—for example if the court reinstates a previously dismissed case, reopens the case, or revokes a discharge—the servicer is again exempt from the requirement in § 1024.39. Comment 39(d)(1)–3 clarifies that the exemption applies when any of the borrowers who are joint obligors with primary liability on the mortgage loan is a debtor in bankruptcy.

For the reasons discussed, the Bureau is providing this exemption at this time, particularly because of the complex compliance concerns and the impending effective date of the 2013 RESPA Servicing Final Rule. The Bureau will continue to examine this issue and may reinstate an early intervention requirement with respect to borrowers in bankruptcy, but it will not reinstate any such requirement without notice and comment rulemaking and an appropriate implementation period. The Bureau solicits comment on the scope of the exemption, the triggers for meeting the exemption and having to resume early intervention, and how the early intervention communications might be tailored to meet the particular needs of borrowers in bankruptcy. The Bureau also seeks comment on other factors the Bureau should take into consideration in determining whether to reinstate any type of early intervention requirement with respect to borrowers in bankruptcy.

Legal Authority. The Bureau uses its authority under RESPA sections 6(j)(3) and 19(a) to exempt servicers from the early intervention requirements in § 1024.39 for a mortgage loan while the borrower is a debtor in bankruptcy and to adopt related official Bureau interpretations in Supplement I to Part 1024. For the reasons discussed above, the Bureau does not believe at this time that the consumer protection purposes of RESPA would be furthered by requiring servicers to comply with § 1024.39 for a mortgage loan while the borrower is a debtor in bankruptcy.

1024.39(d)(2) Fair Debt Collection Practices Act

A servicer of defaulted mortgage loans may also be a debt collector under the FDCPA. The FDCPA grants debtors the right generally to bar debt collectors from communicating with them regarding the debt by sending a written ''cease communication'' request.[21] As discussed above, the Bureau is separately issuing a bulletin that concludes that the FDCPA ''cease communication'' provision does not override servicers' obligations to have various communications with borrowers that are specifically mandated by the Dodd-Frank Act or to respond to certain borrower-initiated communications in accordance with the 2013 Mortgage Servicing Final Rules.[22] However, because the early intervention requirements are neither statutorily mandated nor borrower-initiated, the interplay between the early intervention requirements and the ''cease communication'' provision of the FDCPA is less clear than it is with the servicing provisions discussed in the bulletin.

Therefore, new § 1024.39(d)(2) exempts a servicer that is a debt collector under the FDCPA with respect to a borrower from the requirements of § 1024.39 after the borrower has exercised this ''cease communication'' right. The exemption provides a servicer that is a debt collector under the FDCPA with certainty that it has no obligations under § 1024.39 with regard to a borrower who has followed FDCPA procedure and instructed the servicer/debt collector to stop communicating with the borrower about the debt. The Bureau is not, however, making a determination as to the legal status of intervention efforts following receipt of proper cease communication requests, and servicers are encouraged to pursue loss mitigation options to the extent that the FDCPA permits.

The CFPB will be exploring the legal issues and practical benefits of requiring some type of early intervention to notify borrowers of the potential availability of loss mitigation options, in an upcoming rulemaking on debt collection. Balancing the rights of debtors to protect themselves against certain debt collector practices with the consumer protections afforded by servicer-borrower contact that may lead to the resolution of borrower default is more appropriately addressed in the broader context of a notice-and-comment rulemaking. For this reason, the interim final rule revises § 1024.39 to add the exemption discussed above and provide clarity to stakeholders, but the Bureau notes that the future rulemaking on debt collection may alter or eliminate this exemption.

Legal Authority. The Bureau uses its authority under RESPA sections 6(j)(3) and 19(a) to exempt a servicer that is a debt collector pursuant to the FDCPA with regard to a mortgage loan from the early intervention requirements in § 1024.39 when a borrower has exercised the ''cease communication'' right under the FDCPA prohibiting the servicer/debt collector from communicating with the borrower regarding the debt. For the reasons discussed above, the Bureau believes at this time that the consumer protection purposes of RESPA would not be furthered by requiring compliance with § 1024.39 at a time when a borrower has specifically requested the servicer/debt collector to stop communicating with the borrower about the debt.

B. Regulation Z

Section 1026.20 Disclosure Requirements Regarding Post-Consummation Events

20(c) Rate Adjustments With a Corresponding Change in Payment

20(c)(1)(ii) Exemptions

20(c)(1)(ii)(C)

In this interim final rule, the Bureau is adding a third exemption to § 1026.20(c), the regulation requiring disclosures to consumers with adjustable-rate mortgages (ARMs) each time an interest rate adjustment causes a corresponding change in payment.[23] Servicers of defaulted mortgage loans may be debt collectors under the FDCPA.[24] As discussed above, the FDCPA grants debtors the right generally to bar debt collectors from communicating with them by sending a written ''cease communication'' request.[25] New § 1026.20(c)(1)(ii)(C) exempts servicers, creditors and assignees on an ARM from the

[21] 15 U.S.C. 1692c(c).

[22] The new mortgage servicing rules that do not exempt servicers based on their status as debt collectors under the FDCPA are, in Regulation X, 12 CFR 1024.35 (error resolution), 1024.36 (requests for information), 1024.37 (force-place insurance), and 1024.41 (loss mitigation) and, in Regulation Z, 12 CFR 1026.20(d) (ARM initial interest rate adjustment) and 1026.41 (periodic statement). *See* CFPB Bulletin 2013–12, *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.* Note that, elsewhere in this interim final rule, the Bureau is issuing an exemption for § 1026.20(c) similar to the one for § 1024.39.

[23] 12 CFR 1026.20(c), as revised by 78 FR 10901 (Feb. 14, 2013) (2013 TILA Servicing Final Rule).

[24] 15 U.S.C. 1692 *et seq.*

[25] 15 U.S.C. 1692c(c).

requirements of § 1026.20(c) when the servicer for that ARM is a debt collector under the FDCPA and the consumer has exercised this ''cease communication'' right.

As discussed above, the Bureau is separately issuing a bulletin that concludes that the FDCPA ''cease communication'' provision does not override servicers' obligations to have various communications with borrowers that are specifically mandated by the Dodd-Frank Act or to respond to certain borrower-initiated communications in accordance with the 2013 Mortgage Servicing Final Rules.[26] However, because the notice requirements of § 1026.20(c) are neither statutorily mandated nor borrower-initiated, the interplay between those requirements and the ''cease communication'' provision of the FDCPA is less clear than it is with the servicing provisions discussed in the bulletin.

Therefore, new § 1026.20(c)(1)(ii)(C) exempts servicers, creditors and assignees on an ARM from the requirements of § 1026.20(c) when the servicer for that ARM is a debt collector under the FDCPA and the consumer has exercised this ''cease communication'' right. The exemption provides a servicer that is a debt collector under the FDCPA with certainty that it has no obligations under § 1026.20(c) with regard to a borrower who has followed FDCPA procedure and instructed the servicer/debt collector to stop communicating with the borrower about the debt. The Bureau is not, however, making a determination as to the legal status of § 1026.20(c) requirements following receipt of proper cease communication requests, and servicers are encouraged to provide ARM adjustment notices to the extent that the FDCPA permits.

The CFPB will be exploring the legal issues and practical benefits of requiring some form of § 1026.20(c) notice following a cease communication request, in an upcoming rulemaking on debt collection. Balancing the rights of debtors to protect themselves against certain debt collector practices with the consumer protection afforded by timely notice of interest rate and payment adjustments is more appropriately addressed in the broader context of a notice-and-comment rulemaking. For this reason, the interim final rule revises § 1026.20(c) to add the exemption discussed above and provide clarity to stakeholders, but the Bureau notes that the future rulemaking on debt collection may alter or eliminate this exemption.

Legal Authority. The Bureau uses its authority under TILA section 105(a) to provide an exemption from the ARM disclosures required by § 1026.20(c) when a servicer that is a debt collector pursuant to the FDCPA with regard to an adjustable-rate mortgage loan receives a ''cease communication'' notice. For the reasons discussed above, the Bureau believes this exemption is necessary and proper under TILA section 105(a) to effectuate the purposes of and to facilitate compliance with TILA.

Section 1026.32 Requirements for Certain High-Cost Mortgages

32(b) Definitions

32(b)(1)

This interim final rule makes a technical correction to comment 32(b)(1)(ii)–4.iii, as revised by the May 2013 ATR Final Rule and the September 2013 Final Rule Amendments to the 2013 Mortgage Rules. Among other things, the May 2013 ATR Final Rule substantially revised § 1026.32(b)(1)(ii) and, with it, comment 32(b)(1)(ii)–4. However, the September 2013 Final Rule Amendments to the 2013 Mortgage Rules inadvertently replaced comment 32(b)(1)(ii)–4.iii with the comment language that was in place before the May 2013 ATR Final Rule revision. This rule restores the May 2013 language.

This rule also makes a minor adjustment to the May 2013 language to remove an extraneous reference to compensation paid by ''a consumer.'' Comment 32(b)(1)(ii)–4.iii is intended to focus on how compensation paid by a creditor to a loan originator is included in the calculation of points and fees. The reference to compensation paid by ''a consumer'' in this particular context is not relevant and could have been misread to suggest that mortgage broker compensation already included in the points and fees calculation under § 1026.32(b)(1)(i) should be counted again under § 1026.32(b)(1)(ii). Such an interpretation would not have been consistent with § 1026.32(b)(1)(ii)(A), as both the regulatory text and comment 32(b)(1)–4.i make plain. This rule makes the technical correction of removing the phrase ''consumer or'' in comment 32(b)(1)(ii)–4.iii to avoid such potential confusion.

Section 1026.34 Prohibited acts or practices in connection with high-cost mortgages

34(a) Prohibited acts or practices for high-cost mortgages

34(a)(5) Pre-loan counseling

The Dodd-Frank Act provides that a creditor shall not extend a high-cost mortgage to a consumer without obtaining certification from an approved housing counselor that the consumer has received counseling on the advisability of the mortgage.[27] The Dodd-Frank Act also requires that (1) the counselor not be employed by or affiliated with the creditor; and (2) the counselor not certify that a consumer has received counseling unless the consumer has received the appropriate required disclosures. The statutory section requiring pre-loan counseling authorizes the Bureau to prescribe regulations to carry out the requirement.

The Bureau implemented the pre-loan counseling requirement in § 1026.34(a)(5) of the 2013 HOEPA Final Rule. In order to ensure that a consumer would receive useful counseling on the advisability of the particular loan offered, § 1026.34(a)(5)(ii) required that the counseling occur after the consumer receives the initial disclosure under RESPA (currently the GFE[28]), or the TILA disclosures for open-end credit under Regulation Z section 1026.40. However, the rule inadvertently failed to address a very narrow category of closed-end transactions that are neither covered by RESPA nor subject to the disclosures for open-end credit under Regulation Z. These other high-cost loans are typically secured by manufactured housing but do not involve residential real property, and therefore are not federally related mortgage loans subject to RESPA.[29] Such loans also are not covered by Regulation Z section 1026.40. Consequently, § 1026.34(a)(5) could be read to make such closed-end, non-RESPA transactions impossible, or to require a RESPA or open-end disclosures for transactions that would otherwise not require such disclosures and for which such disclosures would

[26] The new mortgage servicing rules that do not exempt servicers based on their status as debt collectors under the FDCPA are, in Regulation X, 12 CFR 1024.35 (error resolution), 1024.36 (requests for information), 1024.37 (force-place insurance), and 1024.41 (loss mitigation) and, in Regulation Z, 12 CFR 1026.20(d) (ARM initial interest rate adjustment) and 1026.41 (periodic statement). *See* CFPB Bulletin 2013–12, *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.* Note that, elsewhere in this interim final rule, the Bureau is issuing an exemption for § 1024.39 similar to the one for § 1026.20(c).

[27] Dodd-Frank Act section 1433(e), TILA section 129(u), 15 U.S.C. 1639(u).

[28] The Bureau notes that the adoption of the forthcoming TILA/RESPA integrated disclosure, required by Dodd-Frank Act section 1098, will not affect this requirement. The new Loan Estimate integrated disclosure will satisfy the requirement for a good faith estimate under RESPA section 5(c), and will be provided prior to counseling on closed-end RESPA transactions.

[29] See 12 CFR 1024.2(b).

be unduly burdensome and unsuitable for consumers.

To address these concerns, this interim final rule amends § 1026.34(a)(5) to require that counseling for high-cost loans that are not covered by either RESPA or section 1026.40 must occur after the consumer receives the HOEPA disclosure required under § 1026.32(c). The interim final rule clarifies that RESPA or open-end disclosures are not required for these transactions.

The Bureau notes that the HOEPA disclosures are not required to be provided until three business days before consummation of the loan, which may cause some difficulties in obtaining the counseling and in ensuring that consummation is not unnecessarily or unduly delayed. Therefore, new comment 34(a)(5)(ii)–2 states that creditors are encouraged but not required to provide the disclosures in § 1026.32(c) earlier than three business days before consummation in order to facilitate the counseling and timely consummation of covered transactions. In addition, conforming changes have been made to comment 34(a)(5)(ii)–1, renumbered comment 34(a)(5)(ii)–3 and comment 34(a)(5)(iv)–1.

The Bureau seeks comment on this provision of the interim final rule and whether it ensures that consumers can both receive meaningful counseling based on disclosures of their loan terms and proceed with consummation in a timely manner. The Bureau also solicits comment on any burdens the interim final rule imposes on industry and how such burdens could be mitigated, keeping in mind the consumer benefits of timely and meaningful counseling.

The Bureau is also making a small technical correction to comment 34(a)(5)(v)–1.

Section 1026.41 Periodic Statements for Residential Mortgage Loans

41(e) Exemptions

41(e)(5) Consumers in bankruptcy

Dodd-Frank Act section 1420 established TILA section 128(f) requiring periodic statements for mortgage loans. On January 17, 2013, the Bureau issued the 2013 TILA Servicing Final Rule implementing the periodic statement requirements and exemptions in § 1026.41. The periodic statements required in § 1026.41 are intended to provide consumers with useful information about the amounts they have paid as well as the amounts they owe and other information. In this interim final rule, the Bureau is adding new § 1026.41(e)(5), exempting a servicer[30] from the periodic statement requirements in § 1026.41 for a mortgage loan while the consumer is a debtor in bankruptcy.

On August 10, 2012, the Bureau proposed implementing the periodic statement requirements and exemptions in § 1026.41. The proposed rule and preamble did not specifically address any relationship between the periodic statement requirements and consumers in bankruptcy. The Bureau received several comments on the proposed rule that presented opposing views about the issue. Some consumer advocates felt it was essential that statements be provided to consumers in bankruptcy to ensure they are kept informed on the status of their loans and have a record of the account, while industry commenters insisted that providing statements for loans in bankruptcy might cause confusion or violate court orders or the FDCPA.[31] One commenter added that if statements must be provided to consumers in bankruptcy, the statements should be allowed to contain any information, disclosures or messaging required under bankruptcy rules or court orders.

In the preamble to the 2013 TILA Servicing Final Rule, the Bureau acknowledged that the Bankruptcy Code might prevent attempts to collect a debt from a consumer in bankruptcy, but stated that it did not believe the Bankruptcy Code would prevent a servicer from sending a consumer a statement on the status of the mortgage loan. The Bureau further specified that the final rule allows servicers to make changes to the periodic statement they believe are necessary when a consumer is in bankruptcy. Specifically, servicers may include a message about the bankruptcy and alternatively present the amount due to reflect payment obligations determined by the individual bankruptcy proceeding.

After publication of the final rule, industry stakeholders expressed more detailed concerns to the Bureau about providing periodic statements to consumers under bankruptcy protection. The Bureau received comments on this issue in response to its proposed rules published on May 2, 2013, and July 2, 2013, even though those proposed rules did not address periodic statements provided to consumers in bankruptcy. One commenter expressed support for the Bureau's suggested message language as a way to satisfy the requirements of § 1026.41 and bankruptcy law. Most of the commenters, however, expressed continued concerns about potential conflicts with bankruptcy law and indicated that the periodic statement would need to be redesigned for consumers in bankruptcy.

In addition, the Bureau has received numerous specific guidance questions and requests for clarification about how to reconcile the periodic statement requirements in the final rule with various bankruptcy law requirements. Industry stakeholders have expressed concerns that bankruptcy courts, under certain circumstances, may find servicers in violation of an automatic stay[32] or discharge injunction[33] if servicers provide a periodic statement, whether or not it includes a disclaimer.[34] They have asked for guidance on whether and how servicers would be able to permit consumers to request that they receive no more statements. Bankruptcy trustees raised similar concerns that sending a periodic statement designed to communicate information that does not recognize the unique character of the Chapter 13

[30] ''Servicer'' is defined for purposes of § 1026.41 as including the creditor, assignee or servicer. To increase readability, this interim final rule also uses the term servicer in the preamble to describe those same entities covered by § 1026.41.

[31] The Bureau has addressed the concern about the relationship between the periodic statement requirements and the FDCPA in CFPB Bulletin 2013–12, *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf*.

[32] *See* 11 U.S.C. 362(a)(6) (prohibiting ''any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title'').

[33] *See* 11 U.S.C. 524(a)(2)–(3) (discharge ''operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect . . . .''); *but see* 11 U.S.C. 524(j) (exception from 11 U.S.C. 524(a)(2) injunction for ''an act by a creditor that is the holder of a secured claim, if—(1) such creditor retains a security interest in real property that is the principal residence of the debtor; (2) such act is in the ordinary course of business between the creditor and the debtor; and (3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.'').

[34] *See, e.g., In re Brown,* 481 B.R. 351, 361 (Bankr. W.D. Pa. 2012) (Statements without a bankruptcy disclaimer sent after a Chapter 7 discharge of the mortgage debt that ''provide the amount of the payment and when it is due, a late charge if the payment is not received by a certain date, and the past due amount'' were found to ''seek payment from the Debtor and violate the discharge injunction.''); *In re Joens,* No. 03–02077, 2003 WL 22839822 at *2 (Bankr. N.D. Iowa Nov. 21, 2003) (Statements including a bankruptcy disclaimer sent to debtors in a Chapter 7 case who stated their intent to surrender the home violated the automatic stay. ''Only if a Chapter 7 debtor's statement of intention indicates the intent to continue to make payments and retain property may a creditor continue to send monthly statements postpetition.''); *In re Draper,* 237 B.R. 502, 506 (Bankr. M.D. Fla. 1999) (Statements including a bankruptcy disclaimer sent to a debtor in a Chapter 13 case violated the automatic stay because ''[t]he only credible reason to send such invoices on a monthly basis is to try to collect payments from debtors protected by the automatic stay.'').

treatment of mortgages in default may arguably violate the automatic stay.

Industry stakeholders have also asked how to comply with several disclosure requirements in the periodic statement under specific circumstances that can arise depending on the type of bankruptcy proceeding. For example, the Bureau received questions from industry and bankruptcy trustees about possible consumer confusion depending on what ''amount due'' and ''payment due date'' servicers would disclose in a Chapter 13 case that has different pre-petition arrearage cure payments and post-petition monthly payments, which may be due on different dates. Servicers also expressed concern about how to fulfill the servicing rules' requirements in a way that did not confuse consumers with regard to their status in bankruptcy and the fact that servicers were not attempting to collect on accounts. Bankruptcy trustees also raised concerns about the likelihood of servicers providing information that will be confusing to borrowers/debtors, debtor attorneys, and even courts and trustees. In addition, the Bureau received requests to delay the effective date of the periodic statement requirement with respect to consumers in bankruptcy and to exclude those consumers from the periodic statement requirements.

Based on the detailed questions received, the Bureau believes that the potential interactions between the § 1026.41 periodic statement requirements and bankruptcy law requirements can be highly varied and complex. The Bankruptcy Code itself provides a robust set of consumer protections for debtors, including oversight of debt repayment plans, where applicable. However, whether any periodic statement provided may violate an automatic stay or discharge injunction are fact-specific inquiries and can vary depending on the Chapter of the Bankruptcy Code at issue, the intention of the debtor to retain the property, and the frequency and detailed contents of the periodic statement provided.[35]

In addition, when a consumer is under bankruptcy protections, the benefits of periodic statements may depend on the context. The Bureau has indicated that servicers may take a flexible approach in complying with § 1026.41 for consumers in bankruptcy. However, without providing additional guidance about how servicers can tailor their periodic statements to communicate effectively the status of a consumer's loan in light of the bankruptcy, it is not clear whether a servicer's tailored periodic statements would provide a meaningful benefit for that consumer in the form of useful information. Indeed, the statements could provide that consumer with information that may be confusing.

The Bureau believes that further study of these issues is warranted but cannot be concluded quickly enough to provide further calibration of the requirements before January 2014. Therefore, the interim final rule exempts servicers from the requirements of § 1026.41 for a mortgage loan while the consumer is a debtor in bankruptcy. However, the Bureau is not taking any position on whether periodic statements generally may violate an automatic stay or discharge injunction and does not discourage servicers who send tailored periodic statements or communications to consumers in bankruptcy from continuing such communications so far as bankruptcy law permits. The Bureau still believes that some consumers facing the complexities of bankruptcy could benefit from receiving information in some tailored form of a periodic statement that is appropriate to their circumstances.

The interim final rule also adds new commentary to § 1026.41(e)(5). Comment 41(e)(5)–1 clarifies that the exemption begins once a petition has been filed commencing a case under Title 11 of the United States Code in which the consumer is a debtor. Comment 41(e)(5)–2 clarifies that with respect to any portion of the mortgage debt that is not discharged, a servicer must resume sending periodic statements in compliance with § 1026.41 within a reasonably prompt time after the next payment due date that follows the earliest of any of three potential outcomes in the consumer's bankruptcy case: (i) the case is dismissed, (ii) the case is closed, or (iii) the consumer receives a discharge under 11 U.S.C. 727, 1141, 1228, or 1328. However, this requirement to resume sending periodic statements does not require a servicer to communicate with a consumer in a manner that would be inconsistent with applicable bankruptcy law or a court order in a bankruptcy case. To the extent permitted by such law or court order, a servicer may adapt the requirements of § 1026.41 in any manner believed necessary. The periodic statement is not required for any portion of the mortgage debt that is discharged under applicable provisions of the U.S. Bankruptcy Code. If the consumer's bankruptcy case is revived—for example if the court reinstates a previously dismissed case, reopens the case, or revokes a discharge—the servicer is again exempt from the requirement in § 1026.41. Comment 41(e)(5)–3 clarifies that the exemption applies when any consumer who is among the joint obligors with primary liability on the transaction is a debtor in bankruptcy.

For the reasons discussed, the Bureau is providing this exemption at this time, particularly because of the complex compliance concerns and the impending effective date of the 2013 TILA Servicing Final Rule. The Bureau will continue to examine this issue and may reinstate a periodic statement requirement with respect to consumers in bankruptcy, but it will not reinstate any such requirement without notice and comment rulemaking and an appropriate implementation period. The

[35] *Compare, e.g., In re Zotow,* 432 B.R. 252, 259–60 (B.A.P. 9th Cir. 2010) (Notice to debtors showing an increase to postpetition mortgage payments to reflect prepetition escrow arrears ''was informational in nature and thus not in violation of the stay . . . First, [it] was not in the nature of an invoice . . . Second, [the creditor] did not send the Notice with a payment coupon or envelope . . . Third and last, [the creditor] sent a single Notice . . . prior to confirmation of Debtors' Chapter 13 plan.''); *and Pearson v Bank of America,* No. 3:12–cv–00013, 2012 WL 2804826, at *6 (W.D. Va. July 10, 2012) (Statements with bankruptcy disclaimers did not violate the Chapter 7 discharge injunction even though the statements also provided ''principal balances, estimated payments, payment instructions, information on how [the creditor] will post any payments made, and other remarks that could surely be construed, by themselves, as attempts to collect an already-discharged debt.''); *with, e.g., In re Cousins,* 404 B.R. 281, 284, 288 (S.D. Ohio 2009) (Statements with the past and current balance, ''voluntary payment coupon,'' and bankruptcy disclaimer sent to the debtor whose Chapter 13 plan provided for mortgage payments through the trustee violated the automatic stay. ''The fact is that statements containing conflicting information like those allegedly sent in this case may be confusing to a debtor. Although the document states that it is an account statement for informational purposes only, it also includes a 'current balance' and a payment coupon.''); *In re Draper,* 237 B.R. 502, 506 (Bankr. M.D. Fla. 1999) (Statements including the amount due, a detachable payment coupon, return envelope, and bankruptcy disclaimer sent to a debtor in a Chapter 13 case whose plan provided for the cure of defaults under his mortgage debt violated the automatic stay because ''[t]he only credible reason to send such invoices on a monthly basis is to try to collect payments from debtors protected by the automatic stay.''). *See also n re Connor,* 366 B.R. 133, 134–38 (Bankr. D. Haw. 2007) (Statements with the principal balance, amount due, instructions on how to make a payment, a perforated, detachable payment coupon, return envelope and bankruptcy disclaimer did not violate the automatic stay while the Chapter 13 plan was pending but did violate the automatic stay once the debtor converted to Chapter 7 and stated his intent to surrender the property. ''In order to formulate a confirmable chapter 13 plan, [the debtor] needed to know the amount of his mortgage arrears and current payments . . . After [the debtor] converted his case to chapter 7 and stated his intention to surrender the mortgaged property, . . . [he] no longer needed to know the status of the mortgage payments. The only purpose for sending the monthly statements after that point was to induce [the debtor] to make payments on a prepetition debt which was dischargeable and has now been discharged.'').

Bureau solicits comment on the scope of the exemption, the triggers for meeting the exemption and having to resume sending periodic statements, and how the content of the periodic statement might be tailored to meet the particular needs of consumers in bankruptcy. The Bureau also seeks comment on other factors it should take into consideration in determining whether to reinstate any type of periodic statement requirement with respect to consumers in bankruptcy.

Legal Authority. The Bureau uses its authority under TILA sections 105(a) and (f) and Dodd-Frank Act section 1405(b) to exempt servicers from the requirement in TILA section 128(f) to provide periodic statements for a mortgage loan while the consumer is a debtor in bankruptcy and to adopt related official Bureau interpretations in Supplement I to Part 1026. For the reasons discussed above, the Bureau believes this exemption is necessary and proper under TILA section 105(a) to facilitate compliance. In addition, consistent with TILA section 105(f) and in light of the factors in that provision, the Bureau believes that imposing the periodic statement requirement for consumers in bankruptcy may not currently provide a meaningful benefit to those consumers in the form of useful information. Consistent with Dodd-Frank Act section 1405(b), the Bureau also believes that the modification of the requirements in TILA section 128(f) to provide this exemption is in the interest of consumers and in the public interest.

Section 1026.43 Minimum standards for transactions secured by a dwelling

43(e) Qualified mortgages

43(e)(4) Qualified mortgage defined—special rules

43(e)(4)(ii)(C)

The September 2013 Final Rule Amendments to the 2013 Mortgage Rules inadvertently replaced the language at § 1026.43(e)(4)(ii)(C) as revised in July with the earlier version of the language. This rule restores the language as revised in July.

VII. Section 1022(b)(2) of the Dodd-Frank Act

A. Overview

The Bureau has conducted an analysis of the potential benefits, costs, and impacts of the interim final rule.[36] The Bureau has consulted, or offered to consult with, the prudential regulators, SEC, HUD, FHFA, the Federal Trade Commission, and the Department of the Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

As noted above, the interim final rule makes amendments to the 2013 RESPA Servicing Final Rule, 2013 TILA Servicing Final Rule, 2013 HOEPA Final Rule, and makes two technical corrections to Regulation Z and the commentary as revised by the May 2013 ATR Final Rule, the July 2013 Final Rule Amendments to the 2013 Mortgage Rules, and the September 2013 Final Rule Amendments to the 2013 Mortgage Rules. These changes clarify, correct, or amend provisions or commentary on (1) The scope of the requirement to engage in early intervention with delinquent borrowers under 12 CFR 1024.39, (2) the scope of the requirement to provide a notice to consumers with adjustable-rate mortgages when an interest rate adjustment causes a corresponding change in payment under 12 CFR 1026.20, (3) compensation to be included in points and fees for loan originators that are not employees of the creditor, (4) the federally required disclosure that must be used in pre-loan counseling required under 12 CFR 1026.34(a)(5) for a closed-end HOEPA loan not subject to RESPA, and (5) the scope of the requirement to provide a periodic statement under 12 CFR 1026.41.[37]

B. Potential Benefits and Costs to Consumers and Covered Persons

Compared to the baseline established by the September 2013 Final Rule Amendments to the 2013 Mortgage Rules (for (3)) or the baseline established by the final rules issued in January 2013 (for (1), (2), (4) and (5)), the Bureau believes that the interim final rule generally reduces burden on covered persons. The impact on consumers is nuanced, as explained above and discussed further below, but there are benefits to consumers considering certain high-cost loans.

The interim final rule adds a new provision § 1024.39(d)(1) which exempts a servicer from the early intervention requirements in § 1024.39 for a mortgage loan while the borrower is a debtor in bankruptcy. The Bureau is adding this exemption in light of detailed questions received since issuing the 2013 RESPA Servicing Final Rule concerning potential conflicts between this provision and bankruptcy law and concerning how to tailor servicing communications for borrowers who have invoked bankruptcy protections. This exemption will obviate the need for servicers to analyze their § 1024.39 early intervention activities to account for the requirements of bankruptcy law and to provide § 1024.39 early intervention activities consistent with the requirements of bankruptcy law. The new provision therefore reduces burden on servicers.

The impact on borrowers of the exemption is less clear in light of the continued uncertainty expressed by servicers about how to comply with both the early intervention requirement and bankruptcy law and because the Bureau cannot at this time provide guidance to servicers about how to comply. As a result, there is significant uncertainty regarding the impact of the early intervention activities that would have been provided under the baseline rule if any on borrowers who were debtors in bankruptcy and therefore significant uncertainty regarding the impact of the exemption. For example, borrowers might not have received significant benefit under the baseline rule, either because servicers determined that early intervention contacts were prohibited by bankruptcy law or because the contacts confused borrowers regarding the status of their accounts, in which case the exemption imposes little if any cost on these borrowers. The Bureau will continue to examine this issue.

The interim final rule also adds a new provision § 1024.39(d)(2) which exempts a servicer that is a debt collector under the FDCPA with respect to a borrower who has exercised his or her ''cease communication'' right under the FDCPA from the requirements of § 1024.39. This exemption will obviate the need for servicers to analyze their § 1024.39 early intervention activities to account for this requirement of the

[36] Section 1022(b)(2)(A) of the Dodd-Frank Act, 12 U.S.C. 5521(b)(2), directs the Bureau, when prescribing a rule under the Federal consumer financial laws, to consider the potential benefits and costs of regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on insured depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas. Section 1022(b)(2)(B) of the Dodd-Frank Act directs the Bureau to consult with appropriate prudential regulators or other Federal agencies regarding consistency with prudential, market, or systemic objectives that those agencies administer.

[37] The interim final rule also restores the proper version of § 1026.43(e)(4)(ii)(C), as revised in the July 2013 Final Rule Amendments to the 2013 Mortgage Rules, which was inadvertently changed in the September 2013 Final Rule Amendments to the 2013 Mortgage Rules. No change was intended or made by the September amendment, as is clear from the interpretation of § 1026.43(e)(4)(ii)(C) contained in the commentary. Nevertheless, as compared to the baseline established by the September amendment, the revision made by the interim final rule may benefit consumers and covered persons by reducing compliance costs.

FDCPA and to provide § 1024.39 early intervention activities consistent with this requirement of the FDCPA. The new provision therefore reduces burden on servicers.

The impact on borrowers of the exemption is less clear in light of continued uncertainty about how servicers would have complied with both the early intervention requirement and the FDCPA. As a result, there is uncertainty regarding the impact of the early intervention activities if any that would have been provided under the baseline rule on borrowers who had exercised their ''cease communication'' right and therefore uncertainty regarding the impact of the exemption. For example, a borrower might benefit from certain types of early intervention notwithstanding a request that the servicer/debt collector stop communicating with the borrower about the debt. If such early intervention would have been provided under the baseline rule, then the exemption imposes a cost on these borrowers. Balancing protections provided by early intervention against the protections provided by the ''cease communication'' right requires a complex analysis more appropriate in the broader context of a separate rulemaking on debt collection. The Bureau will continue to examine this issue.

The interim final rule adds a new provision § 1026.20(c)(1)(ii)(C) which exempts a servicer who is a debt collector under the FDCPA with respect to a borrower who has an adjustable rate mortgage from the requirement to provide a notice when an interest rate adjustment causes a corresponding change in payment if the borrower has exercised his or her ''cease communication'' right. As explained in the 2013 TILA Servicing Final Rule, this disclosure modified an existing disclosure that was provided when interest rate adjustments resulted in a corresponding payment change. Servicers who were debt collectors presumably complied with the ''cease communication'' requirement of the FDCPA. Under the baseline, such servicers are presumed to have incurred the cost of determining whether the modifications to the disclosure in the 2013 TILA Servicing Final Rule changed the circumstances under which the disclosure needed to be provided to consumers who had exercised their ''cease communication'' right. The exemption does, however, obviate the need for servicers to provide the § 1026.20(c) disclosures. The exemption therefore reduces burden on servicers.

The impact on consumers of the exemption is less clear given uncertainty about the impact of the disclosures on consumers who have exercised their ''cease communication'' right. Some consumers who, under the baseline rule, would have received the disclosure after having requested the cessation of communication about the debt might benefit from not receiving the disclosure under the exemption. Other consumers might be made worse off from not receiving the disclosure under the exemption. The Bureau will continue to examine this issue.

The interim final rule restores comment 32(b)(1)(ii)–4.iii as it was established by the May 2013 ATR Final Rule in Supplement I to Part 1026 while removing an extraneous phrase that might have been misinterpreted to conflict with the regulatory text. The technical correction in the interim final rule conforms the comment to the purpose intended by the May 2013 ATR Final Rule. Thus, the interim final rule restores and clarifies the intended comment and may benefit consumers and covered persons by reducing compliance costs.

As discussed above, under the Bureau's 2013 HOEPA Final Rule, the pre-loan counseling requirement in § 1026.34(a)(5) could be read either to make certain closed-end non-RESPA transactions impossible or to require creditors to provide either a GFE or TILA open-end disclosure. The interim final rule removes the uncertainty about compliance and specifies that the counseling requirement in § 1026.34(a)(5) is met after the consumer receives the HOEPA disclosure required by TILA section 129(a) and Regulation Z § 1026.32(c).

The requirement under the interim final rule reduces burden on covered persons by clarifying that these closed-end non-RESPA transactions are allowed and that providers satisfy the counseling requirement by providing counseling prior to consummation and subsequent to furnishing the § 1026.32(c) disclosure. The Bureau recognizes that there may be as few as three days between the time creditors furnish the § 1026.32(c) disclosure and consummation of the mortgage loan. As a result, some providers may choose to offer the § 1026.32(c) disclosure earlier to make it more feasible to meet the counseling requirement. The Bureau believes that any costs associated with earlier provision of the § 1026.32(c) disclosure are likely less than the cost of providing a new GFE or TILA open-end disclosure. Consumers benefit from the requirements in the interim final rule compared to the baseline in which the loans within the scope of the requirement might not be offered or in which consumers would be provided a less suitable disclosure as the basis for counseling.

The interim final rule adds a new provision § 1026.41(e)(5) which exempts a servicer from the periodic statement requirements in § 1026.41 for a mortgage loan while the consumer is a debtor in bankruptcy. The Bureau has made this decision in light of detailed questions received since issuing the 2013 TILA Servicing Final Rule concerning potential conflicts between this provision and bankruptcy law and concerning how to tailor servicing communications for borrowers who have invoked bankruptcy protections. This exemption will obviate the need for servicers to analyze and potentially adjust the content of the § 1026.41 periodic statements to account for the requirements of bankruptcy law and to provide the § 1026.41 periodic statements consistent with the requirements of bankruptcy law. The exemption therefore reduces burden on servicers.

The impact on consumers of the exemption is less clear in light of the continued uncertainty expressed by servicers about how to comply with both the periodic statement requirement and bankruptcy law and because the Bureau cannot at this time provide guidance to servicers about how to comply. As a result, there is significant uncertainty regarding the impact of the periodic statements that would have been provided under the baseline rule to consumers who were debtors in bankruptcy and therefore significant uncertainty regarding the impact of the exemption. For example, borrowers might not have received significant benefit under the baseline rule, either because servicers determined that periodic statements were prohibited by bankruptcy law or because the statements confused borrowers regarding the status of their accounts, in which case the exemption would impose little if any cost on these consumers. The Bureau will continue to examine this issue.

The interim final rule is generally not expected to have a differential impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act. The main exception is for those depository institutions and credit unions which by virtue of their size are more likely to already be exempt from the periodic statement and early intervention

requirements.[38] These institutions derive no additional benefit from the exemptions for consumers in bankruptcy or (for early intervention requirements) from the FDCPA. The interim final rule may have some differential impacts on consumers in rural areas. To the extent that liens on a dwelling that are not federally related mortgage loans are more prevalent in these areas, the provisions on pre-loan counseling may have slightly greater impacts. As discussed above, costs for creditors in these areas should be reduced and consumers should benefit from increased access to credit without any loss in consumer protections.

Given the nature and limited scope of the changes in the interim final rule, the Bureau does not believe that the final rule will reduce consumers' access to consumer financial products and services. Rather, the reduced burden in certain changes in this rule should generally help to improve access to credit.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations.[39] The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The CFPB is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives regarding any rule for which an IRFA is required.

The RFA requirements do not apply in cases in which an agency finds good cause to issue an interim final rule without a notice of proposed rulemaking.[40] As discussed above in Section IV, the CFPB has made such a finding. Moreover, the CFPB believes that any delay in the issuance of the interim final rule would be contrary to the interests of small businesses insofar as the provisions should generally reduce the costs of compliance for covered persons.

Further, this rulemaking is part of a series of rules that have revised and expanded the regulatory requirements for entities that originate or service mortgage loans. Because this interim final rule generally makes clarifying changes to conform these rules to their intended purposes, the RFA analyses associated with those rules generally take into account the impact of the changes made by this interim final rule. Because these rules qualify as ''a series of closely related rules,'' for purposes of the RFA, the Bureau relies on those analyses and determines that it has met or exceeded the IRFA and FRFA requirements.

In the alternative, the Bureau also concludes that the interim final rule will not have a significant impact on a substantial number of small entities. As noted, this interim final rule generally clarifies the existing rule and to the extent any changes are substantive, these changes will not have a material impact on small entities. The provision related to servicing does not apply to many small entities under the small servicer exemption (and to the extent that they do, small entities will benefit), while the provisions related to loan originator compensation and counseling lower the regulatory burden and possible compliance costs for affected entities. Therefore, the undersigned certifies that the rule will not have a significant impact on a substantial number of small entities.

IX. Paperwork Reduction Act

This interim final rule amends 12 CFR part 1024 (Regulation X), which implements the Real Estate Settlement Procedures Act (RESPA) and 12 CFR part 1026 (Regulation Z), which implements the Truth in Lending Act (TILA). Regulations X and Z currently contains collections of information approved by OMB. The Bureau's OMB control number for Regulation X is 3170–0016 and for Regulation Z is 3170–0015. Regarding new § 1026.41(e)(5) and new § 1024.39(d)(1), which respectively exempt servicers from the periodic statement requirements in § 1026.41 and early intervention requirements in § 1024.39 for homeowners who are debtors in bankruptcy, the Bureau cannot separately assess the burden associated with these consumers from other homeowners. Similarly, new § 1024.39(d)(2) and new § 1026.20(c)(1)(ii)(C), which respectively exempt servicers from the early intervention requirements in § 1024.39 and the notice requirements in § 1026.20(c) for mortgagors who have exercised the ''cease communication'' right under FDCPA, the Bureau cannot separately assess the burden associated with these consumers from other homeowners. Thus, the Bureau has determined that this interim final rule would not materially alter these collections of information nor impose any new recordkeeping, reporting, or disclosure requirements on the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects

12 CFR Part 1024

Condominiums, Consumer protection, Housing, Mortgage servicing, Mortgagees, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 1026

Advertising, Consumer protection, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau further amends Regulation X, 12 CFR part 1024 and Regulation Z, 12 CFR part 1026, as amended by the final rules published on January 30, 2013, at 78 FR 6407, on January 31, 2013, at 78 FR 6855, on February 14, 2013, at 78 FR 10901 and 78 FR 10695, on June 12, 2013, at 78 FR 35429, on July 24, 2013, at 78 FR 44685, on July 30, 2013, at 78 FR 45842, and on October 1, 2013, at 78 FR 60382, as set forth below:

PART 1024—REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)

■ 1. The authority citation for part 1024 continues to read as follows:

Authority: 12 U.S.C. 2603–2605, 2607, 2609, 2617, 5512, 5532, 5581.

Subpart C—Mortgage Servicing

■ 2. Section 1024.39, as added at 78 FR 10876 (Feb. 14, 2013), is amended by adding paragraph (d) to read as follows:

§ 1024.39 Early intervention requirements for certain borrowers.

* * * * *

(d) *Exemptions*—(1) *Borrowers in bankruptcy.* A servicer is exempt from

[38] A creditor, assignee, or servicer is exempt from the periodic statement requirement for mortgage loans serviced by a small servicer. A small servicer is a servicer that either services 5,000 or fewer mortgage loans, for all of which the servicer (or an affiliate) is the creditor or assignee; or is a Housing Finance Agency, as defined in 24 CFR 266.5. *See* the 2013 TILA Servicing Final Rule, section 1026.41(e).

[39] 5 U.S.C. 601 *et seq.*

[40] 5 U.S.C. 553(b)(B); 5 U.S.C. 605(b); 62 FR 23,538 (April 30, 1997); 66 FR 37,752 (July 19, 2001); 64 FR 3865 (Jan. 26, 1999).

the requirements of this section for a mortgage loan while the borrower is a debtor in bankruptcy under Title 11 of the United States Code.

(2) *Fair Debt Collections Practices Act.* A servicer subject to the Fair Debt Collections Practices Act (FDCPA) (15 U.S.C. 1692 *et seq.*) with respect to a borrower is exempt from the requirements of this section with regard to a mortgage loan for which the borrower has sent a notification pursuant to FDCPA section 805(c) (15 U.S.C. 1692c(c)).

■ 3. In Supplement I to Part 1024, as added February 14, 2013, at 78 FR 10887:

■ a. Under *Section 1024.39—Early intervention requirements for certain borrowers:*

■ i. The heading *Paragraph 39(c)* and paragraph 1 is removed.

■ ii. The heading *39(d)(1) Borrowers in bankruptcy* and paragraphs 1, 2, and 3 are added.

Supplement I to Part 1024—Official Bureau Interpretations

* * * * *

Subpart C—Mortgage Servicing

* * * * *

Section 1024.39—Early intervention requirements for certain borrowers

* * * * *

39(d)(1) Borrowers in bankruptcy.

1. Commencing a case. The requirements of § 1024.39 do not apply once a petition is filed under Title 11 of the United States Code, commencing a case in which the borrower is a debtor.

2. Obligation to resume early intervention requirements. i. With respect to any portion of the mortgage debt that is not discharged, a servicer must resume compliance with § 1024.39 after the first delinquency that follows the earliest of any of three potential outcomes in the borrower's bankruptcy case: the case is dismissed, the case is closed, or the borrower receives a discharge under 11 U.S.C. 727, 1141, 1228, or 1328. However, this requirement to resume compliance with § 1024.39 does not require a servicer to communicate with a borrower in a manner that would be inconsistent with applicable bankruptcy law or a court order in a bankruptcy case. To the extent permitted by such law or court order, a servicer may adapt the requirements of § 1024.39 in any manner believed necessary.

ii. Compliance with § 1024.39 is not required for any portion of the mortgage debt that is discharged under applicable provisions of the U.S. Bankruptcy Code. If the borrower's bankruptcy case is revived—for example if the court reinstates a previously dismissed case, reopens the case, or revokes a discharge—the servicer is again exempt from the requirement in § 1024.39.

3. Joint obligors. When two or more borrowers are joint obligors with primary liability on a mortgage loan subject to § 1024.39, the exemption in § 1024.39(d)(1) applies if any of the borrowers is in bankruptcy. For example, if a husband and wife jointly own a home, and the husband files for bankruptcy, the servicer is exempt from complying with § 1024.39 as to both the husband and the wife.

* * * * *

■ 4. In FR Doc. 2013–22752 appearing on page 60382 in the **Federal Register** on October 1, 2013, the following correction is made:

Supplement I to Part 1024 [Corrected]

■ On page 60438, in the third column, amendatory instruction 11.g is corrected to read as follows:

■ g. Under *Section 1024.41—Loss Mitigation Procedures:*

■ i. Under *Paragraph 41(b)(1),* paragraph 4 is revised.

■ ii. *Paragraphs 41(b)(2), 41(b)(3), 41(c)(2)(iii),* and *41(c)(2)(iv)* are added.

■ iii. The heading for paragraph *41(c)* is revised.

■ iv. The heading *Paragraph 41(d)(1)* is removed.

■ v. Under *Paragraph 41(d),* paragraph 3 is redesignated as paragraph 41(c)(1), paragraph 4; and paragraph 4 is redesignated as paragraph 3.

■ vi. Under paragraph 41(d), paragraph 4 is added.

■ vii. Under paragraph 41(f), heading 41(f)(1) is removed, and paragraph 1 is redesignated as 41(f) paragraph 1 and republished.

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 5. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart C—Closed-End Credit

■ 6. Section 1026.20, as amended by 78 FR 11004 (Feb. 14, 2013), is amended by:

■ a. Removing ''or'' from the end of paragraph (c)(1)(ii)(A).

■ b. Removing the period from the end of paragraph (c)(1)(ii)(B) and adding in its place ''; or''.

■ c. Adding paragraph (c)(1)(ii)(C) to read as follows:

§ 1026.20 Disclosure requirements regarding post-consummation events.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(C) The creditor, assignee or servicer of an adjustable-rate mortgage when the servicer on the loan is subject to the Fair Debt Collections Practices Act (FDCPA) (15 U.S.C. 1692 *et seq.*) with regard to the loan and the consumer has sent a notification pursuant to FDCPA section 805(c) (15 U.S.C. 1692c(c)).

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 7. Section 1026.34, as amended at 78 FR 6964 (Jan. 31, 2013), is amended by revising paragraphs (a)(5)(ii), (a)(5)(iv)(D), and (a)(5)(iv)(E), and adding paragraph (a)(5)(iv)(F), to read as follows:

§ 1026.34 Prohibited acts or practices in connection with high-cost mortgages.

(a) * * *

(5) * * *

(ii) *Timing of counseling.* The counseling required under this paragraph (a)(5) must occur after:

(A) The consumer receives either the disclosure required by section 5(c) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) or the disclosures required by § 1026.40; or

(B) The consumer receives the disclosures required by § 1026.32(c), for transactions in which neither of the disclosures listed in paragraph (a)(5)(ii)(A) of this section are provided.

* * * * *

(iv) * * *

(D) A statement that the consumer(s) received counseling on the advisability of the high-cost mortgage based on the terms provided in either the disclosure required by section 5(c) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) or the disclosures required by § 1026.40.

(E) For transactions for which neither of the disclosures listed in paragraph (a)(5)(ii)(A) of this section are provided, a statement that the consumer(s) received counseling on the advisability of the high-cost mortgage based on the terms provided in the disclosures required by § 1026.32(c); and

(F) A statement that the counselor has verified that the consumer(s) received the disclosures required by either § 1026.32(c) or the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 *et seq.*) with respect to the transaction.

* * * * *

■ 8. Section 1026.41, as added at 78 FR 11007 (Feb. 14, 2013), is amended by adding paragraph (e)(5) to read as follows:

§ 1026.41 Periodic statements for residential mortgage loans.

* * * * *

(e) * * *

(5) *Consumers in bankruptcy.* A servicer is exempt from the requirements of this section for a mortgage loan while the consumer is a debtor in bankruptcy under Title 11 of the United States Code.

■ 9. Section 1026.43(e)(4)(ii)(C), as added at 78 FR 6584 (Jan. 30, 2013) and amended at 78 FR 44718 (July 24, 2013) and 78 FR 60442 (Oct. 1, 2013), is revised to read as follows:

§ 1026.43 Minimum standards for transactions secured by a dwelling.

* * * * *

(e) * * *

(4) * * *

(ii) * * *

(C) A loan that is eligible to be guaranteed, except with regard to matters wholly unrelated to ability to repay, by the U.S. Department of Veterans Affairs;

* * * * *

■ 10. In Supplement I to Part 1026, as amended at 78 FR 6589, Jan. 30, 2013; 78 FR 6967, Jan. 31, 2013; 78 FR 11019, Feb. 14, 2013; and 78 FR 35504, June 12, 2013:

■ A. Under *Section 1026.32—Requirements for High-Cost Mortgages:*

■ i. Under 32(b) Definitions:

■ a. Under Paragraph 32(b)(1)(ii), paragraph 4.iii is revised.

■ B. Under *Section 1026.34—Prohibited Acts or Practices for High-Cost Mortgages:*

■ i. Under *34(a)(5) Pre-loan counseling:*

■ a. Under Paragraph 34(a)(5)(ii), paragraph 1 is revised, paragraph 2 is redesignated as paragraph 3 and revised, and new paragraph 2 is added.

■ b. Under paragraph 34(a)(5)(iv), paragraph 1 is revised.

■ c. Under paragraph 34(a)(5)(v), paragraph 1 is revised.

■ C. Under *Section 1026.41—Periodic Statements for Residential Mortgage Loans:*

■ i. The heading *41(e)(5) Consumers in bankruptcy* and paragraphs 1, 2, and 3 are added.

The additions and revisions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

Section 1026.32—Requirements for High-Cost Mortgages

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32(b) Definitions

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Paragraph 32(b)(1)(ii).

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4. *Loan originator compensation—calculating loan originator compensation in connection with other charges or payments included in the finance charge or made to loan originators.*

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iii. *Creditor's origination fees—loan originator not employed by creditor.* Compensation paid by a creditor to a loan originator who is not employed by the creditor is included in the calculation of points and fees under § 1026.32(b)(1)(ii). Such compensation is included in points and fees in addition to any origination fees or charges paid by the consumer to the creditor that are included in points and fees under § 1026.32(b)(1)(i). For example, assume that a consumer pays to the creditor a $3,000 origination fee and that the creditor pays a mortgage broker $1,500 in compensation attributed to the transaction. Assume further that the consumer pays no other charges to the creditor that are included in points and fees under § 1026.32(b)(1)(i) and that the mortgage broker receives no other compensation that is included in points and fees under § 1026.32(b)(1)(ii). For purposes of calculating points and fees, the $3,000 origination fee is included in points and fees under § 1026.32(b)(1)(i) and the $1,500 in loan originator compensation is included in points and fees under § 1026.32(b)(1)(ii), equaling $4,500 in total points and fees, provided that no other points and fees are paid or compensation received.

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Section 1026.34—Prohibited Acts or Practices for High-Cost Mortgages

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34(a)(5) Pre-loan counseling.

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34(a)(5)(ii) Timing of counseling.

1. *Disclosures for open-end credit plans.* Section 1026.34(a)(5)(ii) permits receipt of either the disclosure required by section 5(c) of RESPA or the disclosures required under § 1026.40 to allow counseling to occur. Pursuant to 12 CFR 1024.7(h), the disclosures required by § 1026.40 can be provided for open-end plans in lieu of the usual disclosure required by section 5(c) of RESPA.

2. *Transactions not subject to RESPA or § 1026.40.* For closed-end mortgage transactions that are not subject to RESPA, the counseling certification must include a statement that the consumer(s) received counseling on the advisability of the high-cost mortgage based on the terms provided in the disclosures required by § 1026.32(c). (Reference to counseling on advisability using the disclosures required by § 1026.32(c) is not required for transactions subject to RESPA or § 1026.40.) The disclosures required by § 1026.32(c) must be furnished to the consumer at least three business days prior to consummation of the mortgage. The creditor may wish to furnish the disclosures sooner, to provide sufficient time for counseling and certification.

3. *Initial disclosure.* Counseling may occur after receipt of either an initial disclosure required by section 5(c) of RESPA, the disclosures required by § 1026.40, or the disclosures required by § 1026.32(c), regardless of whether revised versions of such disclosures are subsequently provided to the consumer.

34(a)(5)(iv) Content of certification.

1. *Statement of counseling on advisability.* A statement that a consumer has received counseling on the advisability of the high-cost mortgage means that the consumer has received counseling about key terms of the mortgage transaction, as set out in either the disclosure required by section 5(c) of RESPA or the disclosures provided to the consumer pursuant to § 1026.40, or, for closed-end transactions not subject to RESPA, the disclosures required by § 1026.32(c); the consumer's budget, including the consumer's income, assets, financial obligations, and expenses; and the affordability of the mortgage transaction for the consumer. Examples of such terms of the mortgage transaction include the initial interest rate, the initial monthly payment, whether the payment may increase, how the minimum periodic payment will be determined, and fees imposed by the creditor, as may be reflected in the applicable disclosure. A statement that a consumer has received counseling on the advisability of the high-cost mortgage does not require the counselor to have made a judgment or determination as to the appropriateness of the mortgage transaction for the consumer.

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34(a)(5)(v) Counseling fees.

1. *Financing.* Section 1026.34(a)(5)(v) does not prohibit a creditor from financing the counseling fee as part of the transaction for a high-cost mortgage, if the fee is a bona fide third-party charge as provided by § 1026.32(b)(5)(i).

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Section 1026.41—Periodic Statements for Residential Mortgage Loans

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41(e)(5) Consumers in bankruptcy.

1. Commencing a case. The requirements of § 1026.41 do not apply once a petition is filed under Title 11 of the United States Code, commencing a case in which the consumer is a debtor.

2. Obligation to resume sending periodic statements. i. With respect to any portion of the mortgage debt that is not discharged, a servicer must resume sending periodic statements in compliance with § 1026.41 within a reasonably prompt time after the next payment due date that follows the earliest of any of three potential outcomes in the consumer's bankruptcy case: the case is dismissed, the case is closed, or the consumer receives a discharge under 11 U.S.C. 727, 1141, 1228, or 1328. However, this requirement to resume sending periodic statements does not require a servicer to communicate with a consumer in a manner that would be inconsistent with applicable bankruptcy law or a court order in a bankruptcy case. To the extent permitted by such law or court order, a servicer may adapt the requirements of § 1026.41 in any manner believed necessary.

ii. The periodic statement is not required for any portion of the mortgage debt that is

discharged under applicable provisions of the U.S. Bankruptcy Code. If the consumer's bankruptcy case is revived—for example if the court reinstates a previously dismissed case, reopens the case, or revokes a discharge—the servicer is again exempt from the requirement in § 1026.41.

3. Joint obligors. When two or more consumers are joint obligors with primary liability on a closed-end consumer credit transaction secured by a dwelling subject to § 1026.41, the exemption in § 1026.41(e)(5) applies if any of the consumers is in bankruptcy. For example, if a husband and wife jointly own a home, and the husband files for bankruptcy, the servicer is exempt from providing periodic statements to both the husband and the wife.

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Dated: October 15, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–24521 Filed 10–22–13; 8:45 am]

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1227

RIN 2590–AA60

Suspended Counterparty Program

AGENCY: Federal Housing Finance Agency.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing an interim final rule with request for comments that generally codifies the procedures FHFA follows under its existing Suspended Counterparty Program, established in June, 2012. The interim final rule requires the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the twelve Federal Home Loan Banks (Banks) (hereafter, collectively, ''regulated entities'' or individually, ''regulated entity'') to submit reports to FHFA when they become aware that an individual or institution and any affiliates thereof with which they are doing or have done business has committed fraud or other financial misconduct during the time period specified in the rule. The interim final rule sets forth the procedures for FHFA issuance of proposed and final suspension orders. Proposed suspension orders include an opportunity for response by the affected individual or institution and by the regulated entities. A final suspension order may be issued if FHFA determines that the covered misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity. Final suspension orders direct the regulated entities to cease or refrain from doing business with the individuals or institutions for a specified period of time or permanently.

DATES: The interim final rule is effective on October 23, 2013. FHFA will accept written comments on the interim final rule on or before December 23, 2013. For additional information, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may submit your comments on the interim final rule, identified by regulatory information number (RIN) 2590–AA60, by any of the following methods:

- *Email:* Comments to Alfred M. Pollard, General Counsel, may be sent by email to *RegComments@fhfa.gov.* Please include ''RIN 2590–AA60'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AA60.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA60, Federal Housing Finance Agency, Constitution Center, Eighth Floor (OGC), 400 Seventh Street SW., Washington, DC 20024. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA60, Federal Housing Finance Agency, Constitution Center, Eighth Floor (OGC), 400 Seventh Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Kevin Sheehan, Assistant General Counsel, at (202) 649–3086 (not a toll-free number), Federal Housing Finance Agency, Constitution Center, Eighth Floor (OGC), 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the interim final rule, and will take all comments into consideration before issuing the final regulation. Copies of all comments will be posted without change, including any personal information you provide, such as your name, address, email address, and telephone number, on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Constitution Center, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

II. Background and Summary of Interim Final Rule

A. Summary of Interim Final Rule

FHFA established the Suspended Counterparty Program in June, 2012 by letter to the regulated entities. The Suspended Counterparty Program requires each regulated entity to report to FHFA when it becomes aware that an individual or institution with which it is doing or has done business has committed fraud or other financial misconduct within a specified time period. FHFA reviews the reports submitted by the regulated entities to determine whether additional action is needed by FHFA to limit the risk of the regulated entities continuing to do business with the individual or institution, in order to protect the safe and sound operation of the regulated entities. In appropriate cases, FHFA will issue suspension orders directing the regulated entities to cease or refrain from doing business with the individual or institution for a specified period of time or permanently. Before issuing a final suspension order, FHFA will provide notice and an opportunity to respond to the affected individual or institution and to each of the regulated entities.

The interim final rule generally codifies the existing procedures under which the Suspended Counterparty Program operates in new 12 CFR part 1227. The specific procedures for reporting of covered misconduct and issuance of proposed and final suspension orders are further discussed below in the Section-by-Section Analysis. The Suspended Counterparty Program is intended to complement and support the risk management practices of the regulated entities. The Suspended Counterparty Program is not designed as

a comprehensive system for addressing the risks presented by fraud and other misconduct. However, FHFA will continue to evaluate the scope of the Suspended Counterparty Program and will consider expanding its coverage as the agency develops more experience with the program.

B. Authority for Suspended Counterparty Program

The existing Suspended Counterparty Program involves two kinds of FHFA action. FHFA requires the regulated entities to submit reports to FHFA pursuant to specific criteria, and in appropriate cases, FHFA may issue suspension orders to the regulated entities directing them to cease or refrain from doing business with particular individuals or institutions for a specified period of time or permanently. Both kinds of agency action are authorized under provisions of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (Safety and Soundness Act).

The reporting that is required under the Suspended Counterparty Program is within FHFA's authority under sections 1314 and 1313 of the Safety and Soundness Act. Section 1314(a) of the Safety and Soundness Act authorizes FHFA to require the regulated entities to submit regular reports on their activities and operations, as the Director considers appropriate. *See* 12 U.S.C. 4514(a). Section 1313(a)(2) of the Safety and Soundness Act authorizes FHFA to exercise such incidental powers as may be necessary in the supervision and regulation of each regulated entity. *See* 12 U.S.C. 4513(a)(2). In this case, FHFA is requiring each regulated entity to submit reports to FHFA on any individuals or institutions that are doing or have done business with the regulated entity and that meet specific criteria, in order to protect the safety and soundness of the regulated entities.

The orders that would be issued under the Suspended Counterparty Program fall within FHFA's general supervisory authority over the regulated entities, and specifically its authority under sections 1313B, 1319G, and 1313 of the Safety and Soundness Act. Section 1313B of the Safety and Soundness Act authorizes FHFA to establish standards, by regulation or guideline, for each regulated entity regarding prudential management of risks. *See* 12 U.S.C. 4513b. The Director may also require by order that the regulated entities take any action that will best carry out the purposes of that section. *See* 12 U.S.C. 4513b(b)(2)(B)(iii). Section 1319G(a) of the Safety and Soundness Act authorizes FHFA to issue any regulations, guidelines, or orders necessary to ensure that the purposes of the Safety and Soundness Act and the charter acts are accomplished. *See* 12 U.S.C. 4526(a). Finally, section 1313(a)(2) of the Safety and Soundness Act authorizes FHFA to exercise such incidental powers as may be necessary in the supervision and regulation of each regulated entity. *See* 12 U.S.C. 4513(a)(2).

FHFA has established standards under the existing Suspended Counterparty Program to mitigate the risk that a regulated entity will be harmed by an individual or institution with which it is doing or has done business that has committed fraud or other financial misconduct during a specified time period. FHFA reviews any reports submitted by the regulated entity on individuals or institutions that meet the specified criteria, as well as any information submitted by other regulated entities, and any response that the individual or institution chooses to submit. FHFA also reviews any referrals to the Suspended Counterparty Program submitted by FHFA's Office of Inspector General. In appropriate cases, FHFA will issue suspension orders to the regulated entities directing them to cease or refrain from doing business with the individuals or institutions for a specified period of time or permanently.

C. Relationship of Suspended Counterparty Program to Other Authorities and Actions

1. Federal Government-Wide Suspension and Debarment and Other Administrative Sanctions

Although the Suspended Counterparty Program uses some terms and procedures that are the same as or similar to terms and procedures used in the Federal government-wide system for suspensions and debarments, the Suspended Counterparty Program is both different and separate from administrative sanctions that may be imposed by other agencies, and some of its terms and procedures are defined differently.

The Suspended Counterparty Program was created to protect the safety and soundness of the regulated entities. A suspension order issued by FHFA under the Suspended Counterparty Program has no impact on a person's ability to do business directly with the Federal government (including FHFA itself), which is subject to a separate decision-making process. Conversely, a person that has been excluded from doing business with part or all of the Federal government may be able to continue to do business with the regulated entities. However, FHFA may consider administrative sanctions imposed by other agencies in determining whether FHFA should issue a suspension order.

2. Relationship to Other FHFA Authorities

The Suspended Counterparty Program is not intended to take the place of any existing authority or process that FHFA might use to address fraud or other financial misconduct by individuals or institutions that have done or are doing business with the regulated entities, or any other safety and soundness issue. If FHFA receives information under the Suspended Counterparty Program that would be more appropriately dealt with through another administrative process, nothing in part 1227 would limit FHFA from choosing to do so. For example, FHFA has specific authority to suspend or remove an entity-affiliated party in certain circumstances pursuant to section 1377(h) of the Safety and Soundness Act and subpart F of 12 CFR part 1209 (Rules of Practice and Procedure). Other provisions of the Safety and Soundness Act allow FHFA to take a variety of different actions to ensure the safe and sound operation of the regulated entities.

3. Relationship to Other Action by a Regulated Entity

The Suspended Counterparty Program is not intended to take the place of any actions that a regulated entity might use to address safety and soundness risks presented by fraud or other financial misconduct. Each regulated entity should continue to adopt and implement prudent measures to identify areas where fraud or financial misconduct may present a risk to the regulated entity, and to take all appropriate measures to address any such risks. However, regulated entities shall abide by FHFA's determinations under the Suspended Counterparty Program.

D. Due Process Considerations

Suspension orders issued by FHFA under part 1227 are based on FHFA's supervisory authority to ensure the safe and sound operation of the regulated entities and to ensure compliance with appropriate prudential risk management standards. Because these authorities do not explicitly require hearings on the record for this type of determination, it is not necessary for FHFA to adhere to the specific procedural requirements for hearings under the Administrative Procedure Act. *See* 5 U.S.C. 554–558.

However, because a suspension order under the Suspended Counterparty Program could have a significant impact on the regulated entities and the individual or institution that is the subject of the order, the procedures under part 1227 provide that all affected parties shall receive notice of any proposed suspension order and an opportunity to respond before issuance of any final suspension order. A final suspension order issued by FHFA would be issued only after consideration of all available information.

III. Section-by-Section Analysis

A. Purpose—§ 1227.1

Section 1227.1 of the interim final rule states that the purpose of part 1227 is to set forth the procedures FHFA follows under its Suspended Counterparty Program, the purpose of which is to protect the safety and soundness of the regulated entities. The procedures include a requirement that a regulated entity report to FHFA when it becomes aware that a person with whom it is doing or has done business has committed fraud or other financial misconduct within the specified time period in this part. The procedures set forth a process by which FHFA will issue suspension orders directing the regulated entities to cease or refrain from doing business with such persons and any affiliates thereof for a specified period of time or permanently. A suspension order is not intended to be, and may not be issued as, a form of punishment for the party affected.

B. Definitions—§ 1227.2

Section 1227.2 sets forth definitions of various terms used in part 1227. Specific definitions are discussed below where used in the applicable sections. Definitions of certain other terms used in part 1227, such as Director and FHFA, that are also used throughout other FHFA regulations, are set forth in 12 CFR 1201.1.

C. Scope of Suspension Orders—§ 1227.3

Section 1227.3 provides that a suspending official may issue a final suspension order to the regulated entities directing them to cease or refrain from engaging in any covered transactions with a particular person or any affiliates thereof for a specified period of time or permanently, pursuant to the requirements of part 1227. Section 1227.3 also provides that any actions taken under part 1227 are independent of, and have no effect on, any other actions that may be taken by either FHFA or by a regulated entity.

A ''suspending official'' is defined in § 1227.2 as the Director of FHFA, or any other FHFA official with delegated authority to sign an order imposing suspension. ''Person'' is defined broadly in § 1227.2 to mean an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, organization, or other entity. ''Suspension'' is defined in § 1227.2 as an action taken by a suspending official pursuant to a final suspension order that requires a regulated entity to cease or refrain from engaging in any covered transactions with a person or any affiliates thereof for a specified period of time or permanently.

A ''covered transaction'' is defined in § 1227.2 as a contract, agreement or financial or business relationship between a regulated entity and a person or any affiliates thereof. FHFA may provide additional guidance to the regulated entities from time to time on whether a particular kind of transaction is to be treated as a covered transaction. FHFA considered including in the rule more explicit standards for the kinds of transactions that should be treated as covered transactions. For example, the interim final rule could be revised to incorporate a definition of ''lower tier covered transactions'' similar to the definition used in the government-wide debarment and suspension rules. Such an approach could require the regulated entities to develop procedures and contractual requirements that will ensure that a suspended party will not continue to do business indirectly with a regulated entity through lower tier covered transactions, such as by serving as a subcontractor or service provider for a person that does business directly with the regulated entity. FHFA invites comment on whether such an approach would further the goals of the Suspended Counterparty Program and on any operational issues such an approach may present for the regulated entities.

D. Regulated Entity Reports on Covered Misconduct—§ 1227.4

Section 1227.4(a) requires a regulated entity to submit a report to FHFA when the regulated entity becomes aware that a person or any affiliates thereof with which the regulated entity is engaging or has engaged in a covered transaction within the past three years has engaged in covered misconduct. A regulated entity is considered to be aware of covered misconduct when the regulated entity has reliable information that such misconduct has occurred.

''Covered misconduct'' is defined in § 1227.2 as any conviction or administrative sanction within the past three years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offense that took place in connection with a mortgage, mortgage business, mortgage securities, or other lending product.

The terms ''conviction'' and ''administrative sanction'' are defined broadly in § 1227.2 and are intended to encompass government actions that include an opportunity for a person to contest the basis of the sanction or conviction. FHFA will only consider instances of covered misconduct that are supported by factual determinations by another government entity, whether in the form of a conviction or administrative sanction. The regulated entities are not required to engage in any independent investigation of the underlying conduct. The definition of ''administrative sanction'' refers specifically to several different types of administrative sanctions. FHFA invites comment on whether additional types of administrative sanctions, such as enforcement actions by other financial institution regulatory agencies, should be included in this definition.

The definition of ''covered misconduct'' further provides that FHFA may impute conduct among affiliates. The imputation of conduct is necessary to ensure that the regulated entities are protected from the risk of fraud and other financial misconduct by all persons that may have been involved in or otherwise responsible for the covered misconduct.

The interim final rule does not specify the internal procedures that each regulated entity must establish to ensure compliance with the reporting requirement. FHFA expects each regulated entity to have procedures in place to ensure that any relevant information will be gathered and reviewed by appropriate personnel at the regulated entity to determine whether it is necessary to submit a report on a particular person to FHFA.

Paragraphs (b) and (c) set forth the required content and timing of reports of covered misconduct submitted to FHFA.

The submission of a report under the Suspended Counterparty Program does not prevent a regulated entity from taking appropriate action to address any risks presented by the person in question. The regulated entity should not delay any appropriate risk-reduction measures pending a determination by

FHFA under the Suspended Counterparty Program.

E. Proposed Suspension Order—§ 1227.5

Section 1227.5(a) makes clear that the suspending official may issue a proposed suspension based on any source of information that meets the criteria for suspending a person. Section 1227.5(b) sets forth the grounds for issuance of a proposed suspension order. A suspending official may issue a proposed suspension order with respect to a particular person and any affiliates thereof if the suspending official determines that there is evidence that: (1) The regulated entity is engaging or has engaged in a covered transaction with the person or affiliates thereof within the past three years and the person or affiliates thereof have engaged in covered misconduct; and (2) the covered misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity.

Paragraph (c) requires the suspending official to provide written notice to each person and any affiliates thereof for whom suspension is proposed, and to provide a copy of such notice to the regulated entity and to all of the other regulated entities. Paragraph (d) sets forth the required content of such notices. Paragraph (e) states the method of sending the notice to the affected person and any affiliates thereof. Paragraph (f) describes the required timing and content of any response from the affected person and any affiliates thereof (referred to as ''respondents'').

Paragraph (g) describes the required timing and content of any response from the regulated entities. The regulated entities are required to submit any information that would indicate that suspending a particular person or affiliates thereof could reasonably be expected to have a negative financial impact or other significant adverse effect on the financial or operating performance of the regulated entity. The regulated entities are also required to submit information on any existing contractual relationships with the person or affiliates thereof for which the regulated entities might request a limitation or qualification. A regulated entity may also submit any other information that it believes would be relevant to the proposed suspension determination, such as recommendations for alternatives to suspension that could mitigate the risks presented by engaging in covered transactions with the person or affiliates thereof, or recommendations for limitations or qualifications on the scope of the proposed suspension.

The interim final rule does not prohibit a regulated entity from taking independent action to limit its exposure to a person and any affiliate thereof that has been proposed for suspension. A regulated entity may conduct its own assessment of a person and its affiliates that is brought to the attention of the regulated entity through the Suspended Counterparty Program and take any action that it determines is appropriate. However, a regulated entity should not take any such action based solely on a notice of proposed suspension that is received from FHFA.

F. Final Suspension Order—§ 1227.6

Section 1227.6(a) sets forth the grounds for issuance of a final suspension order. A suspending official may issue a final suspension order with respect to a respondent if, based solely on the written record, the suspending official determines that there is adequate evidence that: (1) The regulated entity is engaging or has engaged in a covered transaction with the respondent within the past three years, and the respondent engaged in covered misconduct; and (2) the covered misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity. As FHFA develops more experience with the Suspended Counterparty Program, FHFA may consider expanding the grounds on which a suspension may be issued.

Paragraph (b) provides that the written record shall include any material submitted by the respondent or by the regulated entities, as well as any other material that was considered by the suspending official in making the final determination, including any information related to the factors in paragraph (c) discussed below. In addition, FHFA may independently obtain information relevant to the suspension determination for inclusion in the written record. Because any suspension would be based on a conviction or administrative sanction, the suspending official may proceed solely on the basis of the written record. Limiting the extent to which a person may appeal under § 1227.8 is appropriate in these circumstances because an impartial fact-finder has already determined the facts underlying the conviction or administrative sanction. However, FHFA will only proceed on this basis if the resulting conviction, administrative sanction order or other documents clearly set forth the underlying factual basis for the action.

Paragraph (c) sets forth a non-exclusive list of factors that a suspending official may consider in determining whether to issue a final suspension order where the grounds for suspension are satisfied. These factors may also provide guidance on the kinds of evidence that would be relevant to a determination on a suspension order if submitted by a respondent. Many of the factors listed are intended to focus attention on particular issues that may be relevant to assessing the likelihood that continuing to do business with a particular respondent will result in harm to the safety and soundness of a regulated entity. Other factors are intended to highlight issues that may be relevant in determining the extent to which the conduct of an individual should be attributed to the individual's employer or organization, and also the extent to which misconduct by an organization should be attributed to the owners, partners and managers of the organization.

Each regulated entity must abide by the terms of any final suspension order that the regulated entity receives. In general, a final suspension order will prohibit a regulated entity from entering into or extending any contract, agreement, or financial or business relationship with a suspended person. A regulated entity should consider whether to terminate any existing contractual relationship with the suspended person, taking into account possible litigation risks. The regulated entities can facilitate this by including terms in contracts going forward that provide for termination if FHFA determines that a final order of suspension is appropriate.

Paragraph (d) provides that the suspending official shall make a determination on whether to issue a final suspension order with respect to the respondent within 30 calendar days of the deadline given for the respondent's response in the notice of proposed suspension order. The suspending official may extend this deadline if necessary, in which case the suspending official shall provide written notice of the extension to the respondent.

Paragraph (e) provides that the suspending official shall promptly notify the respondent, the regulated entity, and all of the other regulated entities of any determination that a final suspension order should not be issued. A determination by FHFA that a final suspension order should not be issued does not prevent a regulated entity from

taking any action that it deems appropriate with respect to the person, even if the action is based on the same facts that were considered by FHFA.

Paragraph (f)(1) provides that if the suspending official makes a final determination to suspend the respondent, the suspending official shall issue a final suspension order applicable to each regulated entity. Paragraph (f)(2) sets forth the required content of final suspension orders. In most cases, the final suspension orders for each regulated entity will be identical. However, in appropriate cases, the suspending official may tailor individual suspension orders to address issues that may be particular to one or more regulated entities. For example, if one regulated entity relies on a particular service provider for a significant number of transactions, it may be appropriate to delay or otherwise modify a suspension order to enable that regulated entity to smoothly transition to other service providers.

The suspending official generally has wide discretion to determine the appropriate scope of the final suspension order, including any limitations or qualifications that should apply. FHFA expects that the regulated entities will submit responses to proposed suspensions that describe with particularity any adverse effects that the regulated entity may experience if a respondent is suspended. The suspending official may choose to adjust the scope of the final suspension order to address such concerns, or the suspending official may determine that the safety and soundness of the regulated entities would be better served by proceeding with a final suspension order that does not include such limitations or qualifications.

Paragraph (f)(3) requires the suspending official to promptly notify the respondent of the final suspension order issued with respect to the respondent. Paragraph (f)(4) sets forth the required contents of the notice. A separate notice to the regulated entities is not required because the final suspension order itself will be directed to each regulated entity and will serve as notice of the order's terms.

Paragraph (g) provides that a final suspension order shall take effect on the date specified in the order, which shall be at least 45 calendar days after the date on which the order is signed by the suspending official. This delay in the effective date of a final suspension order is intended to provide the respondent with an opportunity to appeal to the Director as provided in § 1227.7.

G. Appeal to the Director—§ 1227.7

Section 1227.7(a) provides that a respondent who is subject to a final suspension order may submit an appeal to the Director within 30 calendar days after the date the order was signed. In cases where the Director signed the final suspension order as the suspending official, the respondent would not be able to revisit the determination by submitting an appeal under this section.

Paragraph (b) provides that if the Director does not take action on an appeal prior to the effective date of the order, the order shall take effect as if it had been affirmed by the Director, on the date specified in the order. Paragraph (c) provides that the Director's written final decision on an appeal shall be the final agency action, and if the Director does not take action on an appeal, the order shall be the final agency action.

Paragraph (d) provides that in order to fulfill the requirement to exhaust administrative remedies, a respondent must appeal a final suspension order to the Director as provided in this section prior to seeking judicial review of such order. This provision is intended to ensure that the Director has an opportunity to review each action that might later be challenged in court. If a respondent fails to appeal a final suspension order to the Director, no further appeals or challenges will be available to the respondent.

H. Posting of Final Suspension Orders—§ 1227.8

Section 1227.8 requires FHFA to publish on its Web site all final suspension orders issued by FHFA on the effective date of the order. Maintaining a publicly accessible list of all persons who have been suspended by FHFA will provide a readily accessible reference tool for the regulated entities and persons who may do business with them. FHFA will remove from the Web site all references to the suspension of a person and any affiliates thereof at such time as the suspension expires or is otherwise vacated.

I. Request for Reconsideration—§ 1227.9

Section 1227.9 provides that a suspended person may submit a request to the Director for reconsideration of a final suspension order at any time after the expiration of a 12-month period from the date the final suspension order took effect, but no such request may be made within 12 months of a previous request for reconsideration. The opportunity for reconsideration is limited to new information that may indicate that the suspended person's engaging in covered transactions with a regulated entity would no longer present a risk of significant financial or reputational harm or threat to the safe and sound operation of a regulated entity.

J. Exception to Final Suspension Order in Effect—§ 1227.10

Section 1227.10(a) provides that a regulated entity may request an exception from a final suspension order in effect that is applicable to the regulated entity in order to allow it to engage in a particular covered transaction with a suspended person and any affiliates thereof. A request for an exception shall state any reasons supporting the exception, as well as any steps the regulated entity plans to take to mitigate any risks presented by doing business with the suspended person. An exception for a particular covered transaction may not be requested by a suspended person or any affiliates thereof.

Paragraph (b) provides that exceptions may be approved or denied in the discretion of the suspending official, and any such decision is not subject to further appeal. Exceptions may be approved for reasons similar to any of the reasons given above for which the suspending official might limit or qualify the scope or effect of the final suspension order itself under § 1227.6(f)(2)(iv).

Paragraph (c) provides that FHFA shall provide written notice in a timely manner to the regulated entity, the suspended person and any affiliates thereof, and the other regulated entities of any exception approved for a particular covered transaction. The notice to the other regulated entities is intended to ensure equitable treatment of all of the regulated entities.

IV. Notice and Public Participation

FHFA has determined under 5 U.S.C. 553(b)(A) and (d)(3) that a prior notice-and-comment period, and delayed effective date, are unnecessary for this interim final rule. First, in part, this rule pertains to the practices and procedures of the agency. Further, FHFA has already implemented procedures for the Suspended Counterparty Program, pursuant to its authority to ensure that each regulated entity operates in a safe and sound manner. Because that program is already operating, it is in the interest of the regulated entities and the members of the public who do business with them to have the benefit of immediately effective procedures and standards provided in this rule. However, because FHFA believes that

public comments are valuable, it invites comments on all aspects of the interim final rule, and will consider all comments received on or before December 23, 2013 in adopting a final regulation.

V. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act, as amended, requires the Director, when promulgating regulations relating to the Banks, to consider the differences between Fannie Mae and Freddie Mac (collectively, the Enterprises) and the Banks with respect to: the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; joint and several liability; and any other differences the Director considers appropriate. *See* 12 U.S.C. 4513(f). In preparing this interim final rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the Banks should not be treated differently from the Enterprises for purposes of the interim final rule. Nonetheless, FHFA requests comments on whether these factors should result in a revision of the interim final rule as it relates to the Banks.

VI. Paperwork Reduction Act

The interim final rule does not contain any information collection requirement that requires the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the interim final rule under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the interim final rule is not likely to have a significant economic impact on a substantial number of small entities because the regulation applies primarily to Fannie Mae, Freddie Mac, and the 12 Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1227

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

Authority and Issuance

■ Accordingly, for the reasons stated in the **SUPPLEMENTARY INFORMATION**, under the authority of 12 U.S.C. 4513, 4513b, 4514, and 4526, FHFA is amending subchapter B of Chapter XII of Title 12 of the Code of Federal Regulations by adding part 1227 to subchapter B to read as follows:

PART 1227—SUSPENDED COUNTERPARTY PROGRAM

Subpart A—General

Sec.

Subpart B—[Reserved]

Authority: 12 U.S.C. 4513, 4513b, 4514, 4526.

Subpart A—General

§ 1227.1 Purpose.

This part sets forth the procedures FHFA follows under its Suspended Counterparty Program, the purpose of which is to protect the safety and soundness of the regulated entities. The procedures require the regulated entities to submit reports when they become aware that a person with whom they have engaged or are engaging in a covered transaction within the past three (3) years has engaged in covered misconduct. The procedures set forth a process for FHFA to issue suspension orders directing the regulated entities to cease or refrain from engaging in covered transactions with such persons and any affiliates thereof for a specified period of time or permanently. A suspension order is not intended to be, and may not be issued as, a form of punishment for the suspended person. The procedures include options for:

(a) Appeal of a final suspension order to the Director;

(b) Request for reconsideration of a final suspension order after twelve (12) months have elapsed; and

(c) Request for an exception to a final suspension order in effect in order to engage in a particular covered transaction with the suspended person.

§ 1227.2 Definitions.

For purposes of this part:

Administrative sanction means debarment or suspension imposed by any Federal agency, or any similar administrative action that has the effect of limiting the ability of a person to do business with a Federal agency, including Limited Denials of Participation, Temporary Denials of Participation, or settlements of proposed administrative sanctions if the terms of the settlement restrict the person's ability to do business with the Federal agency in question.

Affiliate means a party that either controls or is controlled by another person, whether directly or indirectly, including one or more persons that are controlled by the same third person.

Conviction means:

(1) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea; or

(2) Any other resolution that is the functional equivalent of a judgment of guilt of a criminal offense, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

Covered misconduct means:

(1) Any conviction or administrative sanction within the past three (3) years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offense, in each case in connection with a mortgage, mortgage business, mortgage securities or other lending product.

(2) FHFA may impute covered misconduct among affiliates as follows:

(i) *Conduct imputed from an individual to an organization.* FHFA may impute the covered misconduct of any officer, director, shareholder, partner, employee, or other individual associated with an organization, to that organization when the conduct occurred in connection with the individual's performance of duties for or on behalf of that organization, or with the organization's knowledge, approval, or acquiescence. The organization's

acceptance of the benefits derived from the conduct is evidence of knowledge, approval, or acquiescence.

(ii) *Conduct imputed from an organization to an individual, or between individuals.* FHFA may impute the covered misconduct of any organization to an individual, or from one individual to another individual, if the individual to whom the conduct is imputed either participated in, had knowledge of, or had reason to know of the conduct.

(iii) *Conduct imputed from one organization to another organization.* FHFA may impute the covered misconduct of one organization to another organization when the conduct occurred in connection with a partnership, joint venture, joint application, association, or similar arrangement, or when the organization to whom the conduct is imputed has the power to direct, manage, control, or influence the activities of the organization responsible for the conduct. Acceptance of the benefits derived from the conduct is evidence of knowledge, approval, or acquiescence and hence is a basis for imputation of conduct.

Covered transaction means a contract, agreement, or financial or business relationship between a regulated entity and a person and any affiliates thereof.

Person means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, organization, or other entity.

Respondent means a person and any affiliate thereof that is the subject of a proposed or final suspension order.

Suspending official means the Director, or any other FHFA official with delegated authority to sign proposed and final suspension orders and their accompanying notices.

Suspension means an action taken by a suspending official pursuant to a final suspension order that requires a regulated entity to cease or refrain from engaging in any covered transactions with a person and any affiliates thereof for a specified period of time or permanently.

§ 1227.3 Scope of suspension orders.

(a) *General.* A suspending official may issue a final suspension order to the regulated entities directing them to cease or refrain from engaging in any covered transactions with a particular person and any affiliates thereof for a specified period of time or permanently, pursuant to the requirements of this part.

(b) *No effect on other actions by FHFA.* Nothing in this part shall limit the authority of FHFA to pursue any other regulatory or supervisory action with respect to any regulated entity or any other person and any affiliates thereof, whether instead of or in addition to any action taken under this part.

(c) *No effect on other actions by a regulated entity.* Nothing in this part shall limit the authority of any regulated entity to take any action it determines appropriate to address risks from any person and any affiliates thereof with which it engages in covered transactions.

§ 1227.4 Regulated entity reports on covered misconduct.

(a) *General.* A regulated entity shall submit a report to FHFA when the regulated entity becomes aware that a person or any affiliates thereof with which the regulated entity is engaging or has engaged in a covered transaction within the past three (3) years has engaged in covered misconduct. A regulated entity is aware of covered misconduct when the regulated entity has reliable information that such misconduct has occurred.

(b) *Content of reports.* Each report on covered misconduct shall:

(1) Include sufficient information for FHFA to identify the person or persons that are the subject of the report, as well as any affiliates thereof if such affiliates are known to the regulated entity;

(2) Describe the nature and extent of any covered transaction that the regulated entity has or had with any persons and any affiliates thereof identified in the report; and

(3) Include a description of the covered misconduct, including the date of the covered misconduct, documents evidencing the covered misconduct if in the possession of the regulated entity, and any other relevant information that the regulated entity chooses to submit.

(c) *Timing of reports.* (1) A regulated entity shall submit a report to FHFA on covered misconduct no later than ten (10) business days after the regulated entity becomes aware of such misconduct, even if the regulated entity lacks sufficient information to submit a complete report.

(2) A regulated entity may supplement the submission of any covered misconduct report by submitting additional relevant information to FHFA at any time.

§ 1227.5 Proposed suspension order.

(a) A suspending official may base a proposed suspension order upon evidence of covered misconduct from any of the following sources:

(1) A required report submitted by a regulated entity;

(2) A referral submitted by FHFA's Office of Inspector General; or

(3) Any other source of information.

(b) *Grounds for issuance.* A suspending official may issue a proposed suspension order with respect to a particular person and any affiliates thereof if the suspending official determines that there is evidence that:

(1) The regulated entity is engaging or engaged in a covered transaction with the person or any affiliates thereof within the past three (3) years and the person or any affiliates thereof has engaged in covered misconduct, which evidence may include copies of any order or other documents documenting a conviction or administrative sanction for such conduct; and

(2) The covered misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity.

(c) *Notice required.* If a suspending official determines that grounds exist under paragraph (b) of this section for issuance of a proposed suspension order with respect to a particular person and any affiliates thereof, the suspending official may issue a written notice of proposed suspension to the person and any affiliates thereof, and shall provide a copy of such notice to the regulated entity and to all of the other regulated entities.

(d) *Content of notice.* The notice of proposed suspension shall include:

(1) The time period during which the suspension will apply;

(2) A statement of the suspending official's proposed suspension determination and supporting grounds;

(3) The proposed suspension order;

(4) Instructions on how to respond; and

(5) The date by which any response must be received, which must be at least thirty (30) calendar days after the date on which the notice is sent.

(e) *Method of sending notice.* The suspending official shall send the notice of proposed suspension to the last known street address, facsimile number, or email address of the person, the person's counsel, any affiliates of the person, and the counsel for those affiliates, if known, or an agent for service of process.

(f) *Response from respondent.*—(1) *Timing of response.* Any response from the affected person and any affiliates thereof must be submitted to FHFA within the time period specified in the notice. If a response is submitted after the specified deadline, the suspending official may consider or disregard such

response, in the suspending official's discretion.

(2) *Content of response.* The response shall identify:

(i) Any information and argument in opposition to the proposed suspension;

(ii) Any specific facts that contradict the statements contained in the notice of proposed suspension. A general denial is insufficient to raise a genuine dispute over facts material to the suspension;

(iii) All criminal and civil proceedings not included in the notice of proposed suspension that grew out of facts relevant to the bases for the proposed suspension stated in such notice;

(iv) All existing, proposed, or prior exclusions under regulations implementing Executive Order 12549 and all similar actions taken by Federal, state, or local agencies, including administrative agreements that affect only those agencies; and

(v) The names and identifying information for any affiliates of the affected person.

(g) *Response from regulated entities.*—(1) *Timing of response.* Any response from the regulated entities must be submitted to FHFA within the time period specified in the notice. If a response is submitted after the specified deadline, the suspending official may consider or disregard such response, in the suspending official's discretion.

(2) *Content of response.* (i) The response shall include:

(A) Any information that would indicate that suspension of the person in question could reasonably be expected to have a negative financial impact or other significant adverse effect on the financial or operating performance of the regulated entity; and

(B) Any existing contractual relationship with the person in question for which the regulated entity might request a limitation or qualification.

(ii) The response may include any other information that the regulated entity believes would be relevant to the proposed suspension determination, including but not limited to:

(A) Any information related to the factual basis for the proposed suspension;

(B) Any information about other known affiliates of the person;

(C) Recommendations for alternatives to suspension that could mitigate the risks presented by engaging in covered transactions with the respondent; and

(D) Recommendations for limitations or qualifications on the scope of the proposed suspension.

§ 1227.6 Final suspension order.

(a) *Grounds for issuance.* A suspending official may issue a final suspension order with respect to a respondent proposed for suspension if, based solely on the written record, the suspending official determines that there is adequate evidence that:

(1) The regulated entity is engaging or has engaged in a covered transaction within the past three (3) years with the respondent, and the respondent engaged in covered misconduct; and

(2) The covered misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity.

(b) *Written record.* The written record shall include any material submitted by the respondent and any material submitted by the regulated entities, as well as any other material that was considered by the suspending official in making the final determination, including any information related to the factors in paragraph (c) of this section. FHFA may independently obtain information relevant to the suspension determination for inclusion in the written record.

(c) *Factors that may be considered by the suspending official.* In determining whether or not to issue a final suspension order with respect to the respondent where the grounds for suspension are satisfied, the suspending official may also consider any factors that the suspending official determines may be relevant in light of the circumstances of the particular case, including but not limited to:

(1) The actual or potential harm or impact that results or may result from the covered misconduct;

(2) The frequency of incidents or duration of the covered misconduct;

(3) Whether there is a pattern of prior covered misconduct;

(4) Whether and to what extent the respondent planned, initiated, or carried out the covered misconduct;

(5) Whether the respondent has accepted responsibility for the covered misconduct and recognizes its seriousness;

(6) Whether the respondent has paid or agreed to pay all criminal, civil and administrative penalties or liabilities for the covered misconduct, including any investigative or administrative costs incurred by the government, and has made or agreed to make full restitution;

(7) Whether the covered misconduct was pervasive within the respondent's organization;

(8) The kind of positions held by the individuals involved in the covered misconduct;

(9) Whether the respondent's organization took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence of the covered misconduct;

(10) Whether the respondent brought the covered misconduct to the attention of the appropriate government agency in a timely manner;

(11) Whether the respondent has fully investigated the circumstances surrounding the covered misconduct and, if so, made the result of the investigation available to the suspending official;

(12) Whether the respondent had effective standards of conduct and internal control systems in place at the time the covered misconduct occurred;

(13) Whether the respondent has taken appropriate disciplinary action against the individuals responsible for the covered misconduct; or

(14) Whether the respondent has had adequate time to eliminate the circumstances within the organization that led to the covered misconduct.

(d) *Deadline for decision.* The suspending official shall make a determination on whether to issue a final suspension order with respect to the respondent within thirty (30) calendar days of the deadline given for the respondent's response in the notice of proposed suspension, unless the suspending official notifies the respondent in writing that additional time is needed.

(e) *Determination not to issue final suspension order.* If the suspending official determines that suspension is not appropriate with respect to the respondent, the suspending official shall provide prompt written notice of that determination to the respondent, the regulated entity, and all of the other regulated entities.

(f) *Issuance of final suspension order.*—(1) *General.* If the suspending official makes a final determination to suspend the respondent, the suspending official shall issue a final suspension order to each regulated entity regarding the respondent.

(2) *Content of final suspension order.* A final suspension order shall include:

(i) A statement of the suspension determination and supporting grounds, including a discussion of any relevant information submitted by the respondent or regulated entities;

(ii) Identification of each person and any affiliates thereof to which the suspension applies;

(iii) A description of the scope of the suspension, including the time period to which the suspension applies; and

(iv) A description of any limitations or qualifications that apply to the scope of the suspension, including

modification of the conduct of covered transactions that may be engaged in with the respondent.

(3) *Notice to respondent required.* The suspending official shall provide prompt written notice to the respondent of the final suspension order issued to the regulated entities with respect to such respondent.

(4) *Content of notice.* The notice of a final suspension order shall include:

(i) A statement of the suspension determination and supporting grounds, including a discussion of any relevant information submitted by the respondent; and

(ii) A copy of the final suspension order.

(g) *Effective date.* A final suspension order shall take effect on the date specified in the order, which shall be at least forty-five (45) calendar days after the date on which the order is signed by the suspending official.

§ 1227.7 Appeal to the Director.

(a) *Opportunity to appeal.* A respondent may submit an appeal to the Director within thirty (30) calendar days after the date a final suspension order has been signed. If the Director signed the final suspension order as the suspension official, the respondent has no appeal right under this section. The appeal shall be accompanied by a written brief specifically identifying the respondent's objections to the final suspension order and the supporting reasons for such objections.

(b) *Decision on appeal.* The Director shall issue a written final decision on an appeal of a final suspension order based on the record submitted by the suspending official, together with any material submitted with an appeal. The Director may affirm, vacate or amend the suspension, or remand to the suspending official for further proceedings, in the discretion of the Director. If the Director does not take action on an appeal prior to the effective date of the order, the order shall take effect as if it had been affirmed by the Director, on the date specified in the order.

(c) *Final agency action.* The written final decision of the Director on an appeal of a final suspension order shall be the final agency action. If the Director does not take action on an appeal prior to the effective date of the order, the order shall be the final agency action.

(d) *Exhaustion of administrative remedies.* In order to fulfill the requirement to exhaust administrative remedies, a respondent must appeal a final suspension order to the Director as provided in this section prior to seeking judicial review of such order.

§ 1227.8 Posting of final suspension orders.

(a) *Required posting.* FHFA will publish on its Web site all final suspension orders issued by FHFA on the effective date of the order.

(b) *Content of posting.* Each posting on FHFA's Web site shall include:

(1) The full name (where available) of each suspended person and any affiliates thereof subject to the final suspension order, in alphabetical order;

(2) A description of the time period for which the suspension applies; and

(3) A copy of each final suspension order applicable to the person and any affiliates thereof.

(c) *Removal of names.* FHFA will remove from the Web site all references to the suspension of a person and any affiliates thereof at such time as the suspension expires or is otherwise vacated.

§ 1227.9 Request for reconsideration.

(a) *Time period for request.* A suspended person may submit a request to the Director for reconsideration of a final suspension order at any time after the expiration of a twelve (12)-month period from the date the order took effect, but no such request may be made within twelve (12) months of a previous request for reconsideration from such person.

(b) *Content of request.* A request for reconsideration must be submitted in writing and state the specific grounds for relief from the final suspension order, which shall be limited to any new information that may indicate that engaging in covered transactions with a regulated entity would no longer present a risk of significant financial or reputational harm or threat to the safe and sound operation of a regulated entity.

(c) *Decision on request.* The Director may approve a request for reconsideration if the Director determines that engaging in covered transactions with a regulated entity is no longer likely to result in significant financial or reputational harm to a regulated entity or otherwise threaten the safe and sound operation of a regulated entity. The Director will inform the requestor of the decision on the request for reconsideration in a timely manner. A decision on a request for reconsideration shall not constitute an appealable order.

§ 1227.10 Exception to final suspension order in effect.

(a) *Request for exception.* A regulated entity to which a final suspension order in effect is applicable may request an exception from such order to allow it to engage in a particular covered transaction with a suspended person and any affiliates thereof. Any such request shall clearly state any reasons supporting an exception, as well as any steps the regulated entity will take to mitigate any risks presented by the exception. An exception may not be requested by a suspended person or any affiliates thereof.

(b) *Decision on exception.* A suspending official may approve an exception from a final suspension order in effect to permit a regulated entity to engage in a particular covered transaction with a suspended person and any affiliates thereof for reasons consistent with those for which the suspending official may limit or qualify the scope or effect of a final suspension order under § 1227.6(f)(2)(iv) of this part. The decision on a request for an exception shall not constitute an appealable order.

(c) *Notice required.* FHFA shall provide written notice in a timely manner to the regulated entity, the suspended person and any affiliates thereof, and the other regulated entities of any exception approved for a particular covered transaction.

Dated: October 15, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–24730 Filed 10–22–13; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 34 and 45

[Docket No.: FAA–2012–1333; Amendment No. 34–5A]

RIN 2120–AK15

Exhaust Emissions Standards for New Aircraft Gas Turbine Engines and Identification Plate for Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is making technical changes to a final rule published in the **Federal Register** on December 31, 2012. That final rule amended the emission standards for certain turbine engine powered airplanes to incorporate the standards promulgated by the United States Environmental Protection Agency (EPA) on June 18, 2012. The final rule contained six minor technical errors: One in the authority citation, and five

in tables listing the emissions standards for engines manufactured on and after July 18, 2012. In addition, we are correcting an error in a definition that existed before the final rule and was overlooked. The FAA is issuing this technical amendment to correct these errors.

DATES: This amendment is effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Aimee Fisher, Emissions Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7705; email *Aimee.Fisher@faa.gov.*

For legal questions concerning this action contact Karen Petronis, International Law, Legislation and Regulations Division (AGC–200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073, email *Karen.Petronis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 231(a)(2)(A) of the Clean Air Act (CAA) (42 U.S.C. 7571) directs the Administrator of the EPA to propose aircraft emission standards applicable to the emission of any air pollutant from classes of aircraft engines which, in the EPA Administrator's judgment, causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare. These emission standards have been promulgated by the EPA in 40 CFR part 87.

Section 232 of the CAA (42 U.S.C. 7572) then directs the FAA to prescribe regulations to ensure compliance with the EPA's standards. The FAA has promulgated these emission standards in 14 CFR part 34, and in the engine marking requirements in part 45.

The EPA initially regulated gaseous exhaust emissions, smoke and fuel venting from aircraft in 1973, with occasional revision. Since the EPA's adoption of the initial regulations, the FAA has taken subsequent action to ensure that the regulations in 14 CFR are kept current with the EPA's standards.

On July 27, 2011, the EPA proposed new aircraft engine emission standards for oxides of nitrogen (NO_X), compliance flexibilities, and other regulatory requirements for aircraft turbofan or turbojet engines with rated thrusts greater than 26.7 kilonewtons (kN) (76 FR 45012). The EPA also proposed adopting the gas turbine engine test procedures of the International Civil Aviation Organization (ICAO). The final rule adopting these proposals was published on June 18, 2012 (77 FR 36342), and was effective July 18, 2012.

On December 31, 2012, the FAA published a final rule with a request for comments (77 FR 76842) adopting the EPA's new emissions standards in part 34. Although the EPA's NPRM presented an opportunity to comment on the proposed regulations and the EPA addressed them in its final rule, the FAA sought public comment on its final rule.

The FAA received three comments on the final rule. Concurrent with the publication of this technical amendment, the FAA is publishing a disposition of comments to address the comments received. No changes are being made to the final rule based on those comments, and the comments did not affect the corrections adopted here.

Discussion of Technical Amendments

1. Authority Citation

In the amendatory language of the final rule, we inadvertently changed the authority citation for section 34 by replacing the semicolon after ''42 U.S.C. 4321 *et seq.,* 7572'' with the letter ''1.'' No change to the authority citation was intended. We are correcting this error and returning the authority citation to what was in place prior to the final rule.

2. § 34.1—Definitions

In the definition of ''Standard day conditions,'' the value for ''specific humidity'' is incorrectly listed as ''0.00 kg H_2O/kg dry air.'' The correct value is ''0.00634 kg H_2O/kg dry air.'' This error has existed in § 34.1 for some time, and the FAA is unable to determine when this error was introduced. In contrast, the EPA's rule correctly defines the term.

The FAA can find no evidence that the existence of this error has caused any significant adverse impact on engine manufacturers. These manufacturers have been using the EPA's definition to establish compliance with the exhaust emission requirements. However, any inconsistency between the regulations of the EPA and the FAA could cause confusion. The FAA intended to correct this error in the final rule, but inadvertently left this change out.

Since this correction is not expected to impose any additional burden on the manufacturers subject to these regulations, the FAA is adopting this change in this document.

3. § 34.23—Exhaust Emission Standards for Engines Manufactured On and After July 18, 2012

In § 34.23, there are two tables that were published with errors that create inconsistencies with similar tables in the EPA's rule. In the NPRM, the FAA stated its intent to adopt the standards promulgated by the EPA. The FAA is correcting these errors.

A table in § 34.23(a)(2) entitled ''Tier 6 Oxides of Nitrogen Emission Standards for Subsonic Engines'' was published with two errors in the column labeled ''Rated output rO (kN).'' The FAA is correcting these errors as follows:

Current language	Correction
26.7 < rO < 89.0	26.7 < rO ≤ 89.0.
rO > 89.0	No change.
26.7 < rO ≤ 89.0	No change.
rO > 89.0	No change.
All	rO ≥ 26.7.

In § 34.23(b)(1), the table entitled ''Tier 8 Oxides of Nitrogen Emission Standards for Subsonic Engines'' was published with three errors in the column labeled ''Rated output rO (kN).'' The FAA is correcting these errors as follows:

Current language	Correction
26.7 < rO < 89.0	26.7 < rO ≤ 89.0.
rO > 89.0	No change.
26.7 < rO < 89.0	26.7 < rO ≤ 89.0.
rO > 89.0	No change.
All	rO ≥ 26.7.

List of Subjects in 14 CFR Part 34

Air pollution control, Aircraft.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 34—FUEL VENTING AND EXHAUST EMISSION REQUIREMENTS FOR TURBINE ENGINE POWERED AIRPLANES

■ 1. The authority citation for part 34 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.,* 7572; 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44714.

Subpart A—General Provisions

■ 2. Amend § 34.1 by revising the definition for ''Standard day conditions'' to read as follows:

§ 34.1 Definitions.

* * * * *

Standard day conditions means the following ambient conditions: temperature = 15 °C, specific humidity = 0.00634 kg H_2O/kg dry air, and pressure = 101.325 kPa.

* * * * *

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

■ 3. Amend § 34.23 by revising paragraphs (a)(2) and (b)(1) to read as follows:

§ 34.23 Exhaust Emission Standards for Engines Manufactured on and after July 18, 2012.

* * * * *

(a) * * *

(2) Except as provided in §§ 34.9(b) and 34.21(c), for Classes TF, T3 and T8 engines manufactured on and after July 18, 2012, and for which the first individual production model was manufactured on or before December 31, 2013 (Tier 6):

TIER 6 OXIDES OF NITROGEN EMISSION STANDARDS FOR SUBSONIC ENGINES

Class	Rated pressure ratio—rPR	Rated output rO (kN)	NO_X (g/kN)
TF, T3, T8	rPR ≤ 30	26.7 < rO ≤ 89.0	38.5486 + 1.6823 (rPR) − 0.2453 (rO) − (0.00308 (rPR) (rO)).
		rO > 89.0	16.72 + 1.4080 (rPR).
	30 < rPR < 82.6	26.7 < rO ≤ 89.0	46.1600 + 1.4286 (rPR) − 0.5303 (rO) + (0.00642 (rPR) (rO)).
		rO > 89.0	−1.04 + 2.0 (rPR).
	rPR ≥ 82.6	rO > 26.7	32 + 1.6 (rPR).

* * * * *

(b) * * *

(1) For Classes TF, T3 and T8 engines of a type or model of which the first individual production model was manufactured after December 31, 2013 (Tier 8):

TIER 8 OXIDES OF NITROGEN EMISSION STANDARDS FOR SUBSONIC ENGINES

Class	Rated pressure ratio—rPR	Rated output rO (kN)	NO_X (g/kN)
TF, T3, T8	rPR ≤ 30	26.7 < rO ≤ 89.0	40.052 + 1.5681 (rPR) − 0.3615 (rO) − (0.0018 (rPR) (rO)).
		rO > 89.0	7.88 + 1.4080 (rPR).
	30 < rPR < 104.7	26.7 < rO ≤ 89.0	41.9435 + 1.505 (rPR) − 0.5823 (rO) + (0.005562 (rPR) (rO)).
		rO > 89.0	−9.88 + 2.0 (rPR).
	rPR ≥ 104.7	rO ≥ 26.7	32 + 1.6 (rPR).

* * * * *

Issued under authority of 49 U.S.C. 106 and section 232 of the Clean Air Act (42 U.S.C. 7571) in Washington, DC, on October 1, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–24712 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 34 and 45

[Docket No.: FAA–2012–1333; Amendment Nos. 34–5 and 45–28]

RIN 2120–AK15

Exhaust Emissions Standards for New Aircraft Gas Turbine Engines and Identification Plate for Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; disposition of comments.

SUMMARY: On December 31, 2012, the FAA published a final rule with a request for comments amending the emission standards for turbine engine powered airplanes to incorporate the standards that were promulgated by the United States Environmental Protection Agency (EPA) on June 18, 2012. The FAA's final rule fulfilled its requirements under the Clean Air Act Amendments of 1970 to issue regulations ensuring compliance with the EPA standards. Although the public had an opportunity to comment on the EPA's rule, and the FAA adopted the same requirements, the FAA sought public comment on its final rule. This action addresses the comments the FAA received.

DATES: October 23, 2013.

ADDRESSES: You may review the public docket for this rulemaking (Docket No.

FAA–2012–1333) at the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the public docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Aimee Fisher, Emissions Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7705; email *Aimee.Fisher@faa.gov.*

For legal questions concerning this action contact Karen Petronis, International Law, Legislation and Regulations Division (AGC–200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073, email *Karen.Petronis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 231(a)(2)(A) of the Clean Air Act (CAA) (42 U.S.C. 7571) directs the Administrator of the EPA to propose aircraft emission standards applicable to the emission of any air pollutant from classes of aircraft engines which, in the EPA Administrator's judgment, causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare. These emission standards have been promulgated by the EPA in 40 CFR part 87.

Section 232 of the CAA (42 U.S.C. 7572) then directs the FAA to prescribe regulations to ensure compliance with the EPA's standards. The FAA has promulgated these emission standards in 14 CFR part 34, and in the engine marking requirements in part 45.

The EPA initially regulated gaseous exhaust emissions, smoke and fuel venting from aircraft in 1973, with occasional revision. Since the EPA's adoption of the initial regulations, the FAA has taken subsequent action to ensure that the regulations in 14 CFR are kept current with the EPA's standards.

On July 27, 2011, the EPA proposed new aircraft engine emission standards for oxides of nitrogen (NO_X), compliance flexibilities, and other regulatory requirements for aircraft turbofan or turbojet engines with rated thrusts greater than 26.7 kilonewtons (kN) (76 FR 45012). The EPA also proposed adopting the gas turbine engine test procedures of the International Civil Aviation Organization (ICAO). The final rule adopting these proposals was published on June 18, 2012 (77 FR 36342), and was effective July 18, 2012.

On December 31, 2012, the FAA published a final rule with a request for comments (77 FR 76842) adopting the EPA's new emissions standards in part 34. Although the EPA's NPRM presented an opportunity to comment on the proposed regulations and the EPA addressed them in its final rule, the FAA sought public comment on its final rule.

Discussion of Comments

The FAA received three comments on the final rule.

Aerospace Industries Association (AIA) expressed support for the requirements in the final rule, noting that the changes would harmonize U.S. regulations with those of ICAO. The AIA noted that some language in both the FAA and EPA rules differ from that which was agreed to by ICAO's Committee of Aviation Environmental Protection. The AIA stated that these differences would result in some unnecessary complication and manufacturer cost, and cited as an example the term ''excepted'' for spare engines that do not need to meet the production cutoff requirements. Current engine labeling allows the terms ''COMPLY'' or ''EXEMPT'' for emissions, and AIA believed these terms should continue to be used.

Rolls-Royce Group stated that it participated in generating the comments submitted by AIA, and endorsed AIA's comments.

The FAA notes that AIA raised this same issue in its comments to the EPA's NPRM. In its final rule, the EPA offered the following support for its decision not to change what it proposed despite AIA's comment:

- The Tier 6 production cutoff does not apply to the continued production of engines that are designated spares. Spare engines are produced to replace a similar engine already in service that was removed from service for maintenance purposes. Accordingly, the production of a spare engine is not restricted by the production cutoff, and the regulation does not apply to these engines.
- The non-applicability of the cutoff eliminates the need to process an exemption for continued production of these engines beyond December 31, 2012.
- Conversely, engines that are intended to be produced for new installations (i.e., not replacing an engine already in service) are subject to the production cutoff regulation and the continued production of such engines beyond the cutoff date would require a grant of exemption.
- Since the production of spare engines is not subject to the new cutoff regulations, the FAA proposed and the EPA accepted the idea that referring to these engines as exceptions to the regulation was more appropriate than requiring case-by-case consideration of exemptions when the regulation did not apply.
- The word ''exemption'' has a specific legal meaning. In 14 CFR Part 11 the FAA uses it to mean that an applicant is subject to a particular regulation and is requesting time limited relief under a specific set of criteria. It is a specialized form of rulemaking.
- When an entity or its product is specifically excluded from a regulatory provision, it is considered ''excepted.''

The FAA believes that the rationale for using the word ''excepted'' continues to be valid, and both agencies use the term in the final rules with the same meaning and intent. No change is being made to the rule based on the comments of AIA and Rolls Royce.

Pratt & Whitney supported the FAA's implementation of the NOx emission standards promulgated by the EPA, as the EPA rule reflects U.S. efforts to harmonize domestic emission standards with the international standards adopted by ICAO. In the event that a substantive difference between the FAA's and EPA's final rules is discovered, Pratt & Whitney attached its comments to the EPA's proposed rulemaking. Pratt & Whitney's comment did not specify any instance where substantive differences might exist between the FAA and EPA final rules. No change is being made to the rule based on Pratt & Whitney's comment.

Conclusion

After analyzing the comments submitted in response to this final rule, the FAA has determined that no revisions to the rule are warranted based on the comments received.

Issued under authority of 49 U.S.C. 106 and section 232 of the Clean Air Act (42 U.S.C. 7571) in Washington, DC, on October 1, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–24713 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1218

[Docket No. CPSC–2010–0028]

Safety Standard for Bassinets and Cradles

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing a safety standard for bassinets and cradles in response to the direction under Section 104(b) of the CPSIA.

DATES: The rule will become effective on April 23, 2014, with the exception of § 1218.2(b)(3)(i) through (iv), (b)(5), and (b)(7), which will become effective on April 23, 2015. The incorporation by reference of the publication listed in this rule is approved by the Director of the **Federal Register** as of April 23, 2014.

FOR FURTHER INFORMATION CONTACT: William Dewgard, Directorate for Compliance, Consumer Product Safety Commission, telephone: 301–504–7599; email: *WDewgard@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub. L. 110–314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. These standards are to be substantially the same as applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The term ''durable infant or toddler product'' is defined in section 104(f)(1) of the CPSIA as ''a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.'' Bassinets and cradles are specifically identified in section 104(f)(2)(L) of the CPSIA as a durable infant or toddler product.

On April 28 2010, the Commission issued a notice of proposed rulemaking (NPR) for bassinets and cradles. 75 FR 22303. The NPR proposed to incorporate by reference the voluntary standard, ASTM F2194–07a $^{\varepsilon 1}$, *Standard Consumer Safety Specification for Bassinets and Cradles,* with certain changes to provisions in the voluntary standard to strengthen the ASTM standard.

The Commission published a supplemental notice of proposed rulemaking (SNPR) on October 18, 2012. 77 FR 64055. The SNPR proposed to incorporate the voluntary standard, ASTM F2194–12, with: (1) Modifications to sections pertaining to scope and terminology and the stability test procedure, and (2) the addition of new provisions for a segmented mattress flatness test and a removable bed stability requirement.

In this document, the Commission is issuing a safety standard for bassinets and cradles. Pursuant to Section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and members of the public in the development of this standard, largely through the ASTM process. The rule incorporates the voluntary standard, ASTM F2194–13, *Standard Consumer Safety Specification for Bassinets and Cradles* (ASTM F2194–13), by reference, with the following modifications and additions: a clarification to the scope of the bassinet/cradle standard; a change to the pass/fail criterion for the mattress flatness test; an exemption from the mattress flatness requirement for bassinets that are less than 15 inches across; the addition of a removable bed stability requirement; and a change to the stability test procedure requiring the use of a newborn CAMI dummy rather than an infant CAMI dummy.

II. The Product

ASTM F2194–13 defines ''bassinet/cradle'' as a ''small bed designed primarily to provide sleeping accommodations for infants, supported by free standing legs, a stationary frame/stand, a wheeled base, a rocking base, or which can swing relative to a stationary base.'' While in a rest position, a bassinet/cradle is intended to have a sleep surface less than or equal to 10° from horizontal. The bassinet/cradle is not intended to be used beyond the age of approximately five months or when a child is able to push up on his hands and knees. Bassinet and cradle attachments for non-full-size cribs or play yards are considered part of the bassinet/cradle category, as are bedside sleepers that can be converted to four-sided bassinets not attached to a bed.

Cribs, Moses baskets, and products used in conjunction with an inclined infant swing or stroller, and products that are intended to provide only an inclined sleep surface of greater than 10 degrees horizontal, are not included under the category of ''bassinets/cradles.'' (A Moses basket is a portable cradle for a newborn or infant, often made of straw or wicker, that can be used with a variety of rocking and stationary stands. As with other bassinets and cradles, Moses baskets are not intended for use after a child can push up on its hands and knees.) However, Moses baskets and carriage accessories that can be converted to a bassinet or cradle by attachment to a separate base/stand would be considered bassinets/cradles when used with the base/stand. Similarly, products that could be used at an incline of 10 degrees or less from horizontal, as well as more than 10 degrees from horizontal, would be considered bassinets/cradles when in the flatter configuration(s).

III. Incident Data

The preamble to the SNPR summarized incident data involving bassinets and cradles reported to the Commission as of January 18, 2012. 77 FR 64055 (October 18, 2012). CPSC's Directorate for Epidemiology, Division of Hazard Analysis has updated this information to include bassinet- and cradle-related incident data reported to the Commission from January 18, 2012 through March 31, 2013. A search of the CPSC epidemiological databases showed that there were 71 new incidents related to bassinets and cradles reported during this time frame. Thirty-eight of the 71 were fatal, and 33 were nonfatal. Sixteen of the nonfatal incidents involved injuries. Almost all of the new incidents reportedly occurred between 2010 and 2012. Reporting is ongoing, however, so the incident totals are subject to change.

A. Fatalities

The majority of the deaths (32 out of 38) were asphyxiations due to the presence of soft or extra bedding in the bassinet, prone placement of the infant, and/or the infant getting wedged between the side of the bassinet and additional bedding. All but four of the 38 decedents were five months or less in age, the ASTM-recommended age range for bassinet use; three of the decedents were six months old and another was an eight-month-old.

Two of the 38 deaths were associated with design aspects of the product. One of these was a suffocation death in a corner of the bassinet whose rocking feature contributed to its non-level resting position; the other fatality occurred when the bassinet was knocked over by an older sibling.

There were three fatalities with insufficient information and one fatality with confounding information preventing CPSC from determining the hazard scenario.

B. Nonfatal Incidents

A total of 33 bassinet-related nonfatal incidents were reported from January 18, 2012 through March 31, 2013. Of these, 16 reports indicated an injury to an infant using the bassinet or cradle at the time of the incident. The majority of these injuries (11 out of 16, or 69 percent) were due to falls out of the bassinets. All 11 fall injuries were reported through NEISS, with little or no circumstantial information on how the fall occurred. However, the reports do indicate that 55 percent of the injured infants who fell out of bassinets were older than the ASTM-recommended maximum age limit of five months. All of the falls resulted in head injuries. Among the remaining five nonfatal injuries, mostly head injuries, no hospitalizations were reported. All but six of the injured were five months or less in age.

The remaining 17 incident reports indicated that no injury had occurred or provided no information about any injury. However, many of the descriptions indicated the potential for a serious injury or even death.

C. Hazard Pattern Identification

The hazard patterns identified in the 71 new incident reports were similar to the hazard patterns that were identified in the incidents considered for the SNPR and are grouped in the following categories (in descending order of frequency of incidents):

1. Non-product-related issues: Thirty-four of the 71 reports (48 percent) concerned incidents that involved no product defect or failure. This category consisted of 32 fatalities that were associated with the use of soft/extra bedding, prone positioning, and/or the infant getting wedged between the side of the bassinet and additional bedding. In addition, there were two nonfatal injury incidents that did not involve any product-related issues.

2. Product-related issues: The hazard scenarios in 25 of the 71 reported incidents (35 percent) were attributed to a failure/defect or a potential design flaw in the product. This category includes one fatality and 13 injuries. Listed below are the reported problems, beginning with the most frequently reported concerns:

- Reports of infants falling or climbing out of bassinets/cradles accounted for a total of 13 incidents, all of which were received from emergency departments around the United States. Eleven of the incidents reported a nonfatal injury; the remaining two infants were reported to be uninjured.
- Lack of structural integrity, which includes issues such as instability, loose hardware, and product collapse, among others, was reported in nine incidents—one with a fatality and two with nonfatal injuries.
- Problems with accessories (such as the stand or sheets), which were sold with the bassinets, were reported in two incidents. However, no injuries were reported.
- One other product-related problem, involving the battery compartment of an older product, was reported in one non-injury incident.

3. Recalled product-related issues: There were six reports (eight percent) that were associated with three different recalled product-related issues. (Two of the recalls were published since the incident data for the SNPR briefing package was presented; at the time, these issues were classified under the ''structural integrity'' and ''rocking'' categories.) Although there were no injuries, there was a fatality included among the six incident reports. In the fatal incident, it is reported that the tilting of the bassinet caused the decedent to roll and press up against the side and suffocate.

4. Miscellaneous other issues: The remaining six incident reports (eight percent) were related to other unspecified issues. The reports described the incidents with insufficient specificity or provided confounding information, preventing CPSC staff from identifying the hazard scenario. There were four fatalities, one nonfatal injury, and one non-injury incident reported in this category.

IV. Overview of ASTM F2194

ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles,* establishes safety performance requirements, test methods, and labeling requirements to minimize the identified hazard patterns associated with the use of bassinets/cradles. ASTM first published a consumer product safety standard for bassinets and cradles in 2002. The standard was revised several times over the next 11 years. The current version of the standard is ASTM F2194–13. The more significant requirements of ASTM F2194 include:

- Scope—describes the types of products intended to be covered under the standard.
- Spacing of rigid side components—is intended to prevent child entrapment between both uniformly and non-uniformly spaced components, such as slats.
- Openings for mesh/fabric—is intended to prevent the entrapment of children's fingers and toes, as well as button ensnarement.
- Static load test—is intended to ensure structural integrity even when a child three times the recommended (or 95th percentile) weight uses the product.
- Stability requirements—is intended to ensure that the product does not tip over when pulled on by a two-year-old male.
- Sleeping pad thickness and dimensions—is intended to minimize gaps and the possibility of suffocation due to excessive padding.
- Tests of locking and latching mechanisms—is intended to prevent unintentional folding while in use.
- Suffocation warning label—is intended to help prevent soft bedding incidents.
- Fabric-sided openings test—is intended to prevent entrapments.
- Rock/swing angle requirement—is intended to address suffocation hazards that can occur when latch/lock problems and excessive rocking or swinging angles press children into the side of the bassinet/cradle.
- Occupant restraints—is intended to prevent incidents where unused restraints have entrapped and strangled children.
- Side height requirement—is intended to prevent falls.
- Segmented mattress flatness—is intended to address suffocation hazards associated with ''V'' shapes that can be created by the segmented mattress folds.

The voluntary standard also includes: (1) Torque and tension tests to prevent components from being removed; (2) requirements for several bassinet/cradle

features to prevent entrapment and cuts (minimum and maximum opening size, small parts, hazardous sharp edges or points, and edges that can scissor, shear, or pinch); (3) requirements for the permanency and adhesion of labels; (4) requirements for instructional literature; and (5) corner post extension requirements intended to prevent pacifier cords, ribbons, necklaces, or clothing that a child may be wearing from catching on a projection.

V. The SNPR and ASTM F2194–13

The SNPR proposed to incorporate by reference ASTM F2194–12, with four modifications/additions to the voluntary standard:

(1) Scope and Terminology: The SNPR proposed excluding inclined products from the scope of the standard, by revising the scope and including a detailed note with examples of what products were and were not included in the scope of the standard. The SNPR also proposed two existing definitions be revised for clarity.

(2) Segmented Mattress Flatness Test: The SNPR proposed a new test requirement and associated test procedure to address suffocation incidents in segmented mattresses. As discussed in the preamble to the SNPR, the mattress flatness requirement is primarily aimed at incidents involving bassinet/play yard combination products that tend to use segmented mattresses, where seams could pose a suffocation and positional asphyxiation hazard. Under the Commission's pass/fail criteria proposed in the SNPR, a bassinet attachment with a segmented mattress would fail if any tested seam creates an angle greater than 10 degrees.

(3) Removable Bed Stability Requirement: The SNPR proposed a new test requirement and associated test procedure to address fatal and nonfatal incidents associated with bassinets that have removable bassinet beds. In the proposed requirement, a removable bassinet bed that was not properly attached or assembled to its base would be required to meet one of the following requirements:

a. The base/stand shall not support the bassinet (*i.e.,* the bassinet bed falls from the stand so that it is in contact with the floor); or

b. The lock/latch shall automatically engage under the weight of the bassinet bed (without any other force or action); or

c. The stand/base shall not be capable of supporting the bassinet bed within 20 degrees of horizontal; or

d. The bassinet shall contain a visual indicator mechanism that shall be visible on both sides of the product to indicate whether the bassinet is properly attached to the base; or

e. The bassinet shall not tip over and shall retain the CAMI newborn dummy when subjected to the stability test outlined in the standard.

(4) Stability Test Procedure: The SNPR proposed a revised test procedure for stability. The revision specifies the use of a newborn CAMI dummy, rather than the six month CAMI dummy that is referenced in the ASTM standard.

The SNPR's provisions concerning the scope and terminology and the proposed segmented mattress flatness test requirement were balloted by ASTM in 2012, and the provisions are now included in the latest revision of the voluntary standard, ASTM F2194. Although the mattress flatness test procedure in ASTM F2194–13 is identical to what is proposed in the SNPR, the pass/fail criterion is different. As stated previously, under the Commission's pass/fail criteria, as proposed in the SNPR, a bassinet attachment with a segmented mattress will fail if any tested seam creates an angle greater than 10 degrees. ASTM F2194–13 allows measured angles between 10 degrees and 14 degrees to pass, as long as the mean of three measurements on that seam is less than 10 degrees.

The removable bed stability requirement proposed in the SNPR is not in the current ASTM standard, but a similar version is expected to be balloted by ASTM for inclusion in the next revision. Similarly, the change in the stability test procedure proposed in the SNPR is not in ASTM F2194–13, but it is expected to be balloted by ASTM for inclusion in its next revision.

VI. Response to Comments

There were 27 comments received on the SNPR, including: one from Health Canada; one from a group of consumer's groups (Kids In Danger, Consumers Union, American Academy of Pediatrics, Consumer Federation of America, Public Citizen, and U.S. PIRG); one from the Juvenile Products Manufacturers Association (JPMA); and two from bassinet manufacturers. The remaining 22 comments were from consumers, law students, or unaffiliated sources. The comments raised several issues, which resulted in two changes to the final rule. Several commenters made general statements supporting the overall purpose of the proposed rule. All of the comments can be viewed at: *www.regulations.gov,* by searching under the docket number of the rulemaking, CPSC–2010–0028. Following is a summary of and responses to the comments.

Scope

Comment: Two commenters provided almost identical comments and suggestions for changes to the scope. The commenters asserted that the scope was unclear about what products are included in the scope and under what conditions. For instance, one comment stated that it was not clear from the SNPR how products with an inclined seat back surface (reclined seat back), such as infant seats, infant bouncer seats, and infant rockers that do not provide an ''inclined sleep surface'' would be treated under the standard.

Response: The scope that was proposed in the SNPR has subsequently been adopted by ASTM and is the scope in the current version of the ASTM standard, ASTM F2194–13. The comments received reflect continued ambiguity regarding some aspects of the scope. Therefore, the Commission is providing additional clarity in the final rule.

Inclined products fall under a variety of different ASTM standards, depending on the product's function. For instance, ASTM standards include a handheld carrier standard, an infant bouncer standard, and a new rocker standard that is currently under development. None of those products is intended for sleep. An inclined product intended for sleeping would fall under the inclined sleep product standard currently under development by ASTM. The Commission's intent is that the scope of the bassinet standard exclude all inclined products when the incline is more than 10 degrees from horizontal.

However, the Commission intends that any product that has both a flat (10 degrees or less) sleep surface and an inclined surface greater than 10 degrees from horizontal shall fall under the scope of the bassinet standard when configured in the flat mode, and will fall under the scope of the appropriate inclined product standard(s) while in the inclined mode. In this manner, all uses of the product are addressed by safety standards. This type of product is considered a multimode product, or a combination product, *i.e.,* the product can convert from one use mode to another.

During the recent ASTM F15 juvenile products subcommittee meetings held in April 2013, scope clarity was raised in various product subcommittees where multimode products are commonly considered. Most of those product subcommittees proposed to modify the scope section of the appropriate standard to clarify that these combination products shall fall

under the scope of all relevant standards when in the corresponding use mode.

This intent to include multimode products under multiple standards is well established in ASTM standards, including the bassinet standard. One example of a multimode product is a carriage basket that is removable from a stroller base. The scope section of ASTM F2194–13 clearly states that products used in conjunction with a stroller are not covered by the standard. Yet, the current scope section also states: ''Carriage baskets/bassinets that are removable from the stroller base are covered under the scope of this standard when the carriage basket/bassinet meets the definition of a bassinet/cradle found in 3.1.1.'' Clearly, the intent of the ASTM standard is to see that this multimode product falls within the scope of the stroller standard when attached to the stroller frame and falls within the scope of the bassinet standard when attached to a separate frame/stand.

Thus, to remove any ambiguity regarding multimode products, the Commission's standard modifies the note that accompanies the scope provision of ASTM F2194–13 to clarify that a multimode product with a bassinet-use mode must meet the bassinet standard when in the bassinet-use mode.

Comment: One commenter suggested that the scope of the standard needs more specific age restrictions.

Response: The scope of a standard is intended to define broadly an entire product category. Within that category, manufacturers have the freedom to tailor their product to a specific market niche, which might be more specialized than other products in the same category. Providing too many specific restrictions within the scope of a standard makes the standard weaker by excluding many products that ought to be included. In general, ASTM standards are defined by their respective industries, using terms that produce a standard that is as useful as possible to that industry. The Commission agrees with the bassinet industry on the existing age recommendations in the ASTM standard.

Removable Bassinet Bed Requirements

Comment: One group of commenters suggested that the Commission eliminate the two ''passive'' pass conditions (20 degrees and passing stability) of the removable bassinet bed stability requirement in favor of the other pass criteria, which the group of commenters said they believe makes the user actively aware that the bassinet is not attached properly.

Response: The SNPR proposed several options to meet the removable bassinet bed requirements. This approach is less restrictive than prescribing one pass criterion, and the approach allows for more innovation in product designs. By permitting five different options to meet this requirement, manufacturers have a variety of design choices available.

Comment: Some commenters said they believe that allowing the bassinet to ''fail'' (by falling to the ground or to a 20 or more degree angle) encourages manufacturers to make products that are less stable to ensure that their bassinets pass this requirement. Another commenter stated that it was foreseeable that some caregivers may attempt to attach the bassinet bed to its stand while the child is in the product and that this might expose children to unnecessary hazards.

Response: Two of the five options to pass the removable bed requirement are closely related to one another. These two options are: (1) The sleep surface shall be at least 20 degrees off from a horizontal plane; and (2) the bassinet bed falls from the stand and contacts the floor. These two requirements were added after consultations with stakeholders (ASTM task group members). Several stakeholders stated that if a bassinet stand was designed to support the bassinet bed only if it were locked properly, then the bassinet stand should be able to pass the requirement. For instance, in the case of a stand that looks like a saw horse, or ''A'' frame that has a lock/latch connection at the top of the ''A'' on the frame and on the underside of the bassinet bed, the caregiver would have to line up both halves of the lock/latch to attach the bed to the stand. It would be unreasonable to believe that caregivers would place the bassinet bed on an ''A'' frame stand without engaging the lock/latch because the design of the stand would cause the bassinet bed to fall to the ground if the lock was not engaged.

Rather than specifying a design requirement, the task group converted the requirement to a performance requirement, by simulating what would happen if the unreasonable act occurred. In other words, this option requires the bassinet bed to fall to the ground if the lock is not properly engaged.

Once that requirement was vetted by the task group, another stakeholder raised the possibility that the bassinet bed, in the act of falling, might get caught on the stand before hitting the ground. The stakeholder asserted that simply because the bassinet bed did not hit the ground should not constitute a failure. Thus, the 20-degree tilt option was added to address the possibility that the bassinet bed, in the process of falling, might get caught on the stand and to complement the fall-to-the-ground option.

A bassinet that relies on either of these two options to pass the requirement would be considered to provide immediate positive feedback. Caregivers who attempt to place the bassinet bed on this type of stand without locking it in place will realize instantly that they did not engage the lock because the bassinet bed will not assume a stable position that allows the caregivers to release their grasp. The immediate feedback of instability will minimize the possible hazards, making falling unlikely. The Commission believes that the steep angle needed to pass is unlikely to allow consumers to let children fall. The instability of such a unit is immediately obvious to the user, precluding a delayed response. Consumers are likely to check the stability of the product before removing their hands from it. Even in the case of a caregiver who attempts to place an occupied bassinet bed on a stand using this option, the caregiver will be present and potentially will be able to prevent or arrest the fall of the bassinet bed. The Commission considers the possibility of a fall hazard in this scenario to be highly unlikely; and on the rare chance that a fall occurs, the fall in these circumstances would be considered less significant than an unattended fall to the floor.

Comment: One commenter stated that the option—''The lock/latch shall automatically engage under the weight of the bed (without any other force/action)''—should be a requirement for all bassinets.

Response: The Commission is providing manufacturers with options to meet the removable bassinet bed requirements. This approach is less restrictive than prescribing one requirement and allows for more innovation in product designs.

Comment: One commenter stated that adding the removable bassinet bed stability requirement is premature. The commenter expressed the belief that the requirement should be removed from the regulation and that ASTM should be allowed to continue working on the issue.

Response: The Commission is aware of two deaths associated with this hazard scenario. (One of these deaths occurred in Canada; thus, it was not included in incident data counts reported in the SNPR briefing package.) Therefore, the Commission does not believe that this requirement is premature. The Commission believes

that stakeholders have had plenty of time to test, review, discuss, and refine the proposed requirements before and after the SNPR was published. In fact, the language recommended for the final rule is essentially the same as what ASTM expects to ballot soon as a new requirement to address the same hazard.

Comment: A commenter stated that color-only visual indicators should not be allowed as an option to pass the removable bassinet bed requirement because people who are color-blind would not be able to distinguish between locked and unlocked.

Response: The requirement for visual indicators allows manufacturers to design a visual indicator that can be recognized by a person with a color vision deficiency. In addition, there are many other options to pass the requirement, and individuals who are color-blind can choose to purchase a product that does not use color indicators.

Comment: Some commenters expressed a belief that allowing removable bassinet beds to pass the stability test by tilting to a 20-degree angle was hazardous because consumers might think that a 20-degree angle is still usable, perhaps as an inclined sleeper.

Response: The Commission believes that an angle of 20° or more is acceptable to demonstrate that the bassinet is not useable. A steeper angle would also be acceptable, but the Commission is not convinced this is needed. Twenty degrees is twice the maximum allowable tilt for bassinets, which are intended to have a flat sleeping surface. In deciding on the 20° angle, the ASTM task group noted an incident (101101HCC3107) where a consumer clearly saw that something was wrong with his bassinet when he saw it tilted and deemed it to be unusable. From the photos, the tilt was estimated to be approximately 17°.

Mattress Flatness

Comment: Some commenters suggested that the mattress flatness requirements should be limited to 8° from the horizontal rather than 10°.

Response: Although the Commission would be amenable to using this more conservative margin of safety, *i.e.,* a tolerance of 16° of motion rather than 20°, the industry has maintained that a larger tolerance is necessary, due to the inherent variability of manufacturing products with fabric and foam. The industry claims that tighter tolerances on a segmented mattress made with the materials that are commonly used in these products would make it impossible to manufacture such mattresses. The Commission believes that the 10° limit is adequate to protect the expected user population.

Comment: A commenter suggested that the threshold limit for flatness should be 14° to preserve test-retest reliability.

Response: ASTM F2194–13 now includes the mattress flatness test requirement and procedure, as written in the SNPR, with the exception of the angle requirement. ASTM's requirement allows the use of an average for measurements over 10° and under 14°, while the SNPR proposed a maximum allowable measurement of 10°. Based on testing performed by an ASTM task group that was established to assess the reliability and repeatability of the mattress flatness test, the reliability of the test is adequate when the test is performed on products designed to pass the test. The commenter did not provide any new or different information to the Commission to support the suggestion for using the averaging method; thus, the Commission continues to support the 10° flatness criterion as proposed in the SNPR.

Comment: Some commenters questioned the use of a cylinder as a surrogate for a human occupant, and another commenter suggested that an automated human model would be more appropriate.

Response: An automated human model is not readily available. It is customary in the juvenile product industry to use easily manufactured shapes made from common materials. This testing strategy enhances the repeatability of the test. An ASTM task group conducted a repeatability and reproducibility study to compare various surrogates for use in the mattress flatness test. The cylinder was the best choice, based on the study results.

Comment: Some commenters suggested using the dummy in the test for mattress flatness so that infant position would be a factor.

Response: The test cylinder is a repeatable method that identifies hazardous products to the satisfaction of industry and the Commission. Unfortunately, the CAMI dummy is too stiff to be useful for simulating suffocation positions and would not be suitable to serve that purpose.

Comment: Some commenters wanted more explanation of how the cylinder sufficiently simulates an infant rolling into a mattress crease, as demonstrated in the mattress flatness test.

Response: The Commission has examined bassinets that pass the test and bassinets that fail. When visual comparisons and measurements of angles are made to compare the movements of the mattresses during a test using an anthropomorphic dummy versus tests using a cylinder, few discernible differences are evident. The shape of the test weight does not seem to be as important as the mass of the test weight in identifying hazardous products.

Comment: Two commenters offered opinions about the mattress flatness testing and designs of bassinet accessories that use support rods underneath the mattress. One of the two comments suggested that the mattress flatness test be performed with and without the bars in place. Moreover, the commenter suggested that if the bars are required to be in place to pass the flatness test, then they should be attached permanently. Similarly, the other comment suggested that the frame supporting the floor (mattress) should come preassembled to eliminate the possibility that the consumer can misassemble the product.

Response: The Commission agrees with these comments. In January 2013, ASTM balloted a revised mattress flatness test, requiring that any segmented mattress that has consumer-assembled mattress support rods, be tested with and without the mattress support rods. This requirement resulted from the Commission's play yard misassembly NPR that was published in August 2012. The ballot item passed and is now part of ASTM F2194–13. The final rule incorporates by reference ASTM F2194–13; thus, the test will include the suggestion from the commenters.

Comment: A commenter stated that that the mattress flatness test could not be performed on bassinets that were less than 15 inches wide because of the width of the cylinder and the block used in that test method. Furthermore, the commenter noted that such a small, narrow occupant-retention space would not present the same hazards involved in incidents with wider play yard bassinet accessories.

Response: The Commission agrees that bassinets with occupant-retention spaces that are narrower than the test apparatus are unlikely to be used with an infant placed orthogonally between walls that are so narrow. In the case where an infant is placed in a narrow bassinet correctly and then moves or shifts 90°, the narrowness of the bassinet would likely not permit the infant to lie in a fully prone position, face down in an orthogonal seam. Thus, an exemption from the flatness test for mattress pad seams that run orthogonally between the sides of a bassinet with a width of 15 inches or

less seems reasonable. Therefore, the Commission is modifying the standard to exempt from the mattress flatness test bassinets that are narrower than 15 inches.

Effective Date

Comment: We received several comments on the effective date proposed in the SNPR. One commenter, representing several advocacy groups, supported the six-month effective date proposed in the SNPR. A second commenter agreed, expressing concerns that if the date were extended and a death occurred, ''consumers might view the death as the result of the CPSC putting the interests of for-profit entities . . . ahead of the safety of infants who use their products.''

In contrast, several other commenters, including one manufacturer, recommended longer effective dates to reduce the impact of the rule, particularly for small businesses that have ''fewer resources and connections within the industry'' and that ''may have to significantly alter their means of production.'' Suggested effective dates ranged from 9 to 15.5 months, with commenters recommending that the CPSC focus on relief for firms that would be disproportionately impacted by the rule. Commenters suggested longer effective dates for firms newly covered by the expanded scope, and firms whose products would be subject to the removable bassinet bed requirement.

A manufacturer commenting on the effective date stated that a longer effective date is needed for firms that will need to redesign their products to meet the removable bassinet bed requirement. This firm stated that an effective date of at least 15.5 months is needed to reflect accurately the challenges of redesigning the product.

Response: The Commission recognizes that some manufacturers will be required to redesign, test new prototype products, and then retool their production process to meet the new removable bassinet bed provision. Based on a comment from one manufacturer who stated it would need a minimum of 15.5 months to redesign its product, the Commission considers 18 months to be a reasonable time period to accommodate other manufacturers that might also need to redesign their products. Therefore, the Commission is implementing a six-month effective date for the final rule, with the specific exception of extending the effective date for the removable bassinet bed test requirement to 18 months.

Stability Testing—CAMI Dummy

Comment: Some commenters suggested using an infant and a newborn dummy in the stability test methods, while others said they believe the incident data do not support the need to change from an infant dummy to a newborn dummy because this change neglects the evidence that larger infants also use bassinets and cradles.

Response: The use of both dummies is unnecessary because the worst case scenario for stability is the smaller size dummy. The larger size dummy makes the product more stable. Therefore, if a product passes with a newborn, the product will also pass with an infant. Performing the test with two different dummies would be redundant and would only add to the cost of testing.

The Commission is requiring use of the newborn CAMI to make the test more stringent. Even if a majority of the incidents were not directly attributable to product stability, the instability of the product, in many incidents, was to blame, including two fatal incidents (one of which was reported from Canada).

Incident Data Analysis

Comment: Some commenters asserted that a causal relationship could not be established for fatalities that the Commission attributed to design defects. They also stated that the information used by the Commission to analyze fall incidents was circumstantial. Other commenters suggested that additional information should be collected to determine the extent to which product design was at fault, to evaluate the cause of falls, and to ''improve and expand on the regulations and guidelines set forth in the proposed rule.''

Response: The Commission gathered as much information as possible on every cited product-related fatality through an in-depth, on-site field investigation. Although the Commission agrees with the commenters that additional information-gathering on all nonfatal injuries could be useful, given resource limitations, the Commission cannot follow up on every injury report with an in-depth investigation. Many of the nonfatal injuries were based on emergency department-treated cases from NEISS hospitals, and confidentiality requirements often prevent any additional contact with patients. In addition, even with cases that are followed, completion of the investigation is not guaranteed because of a lack of consumer cooperation or the inability to establish contact with the consumer.

Short of a controlled experimental setting, causal links are difficult to establish from observational data based on un-witnessed incidents. However, the combined judgment of subject matter experts at CPSC, corroborated by investigating state/county/local officials, supports the conclusions.

Comment: One set of commenters expressed the belief that the data presented in the SNPR is skewed and purposely misleading. There were specifics outlined in the comment, which are addressed in the response.

Response: The Commission disagrees strongly with the commenters' assertion regarding the way the data are presented. For fatalities, the commenters contend that almost all of the incidents were due to caregiver negligence, even the ones that the Commission considered to be product related.

The commenters first argued that the Commission needed to gather more information on the fatalities deemed by the Commission to be product related. CPSC staff gathered as much information as possible on every cited product-related fatality through an in-depth, on-site field investigation. Because these incidents were not witnessed, the judgments of subject matter experts at CPSC and state/county/local investigating officials were combined to arrive at the conclusions about the manner of the deaths.

Second, the commenters asserted that of the three deaths that were due to infants sliding out of the fabric-sided opening, two were of the infants were older than the recommended-user age. Hence, the commenters further asserted, these two deaths cannot be counted as product-related because they were the result of caregiver negligence. The Commission disagrees with this assertion because the third decedent, who died in the same manner, was well within the recommended age limit. Therefore, the age of the other two decedents, barely a month above the recommended age limit, was deemed not to be a factor in the entrapments.

Third, the commenters stated that the non-product-related deaths appear to be due to caregiver negligence and do not justify CPSC's increasing the economic burden on manufacturers through added regulations. This argument has no basis because CPSC's regulation does not make any changes to the current voluntary standard based on these non-product-related fatalities.

For the nonfatal injuries, the commenters said they believe there is no justification for placing a burden on manufacturers by including one injury, due to a moldy mattress, in the report.

CPSC staff includes all in-scope incidents in its hazard sketch, even if the Commission is not proposing any provisions to address the issue. Therefore, the manner in which staff reports the incident data does not impose any burden on manufacturers.

In addition, the commenters argued that six percent of the injuries from bassinets that were damaged during delivery were instances of blatant negligence on the part of the owners. First, to clarify, the Commission reported that six percent of the incidents, not injuries, involved bassinets damaged during delivery. Second, there were no injuries associated with these incidents, and the Commission did not propose any provisions to address the issue.

Comment: Some commenters said that the Commission needs to provide justification for its statement that the descriptions in the noninjury incident reports indicated the potential for serious injury. The commenters stated that without any further explanation, the statement seems ''arbitrary.''

Response: CPSC staff has reviewed a number of incidents in which the caregiver was reported to be nearby and was able to rescue the infant from danger. Similar scenarios, with the infant unattended, have led to less favorable outcomes. Thus, the potential for serious consequences is not conjecture, and the statement is justified.

Size and Weight Limits

Comment: Some commenters suggested that the weight of an infant occupant should be considered in the standard's scope to safeguard infants who exceed the recommended weight and size.

Response: The maximum weight of an occupant is already considered in the static load requirements in ASTM F2194–13, which the rule incorporates by reference. The industry requires a bassinet to be loaded to three times the manufacturer's recommended weight. The side heights are also intended to account for the largest infants who might still use the bassinet.

Bassinet Misuse

Comment: One commenter expressed concern that the possibility of consumer misuse of bassinets would negate any effects of the new requirements.

Response: The Commission believes that strengthening the standard is the best way to improve product safety and that if significant product misuse becomes evident in injury reports, more developments are possible.

Comment: Another commenter suggested that educational campaigns about the proper and improper uses of bassinets would be sufficient.

Response: The Commission believes that educational campaigns play an important role in injury prevention but are best preceded by mechanical and physical safety requirements designed to make accidents as unlikely as possible to occur.

Restraints

Comment: One commenter expressed the belief that the lack of incidents with harnesses could be due to other factors, as much as to the lack of harnesses in bassinets.

Response: Deaths and injuries in other infant products have been attributed to restraints/harness that were not used or were used improperly. Therefore the Commission is not making any changes regarding the current prohibition of restraints in bassinets.

Warnings

Comment: Some commenters recommended the use of pictures or visual aids to clarify the warning messages.

Response: The Commission acknowledges that well-designed graphics can be useful in certain circumstances. However, the design of effective graphics can be difficult. Some seemingly obvious graphics are poorly understood and can give rise to interpretations that are opposite the intended meaning (so called ''critical confusions''); therefore, a warning pictogram should be developed with empirical study and well tested on the target audience. Although the Commission may take action in the future if it believes graphic symbols are needed to reduce the risk of injury associated with these products, the rule permits, but does not mandate, such supporting graphics.

With respect to the idea of creating a pictogram to communicate the dangers of soft bedding, the Commission agrees that a well-developed and tested pictogram could increase comprehension and acknowledges that such elements could be developed with some empirical study; the Commission, however, does not have the resources for such a project at this time and could not validate a warning graphic without research. However, there are a number of products for which such a soft bedding pictogram could be useful, such as bedside sleepers, bassinets, cribs, play yards, inclined sleep products, and others. Because of this, an ASTM cross-product ad hoc working group may be the best place to develop such a pictogram. This could foster cross-product harmonization of such a pictogram and would allow testing and validation of the pictogram. CPSC staff will gladly participate in any such group, and should the need arise, staff will consider future action once such a graphic is developed.

Comment: A commenter suggested adding statistics to the suffocation warning.

Response: Crafting a warning requires balancing the brevity of the message with its attention-grabbing features and informational content. Too much information makes a long label that is likely to be ignored by consumers. On the other hand, too little information leaves consumers unsure of the message. CPSC staff's opinion is that the addition of statistical information on the suffocation warning label will not increase the effectiveness of the warning.

Comment: A commenter suggested that the warnings contain the maximum recommended age of the bassinet occupant, *i.e.,* five months.

Response: The current warning contains a developmental milestone, rather than an age maximum. Developmental milestones have the advantage of allowing for individual variability in use patterns. Some children will gain strength and coordination faster than others and will need to be removed from the bassinet sooner. Since children's abilities are more important than their age when evaluating the applicability of the warning, the age is not included in the warning.

Comment: A commenter suggested that the warnings should be displayed in a prominent position.

Response: The ASTM standard, which the rule incorporates by reference, already contains a common definition for ''conspicuous'' warnings in Section 3.3.3, with corresponding requirements in Sections 8.3, 8.4, and 8.5.

Comment: A commenter suggested strengthening the warning labels by requiring mattress pads to have the following statement: ''This padding has been tested to reduce the risk of suffocation to a minimal level,'' adding that ''additional padding increases this risk substantially and has caused fatalities.''

Response: Although the standard does contain a requirement for the mattress pad to remain level, the standard does not contain a test for reducing the risk of suffocation created by the softness of the padding, which seems to be the assumption made by the commenter. The standard already contains a warning in Section 8.4.2, instructing

against the use of additional bedding materials. This required warning must be visible to the consumer when the product is in the manufacturer's recommended-use position. Thus, the warning will not be covered by sheets, which are allowed, and will be more effective than on the mattress pad where any messages will be covered.

Comment: Another commenter suggested that consumers need to be warned of the hazards associated with segmented mattresses.

Response: Warnings are the last stage at which attempts are made to remove a hazard from a product. Changing the product is more effective. The standard contains performance requirements designed to eliminate the hazards associated with segmented mattresses, so it is not necessary to include a warning.

Comment: Several commenters suggested that warnings should have larger fonts, duplication on opposing walls of the bassinet, duplication on the packaging and on the product, more detailed hazard descriptions, and more information in supporting educational materials and product advertisements.

Response: Although CPSC staff agrees that any warning could be strengthened with a size, color, or other graphical features, the product's final appearance also needs to be considered because exceptionally large or graphic warnings may cause consumers to remove or deface the warnings, thereby rendering them ineffective for later users. The current warning requirements match industry standards for many juvenile products.

The Necessity for a Standard

Comment: Several commenters stated that the proposed standard for bassinets and cradles should not be adopted because the number of injuries and fatalities due to design defects was very low.

Response: The Consumer Product Safety Improvement Act (CPSIA) requires the Commission to issue a mandatory standard for bassinets and cradles, regardless of the number of incidents involving those products. Given the the CPSIA directive, the options are either to adopt the existing voluntary standard, as is, or revise the standard to make improvements. Even if a majority of the incidents were not directly attributable to defects in the product design, many incidents were. Congress mandated that CPSC adopt a more stringent standard if the Commission determined that a more stringent standard ''would further reduce the risk of injury.'' The Commission feels strongly that the final rule would do so.

Mattress Thickness (Rigid Products and Falls)

Comment: Some commenters expressed concern that the standard allows for rigid-sided bassinets with thicker mattresses than soft-sided bassinets. These commenters said they feel that thicker mattresses may pose more of a risk of babies falling out when a baby rolls to one side and the product tilts.

Response: There are two requirements in the existing ASTM standard, which the rule incorporates by reference, which would prevent the scenario described by the commenters. The first is the side height requirement, which states that the side height of the bassinet be 7.5″ above the uncompressed surface of the mattress. Thus, if a bassinet maker supplies a thick mattress with the rigid-sided bassinet, the side heights must account for the thicker mattress and still yield 7.5″ of side height above the mattress surface. In addition, the standard has a rock/swing angle requirement that limits the maximum angle a rocking bassinet can have, as well as a maximum rest angle it can have. The rest angle is measured using a CAMI doll placed up against the side of the bassinet. Thus, the standard uses a worst-case placement scenario for the occupant during the testing.

Health Canada Standard

Comment: A representative of Health Canada corrected a statement in the SNPR and the corresponding staff briefing package, which states: ''The Canadian standard (SOR 86–962:2010) includes requirements for cribs and non-full-size cribs. This standard does not distinguish between a bassinet and non-full-size cribs.'' The commenter noted that this overview statement was incorrect because on November 18, 2010, the amended Cribs, Cradles, and Bassinets Regulations (SOR/2010–261) came into effect, and now bassinets are included in the scope.

Response: The Commission thanks Health Canada staff for the correction and the subsequent information regarding how SOR 2010/261 distinguishes bassinets, cradles, and cribs. As the Commission now understands, Health Canada defines these three products according to the sleep surface area contained in the product.

Play Yard Misassembly Requirement in Docket CPSC–2011–0064

Comment: The commenter repeated comments submitted for Docket CPSC–2011–0064, regarding the play yard misassembly requirement that was proposed in August 2012.

Response: The Commission has addressed these comments in the final rule briefing package for Play Yard Misassembly Requirement, dated June 26, 2013.

International Standards

Comment: Commenters remarked that more information regarding the international standards that were mentioned in the SNPR would be helpful.

Response: The Commission provided the names and designations of the standards, plus a description of where they differed substantially from the ASTM standard. Due to copyright laws, the Commission was not able to provide full copies of the standards. All of the standards are available for purchase online by anyone who seeks more information.

ASTM Copyright and Accessibility

Comment: Some commenters stated that the ASTM standard for bassinets and cradles should not be the basis of a mandatory rule because, as a copyrighted standard, the ASTM standard is not easily accessible to the public and creates an undue financial burden on small manufacturers and the general public.

Response: Section 104(b) of the CPSIA requires the Commission to issue standards for durable infant or toddler products that are substantially the same as applicable voluntary standards or are more stringent if more stringent standards would further reduce the risk of injury. Incorporating a voluntary standard, such as incorporating the ASTM standard by reference, is a well-recognized procedure for agencies. The incorporation satisfies the requirement of publication in the **Federal Register**. *See* 5 U.S.C. 552(a)(1)(E) (''matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register'').

Falls From Bassinets/Side Height

Comment: Some commenters suggested that the side height requirements need to be higher because consumers seem to be using bassinets with children older than the recommended ages. One commenter expressed the belief that the standard should match the Canadian side height requirement.

Response: The ASTM subcommittee discussed the side heights of bassinets

for years. There was no side height requirement until recently. Consumers use the products longer than manufacturers recommend. High side heights could cause consumers to use their bassinets even longer than they have been using them because the older, larger children who can push up on their hands and sit unassisted will look safer in a bassinet with tall sides. The unintended consequence of taller sides might be an increase in falls from bassinets because older children are stronger and more agile than newborns. After much discussion, the ASTM subcommittee agreed to a 7.5-inch side height, based on the precedent set by the Canadians, who measure from the bottom of the bassinet rather than the mattress top. This difference in measurement landmarks makes it appear that the ASTM standard permits shorter sides; but in reality, the effective side height of a bassinet in Canada is the same as in the ASTM standard. This side height requirement did not necessitate drastic changes in the bassinet designs on the market; so it would be unlikely that instituting the requirement would have any effect on consumer behavior.

Comment: Several commenters suggested that side height requirements might not be effective against misuse. One commenter expressed the belief that the burden should be placed on caregivers and that the standard needs no modification to address falls. Another suggested that warning labels should be strengthened instead.

Response: The side height requirement (7.5-inch minimum) is already part of ASTM F2194–13, which this rule incorporates by reference. The rule does not add anything further because the Commission believes that the requirements should be effective against misuse. The Commission believes that, at a minimum, this requirement will help protect infants who have not exceeded the maximum age requirement for bassinet use. Additionally, the Commission supports the current warnings in the ASTM standard.

Existing Inventory

Comment: One commenter expressed concern that the Commission did not address the existing cradle and bassinet inventory that would need ''to be discarded or recalled'' when the regulation becomes effective.

Response: The bassinet and cradle standard is prospective. It will apply to products manufactured or imported on or after the effective date. Therefore, existing inventory would not be affected.

Cost Benefit Analysis

Comment: Several commenters expressed the belief that a cost-benefit analysis should be performed, and they stated that the proposed rule should not be adopted because costs are likely to exceed benefits.

Response: Section 104(b) of the Consumer Product Safety Improvement Act (CPSIA), part of the Danny Keysar Child Product Safety Notification Act, requires the CPSC to issue a standard at least as stringent as the voluntary standard, or more stringent if the Commission determines that a more stringent standard would further reduce the risk of injury associated with such products. Thus, the Commission must issue a mandatory standard for bassinets and cradles, regardless of the costs and benefits of the rule.

Third Party Testing Cost

Comment: Two commenters expressed concern about the ''substantial additional costs'' that will result from a new requirement for third party testing that will be added by the bassinet/cradle standard.

Response: The testing costs referred to by the commenters result from the third party testing and certification requirements imposed under sections 14(a)(2) and 14(d)(2) of the Consumer Product Safety Act (CPSA), as amended by the CPSIA. The costs associated with testing will be substantially the same, regardless of the form the final bassinet/cradle standard takes.

Definition of a Small Business

Comment: One commenter questioned defining ''small manufacturers'' as those with fewer than 500 employees. The commenter noted that business size can vary widely within such a broadly defined group. The commenter expressed concern that the economic impact could be disproportionately significant for the very smallest firms.

Response: The U.S. Small Business Administration (SBA) is the source of the definition of ''small manufacturers'' of bassinets and cradles. Regardless of the desirability of a finer gradation in defining small businesses, the SBA definition governs the small business determination in the context of a regulatory flexibility analysis.

Impact of Expanding the Scope

Comment: One commenter expressed concern about the ''adverse monetary impact'' that expanding the scope of the standard to include Moses baskets would have upon some suppliers. The commenter felt that the alternative of ceasing to supply stands for these newly covered products requires further inquiry before ''suggesting that this is a viable alternative.'' Other commenters questioned methods firms might use to mitigate their ''upfront costs,'' including amortizing, ''increased product sales,'' and passing ''the additional costs on to consumers.''

Response: When used with a stand, Moses baskets meet the definition of a ''bassinet'' (or ''cradle,'' in the case of a rocking stand), and therefore, they must be tested as a bassinet. Given that most suppliers of Moses baskets do not include stands, supplying Moses baskets without stands is one viable option that firms are already practicing.

Similarly, the statement that ''direct impact may be mitigated if costs are treated as new product expenses that can be amortized'' recognizes one of the methods firms use routinely in the development of new products to reduce the immediate financial impact; rather than incurring all of the development costs up front, amortizing allows the firm to spread the impact over time. Finally, for most products, firms are usually able to pass on some, but not all, increases in production costs to consumer. The portion of costs that are passed on (i.e. not absorbed by the firm) partially offset or mitigate the impact of the rule.

Aiding Small Businesses

Comment: One commenter suggested that the Commission ''create a framework with which to aid some of the smaller manufacturers and distributors with finding the resources, information and connections they need to comply with the new standards.''

Response: CPSC's Small Business Ombudsman provides small businesses with guidance to assist them in complying with CPSC requirements. Assistance is available to firms in understanding and complying with CPSC regulations (*http://www.cpsc.gov/en/Business—Manufacturing/Small-Business-Resources/*).

Small Bedding Suppliers

Comment: One commenter asked that the Commission put ''less weight'' on small bedding suppliers in the regulatory flexibility analysis. The commenter expressed concern that: ''[N]oncompliant bedding could potentially negate the efficiency of . . .'' safety measures such as strangulation warnings ''. . . or require manufacturers to take additional steps to correct noncompliant bedding.''

Response: The standard does not include any bedding requirements. However, in investigating the bassinet/cradle market, staff could not determine the underlying source of bassinets for

several suppliers of bassinets. The firms for whom the bassinet source could not be identified shared one major characteristic: They were primarily bedding suppliers who sold bassinets or cradles with the appropriate bedding covering the bassinet/cradle frame. Because these firms supply bassinets/cradles, they are affected by the rule and impacts must be fully considered under the Regulatory Flexibility Act.

Labeling Costs

Comment: One commenter objected to the costs that will be associated with changing the warning labels.

Response: The commenter misunderstood the information presented in the Paperwork Reduction Act section of the SNPR. The commenter interpreted the cost per burden hour associated with labeling ($27.55) to be the increased cost per unit, which is an incorrect conclusion.

VII. Assessment of Voluntary Standard ASTM F2194–13 and Description of Final Rule

Consistent with section 104(b) of the CPSIA, this rule establishes new 16 CFR part 1218, ''Safety Standard for Bassinets and Cradles.'' The new part incorporates by reference the requirements for bassinets and cradles in ASTM F2194–13, with certain additions and changes to strengthen the ASTM standard, to further reduce the risk of injury. The following discussion describes the final rule, the changes, and the additions to the ASTM requirements. (The description of the amendment to 16 CFR part 1112 may be found in Section XIII of this preamble.)

A. Scope (§ 1218.1)

The final rule states that part 1218 establishes a consumer product safety standard for bassinets and cradles manufactured or imported on or after the date that is six months after the date of publication of a final rule in the **Federal Register**, except that the effective date for the removable bassinet bed requirements would be 18 months after the date of publication of a final rule in the **Federal Register**.

B. Incorporation by Reference (§ 1218.2)

Section 1218.2(a) explains that, except as provided in § 1218.2(b), each bassinet and cradle must comply with all applicable provisions of ASTM F2194–13, ''Standard Consumer Safety Specification for Bassinets and Cradles,'' which is incorporated by reference. Section 1218.2(a) also provides information on how to obtain a copy of the ASTM standard or to inspect a copy of the standard at the CPSC. The Commission received no comments on this provision in the SNPR, but the Commission is changing the language in the incorporation in the final rule to refer to ASTM F2194–13, the current version of the ASTM standard.

C. Changes to Requirements of ASTM F2194–13

1. Clarification of Scope. (§ 1218.2(b)(1)(i)). The final rule modifies the scope of ASTM F2194–13 to clarify that multimode combination products must meet the bassinet/cradle standard in any configuration where the seat incline is 10 degrees or less from horizontal. This modification resulted from comments on the SNPR seeking clarification on what products are included in the scope, as more fully discussed in Section VI.

2. Change to Stability Test Procedure. (§ 1218.2(b)(2) and § 1218.2(b)(6)). In the SNPR, the Commission proposed that bassinet/cradle stability testing be conducted with a CAMI newborn dummy, rather than the CAMI infant dummy. Because ASTM has yet to adopt this modification (although it is expected to be balloted in the near future), the Commission is including it in the final rule.

It is appropriate that the smaller newborn CAMI dummy be used for stability testing, because bassinets and cradles are intended to be used by very young children. The heavier (17.5-pound) infant CAMI currently specified for stability testing in ASTM F2194–13 could make these products more stable when tested than they would actually be in a real-world situation.

3. Removable Bassinet Bed. (§ 1218.(b)(3), (5), and (7)). In the SNPR, the Commission proposed adding a requirement for removable bassinet beds (along with test procedures and new definitions). As stated in the preamble of the SNPR (77 FR 64061), there have been several incidents involving bassinet beds that were designed to be removed from their stand, four of which have In-Depth Investigations. During the incidents, the bed portion of the unit was not locked completely or attached properly to its stand. The bed portion of the unit appeared to be stable, giving the caregivers a false sense of security. For various reasons, the bed portion fell or tilted off of its stand. There have also been nonfatal incidents involving bassinet beds that tipped over or fell off their base/stand when they were not properly locked/latched to their base/stand, or the latch failed to engage as intended. In May 2012, 46,000 bassinets that could appear to latch to the stand when they actually had not latched were recalled. (*http://www.cpsc.gov/cpscpub/prerel/prhtml12/12173.html*).

The SNPR proposed multiple options for a bassinet with a removable bed attachment to pass the proposed requirement. These options include: (1) Ensuring that the bed portion of the bassinet is inherently stable when the bassinet bed is placed on the stand unlatched; (2) use of a false lock/latch visual indicator mechanism; (3) use of a stand that collapses if the bassinet bed is not properly attached; and (4) the presence of an obvious unsafe angle (more than 20 degrees) or a bassinet bed falls to the floor when it is not properly attached to the stand.

Since the issuance of the SNPR, ASTM has made several clarifying changes to the removable bassinet bed requirement, definitions, and test procedures, and ASTM is expected to send these changes out for ballot in the near future. Most of the differences are editorial changes to provide clarity to the test requirement and the test procedure. The significant, noneditorial differences between the requirement proposed in the SNPR and what ASTM is expected to ballot are as follows:

- The next ASTM ballot is expected to exclude play yard bassinets, as defined in the standard, from the removable bassinet bed definition. Thus, play yard bassinets would not be subject to the removable bassinet bed stability requirement.
- The next ASTM ballot is expected to expand on one of the pass criteria for the removable bed stability requirement, to allow bassinet stands that cannot remain in their proper use position unless the bassinet bed is properly attached.

The Commission agrees with these revisions and is adding the revised removable bassinet bed requirement as part of the final bassinet/cradle rule.

4. Mattress Flatness. (§ 1218.2(b)(4)(i)). A segmented mattress flatness requirement and associated test procedures were proposed by the Commission as part of the SNPR. ASTM adopted the requirement with modified, less stringent pass/fail criteria. The final rule modifies the pass/fail criteria in ASTM F2194–13 to mirror the SNPR proposal.

As stated in Section V, the mattress flatness requirement is primarily aimed at incidents involving bassinet/play yard combination products that tend to use segmented mattresses, where seams could pose a suffocation and positional asphyxiation hazard. Under the Commission's pass/fail criteria, a bassinet attachment with a segmented mattress will fail if any tested seam creates an angle greater than 10 degrees.

ASTM F2194–13 allows measured angles between 10 degrees and 14 degrees to pass, as long as the mean of three measurements on that seam is less than 10 degrees. As discussed in the preamble to the SNPR, the 14-degree angle was based on an extrapolation of angles formed by dimensions of average infant faces. 77 FR 64060–64061. The Commission is uncomfortable using the average infant facial dimension as the basis for this requirement. Therefore, instead of using the average infant anthropometrics as a basis for the pass/fail criteria, the Commission continues to support using the smallest users' anthropometrics to set the test requirement of 10 degrees maximum for each measurement taken.

5. Exemption from Mattress Flatness Requirement. (§ 1218.2(b)(4)(i)). The final rule exempts from the mattress flatness requirement bassinets that are less than 15 inches across. These products do not pose the hazard the requirement is intended to address, and they are also not wide enough to test using the required procedures and equipment.

VIII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The Commission is setting an effective date for the standard six months after publication for products manufactured or imported on or after that date, with the exception of the removable bassinet bed test requirement and procedure.

The Commission recognizes that some manufacturers will be required to redesign, test new prototype products, and then retool their production process in order to meet the new removable bassinet bed provision. Based on a comment from a manufacturer who asked for a minimum of 15.5 months to redesign its product, the Commission considers 18 months to be a reasonable time period to take into account other manufacturers who might also need to redesign their product. Therefore, the Commission is setting an 18-month effective date for the removable bassinet bed test requirement.

IX. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (RFA) requires that agencies review rules for their potential economic impact on small entities, including small businesses. 5 U.S.C. 604. Section 604 of the RFA requires that agencies prepare a final regulatory flexibility analysis when they promulgate a final rule, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The final regulatory flexibility analysis must describe the impact of the rule on small entities and identify any alternatives that may reduce the impact. Specifically, the final regulatory flexibility analysis must contain:

- A succinct statement of the objectives of, and legal basis for, the rule;
- a summary of the significant issues raised by public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
- a description of, and, where feasible, an estimate of, the number of small entities to which the rule will apply;
- a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities subject to the requirements and the type of professional skills necessary for the preparation of reports or records; and
- a description of the steps the agency has taken to reduce the significant economic impact on small entities, consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the rule, and why each one of the other significant alternatives to the rule considered by the agency, which affect the impact on small entities, was rejected.

B. The Market for Bassinets/Cradles

Bassinets and cradles are typically produced and/or marketed by juvenile product manufacturers and distributors, or by furniture manufacturers and distributors, some of which have separate divisions for juvenile products. CPSC staff believes that there are currently at least 62 suppliers of bassinets and/or cradles to the U.S. market; 26 are domestic manufacturers; 19 are domestic importers; three are domestic retailers; and two are domestic firms with unknown supply sources. Twelve foreign firms currently supply the U.S. market: 10 manufacturers, one firm with an unknown supply source, and one importer that imports from foreign companies and distributes from outside of the United States. Eight additional firms specialize in children's bedding, some of which is sold with bassinets or cradles; the supply sources for these eight firms could not be identified.

Bassinets and cradles from 11 of the 62 firms have been certified as compliant by the Juvenile Products Manufacturers Association (JPMA), the major U.S. trade association that represents juvenile product manufacturers and importers. Firms supplying bassinets or cradles would be certified to the ASTM voluntary standard F2194–12a, while firms supplying play yards with bassinet/cradle attachments would also have to meet F406–12a. (JPMA typically allows six months for products in their certification program to shift to a new standard once it is published. ASTM F2194–12a was published in September 2012, and therefore, the standard would have become effective in March 2013. The more recent standard, ASTM F2194–12b, was published in December 2012, and therefore, that standard was not yet effective when research for this rule was conducted.) Twenty-four additional firms claim compliance with the relevant ASTM standard for at least some of their bassinets and cradles. Whether the bassinets or cradles supplied by the eight bedding suppliers comply with ASTM F2194 is not known.

According to a 2005 survey conducted by the American Baby Group (2006 Baby Products Tracking Study), 64 percent of new mothers own bassinets; 18 percent own cradles; and 39 percent own play yards with bassinet attachments. Approximately 50 percent of bassinets, 56 percent of cradles, and 18 percent of play yards were handed down or purchased secondhand. Thus, approximately 50 percent of bassinets, 44 percent of cradles, and 82 percent of play yards were acquired new. These statistics suggest annual sales of a total of approximately three million units sold per year, consisting of about 1.3 million bassinets ($.5 \times .64 \times 4$ million births per year), 317,000 cradles ($.44 \times .18 \times 4$ million), and 1.3 million play yards with bassinet attachments ($.82 \times .39 \times 4$ million). (U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Health Statistics, National Vital Statistics System, ''Births: Final Data for 2010,'' *National Vital Statistics Reports* Volume 61, Number 1 (August 28, 2012): Table I. Number of births in 2010 is rounded from 3,999,386.)

National injury estimates were not reported by the Directorate for Epidemiology in the supplemental NPR or in the current FR briefing package because the data failed to meet NEISS

publication criteria. However, emergency department injury estimates over the approximately five years covered by the supplemental NPR and the current FR briefing package, from 2008 through 2012, averaged less than 250 annually. Based on data from the 2006 Baby Products Tracking Study, approximately 4.8 million bassinets and cradles were owned by new mothers. Therefore, the injury rate may be on the order of about 0.5 emergency department-treated injuries per 10,000 bassinets/cradles available for use in the households of new mothers ((250 injuries ÷ 4.84 million products in households of new mothers) × 10,000).

C. Reason for Agency Action and Legal Basis for the Rule

The Danny Keysar Child Product Safety Notification Act requires the CPSC to promulgate a mandatory standard for bassinets/cradles that is substantially the same as, or more stringent than, the voluntary standard. The Commission is adopting ASTM F2194–13 with five modifications or additions that reflect: (1) Changes proposed in the SNPR that are not part of F2194–13; (2) responses to public comments; and/or (3) additional work undertaken by ASTM, but not yet adopted. The changes will address a variety of known hazard patterns, including suffocation and positional asphyxia.

D. Requirements of the Final Rule

As stated in Section VII, the Commission is incorporating the voluntary standard for bassinets/cradles, ASTM F2194–13, by reference, with five changes.

The Commission is implementing two modifications to ASTM F2194–13 in response to SNPR comments; neither is expected to have a negative impact on firms. The first is a modification to the scope that would clarify that multimode or combination products must meet the bassinet/cradle standard in any configuration where the seat incline is 10 degrees or less from horizontal. Because the clarifying modifications do not change the scope of the standard, the modifications have no additional impact. The second is an exemption from the mattress flatness requirement for bassinets that are less than 15 inches across. Because of the characteristics of the narrower bassinets, these products are not subject to the hazard that the requirement is intended to address. Additionally, these narrower bassinets are not wide enough to test using the required procedures and equipment.

The Commission is implementing three additional changes to ASTM F2194–13, each of

1. Stability Testing

As stated in Section V of this preamble, in the SNPR, the Commission proposed that bassinet/cradle stability testing be conducted with a CAMI newborn dummy, rather than the CAMI infant dummy. Because ASTM has yet to adopt this modification (although the modification is expected to be balloted in the near future), the Commission is including the modification in the final rule. Based on limited testing, many bassinets/cradles appear to be able to pass this modified test procedure without modification. However, a few products may potentially require modifications to meet the revised stability test procedure. Staff believes that the modified test procedure is likely to affect only a few manufacturers, and likely will not require product redesign. Affected firms would most likely increase the stability of their product by widening the structure, making the bassinet bed deeper, or making the base heavier. The cost of meeting the modified requirement could be more significant if a change to the hard tools used to manufacture the bassinet is necessary. During the production process, a hard tool, which is a mold of the desired bassinet component shape, is injected with plastic or another material using a molding machine.

2. Mattress Flatness

A segmented mattress flatness requirement and associated test procedures were proposed by the Commission as part of the SNPR. ASTM adopted the requirement with modified (and less stringent) pass/fail criteria. The Commission is modifying the pass/fail criteria in ASTM F2194–13 to mirror the SNPR proposal.

The mattress flatness requirement is primarily aimed at incidents involving bassinet/play yard combination products that tend to use segmented mattresses, where seams could pose a suffocation and positional asphyxiation hazard. Under the Commission's pass/fail criteria, a bassinet attachment with a segmented mattress will fail if any tested seam creates an angle greater than 10 degrees. ASTM F2194–13 allows measured angles between 10 degrees and 14 degrees to pass, as long as the mean of three measurements on that seam is less than 10 degrees.

Based on staff's testing, the play yard bassinet attachments of many suppliers (both compliant and non-compliant) appear to pass the requirement without any modifications. Bassinet attachments that would require some modification would need to increase the mattress support in their bassinets. Additional mattress support could be accomplished, for example, by retrofitting play yard bassinets to use longer rods or a better-fitting mattress shell. The cost of such a retrofit is unknown and would likely vary from product to product; however, a retrofit generally is less expensive than a product redesign.

3. Removable Bassinet Bed

As stated in Section V of this preamble, in the SNPR, the Commission proposed adding a requirement for removable bassinet beds (along with test procedures and new definitions). Since then, an ASTM task group has made several clarifying changes to the requirement, definitions, and test procedures and is expected to recommend them for ballot. The Commission is adopting the revised removable bassinet bed requirement as part of the final bassinet/cradle rule.

There are several firms supplying bassinets with removable bassinet beds to the U.S. market. The majority will require no modifications to meet the requirement. However, at least three firms are expected to need changes to one or more of their bassinets. Firms could meet the removable bassinet requirement in a number of ways, including redesigning the product entirely. However, many firms are likely to opt for less expensive alternatives, such as more sensitive locks that activate with little pressure (*i.e.,* with just the weight of the bassinet), where possible.

The costs and time involved in a redesign could be significant; one manufacturer stated in SNPR comments that the manufacturer would require 15.5 months to redesign its product to meet the removable bassinet bed requirement. Therefore, the Commission is setting an 18-month effective date for this requirement, while maintaining a six-month effective date for the remainder of the final rule.

E. Other Federal or State Rules

A final rule implementing sections 14(a)(2) and 14(i)(2) of the Consumer Product Safety Act (CPSA), as amended by the CPSIA, *Testing and Labeling Pertaining to Product Certification,* 16 CFR part 1107, became effective on February 13, 2013 (the 1107 rule). Section 14(a)(2) of the CPSA requires every manufacturer of a children's product that is subject to a product safety rule to certify, based on third party testing, that the product complies

with all applicable safety rules. Section 14(i)(2) of the CPSA requires the Commission to establish protocols and standards: (i) For ensuring that a children's product is tested periodically and when there has been a material change in the product; (ii) for the testing of representative samples to ensure continued compliance; (iii) for verifying that a product tested by a conformity assessment body complies with applicable safety rules; and (iv) for safeguarding against the exercise of undue influence on a conformity assessment body by a manufacturer or private labeler.

Because bassinets and cradles will be subject to a mandatory children's product safety rule, these products also will be subject to the third party testing requirements of section 14(a)(2) of the CPSA and the 1107 rule when the bassinet/cradle mandatory standard and the notice of requirements become effective.

F. Impact on Small Businesses

At least 62 firms are currently known to be marketing bassinets and/or cradles in the United States. Under U.S. Small Business Administration (SBA) guidelines, a manufacturer of bassinets/cradles is small if the business has 500 or fewer employees; importers and wholesalers are considered small if they have 100 or fewer employees. Based on these guidelines, about 39 of the 62 total firms are small firms—21 domestic manufacturers, 16 domestic importers, and two firms with unknown supply sources. An additional eight small firms supplying bassinets/cradles along with their bedding; these may or may not originate from one of the 62 firms already accounted for. Other unknown small bassinet/cradle suppliers also may operate in the U.S. market.

Small Manufacturers

The expected impact of the final standard on small manufacturers will differ based on whether their bassinets/cradles are already compliant with F2194–12a. (Play yards with bassinet attachments must comply with the effective play yard standard (F406), which includes a requirement that the attachment meet the bassinet/cradle standard.) In general, firms whose bassinets and cradles meet the requirements of F2194–12a are likely to continue to comply with the voluntary standard as new versions are published. Many of these firms are active in the ASTM standard development process, and compliance with the voluntary standard is part of an established business practice. Firms supplying bassinets and cradles that comply with ASTM F2194–12a are likely also to comply with F2194–13 before the final bassinet/cradle rule becomes effective.

The majority of the changes to the voluntary standard (ASTM F2194–13) are the same as at the SNPR level; only the expanded scope proposed in the SNPR has been completely incorporated into the voluntary standard. Therefore, the expected impact of the final rule remains substantially the same as the impact presented in the initial regulatory flexibility analysis for the SNPR.

For manufacturers whose products are likely to meet the requirements of ASTM F2194–13 (14 of 21 firms), the direct impact could be significant for one or more firms if they must redesign their bassinets to meet the final rule. Although the products of all firms would be subject to the stability testing requirements, in most cases, modifications are unlikely to be required and the costs are not expected to be significant. The products of five firms could be affected by the mattress flatness requirement (*i.e.,* they produce play yards with bassinet attachments), and at least three (and possibly five) of the known firms may be affected by the removable bassinet bed requirement. For the most part, the bassinets/cradles and bassinet cradle attachments supplied by these firms will be able to meet the changes to ASTM F2194–13 without modification. In cases where modifications are necessary, firms would most likely opt to retrofit their products, rather than undertake an expensive redesign. However, some products may require redesign, particularly to meet the new removable bassinet bed requirement, and therefore, costs could be significant in some cases. The Commission is adopting an 18-month effective date for the removable bassinet bed portion of the final rule to reduce the impact on affected firms.

Meeting ASTM F2194–13's requirements could necessitate product redesign for at least some bassinets/cradles not believed to be compliant with F2194–12a (7 of 21 firms). These firms could require redesign regardless of the modifications. A redesign would be minor if most of the changes involve adding straps and fasteners or using different mesh or fabric, but could be more significant if changes to the frame are required, including changes to side height. One manufacturer estimated that a complete play yard redesign, including engineering time, prototype development, tooling, and other incidental costs, would cost approximately $500,000. The Commission believes that a bassinet redesign would tend to be comparable. Consequently, the final rule could potentially have a significant direct impact on small manufacturers whose products do not conform to F2194–12a. Any direct financial impact may be mitigated if a firm chooses to treat costs as new product expenses that can be amortized over time rather than a large, one time expense.

Some firms whose bassinets/cradles are neither certified as compliant, nor claim compliance with F2194–12a, in fact, may be compliant with the standard. The Commission has identified many such cases with other products. To the extent that some of these firms may supply compliant bassinets/cradles and have developed a pattern of compliance with the voluntary standard, the direct impact of the final rule will be less significant than described above. If two small firms with unknown supply sources, none of whose products appear to comply with F2194–12a, are manufacturers, these firms also may need to redesign their products to meet the final rule.

In addition to the direct impact of the final rule described above, the rule will have some indirect impacts. Once the new requirements become effective, all manufacturers will be subject to the additional costs associated with the third party testing and certification requirements under the testing rule, *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107). Third party testing will pertain to any physical and mechanical test requirements specified in the bassinet/cradle final rule; lead and phthalates testing is already required. Impacts of third party testing are not due directly to the bassinet/cradle rule's requirements, but are due to the testing rule's requirements. Consequently, impacts from the testing rule are indirect impacts from the bassinet/cradle final rule, and such indirect impacts could be significant.

One manufacturer estimated that testing to the ASTM voluntary standard runs around $1,000 per model sample, although the manufacturer noted that the costs could be lower for some models where the primary difference is fabric rather than structure.

On average, each small domestic play yard manufacturer supplies seven different models of bassinets/cradles and play yards with bassinet/cradle accessories to the U.S. market annually. Therefore, if third party testing were conducted every year on a single sample for each model, third party testing costs for each manufacturer would be about $7,000 annually. Based on a review of firm revenues, the impact of third party testing to ASTM F2194–13 is unlikely to

be significant if only one bassinet/cradle sample per model is required. However, if more than one sample would be needed to meet the testing requirements, third party testing costs could have a significant impact on a few of the small manufacturers.

Small Importers

As with manufacturers of compliant bassinets/cradles, the seven small importers of bassinets/cradles currently in compliance with F2194–12a could experience significant direct impacts as a result of the final rule if product redesign is necessary. In the absence of regulation, these importing firms would likely continue to comply with the voluntary standard as it evolves, as well as the final mandatory standard. Any increase in production costs experienced by their suppliers may be passed on to the importers.

Importers of bassinets/cradles would need to find an alternate source if their existing supplier does not come into compliance with the requirements of the final rule, which may be the case with the nine importers of bassinets/cradles not believed to be in compliance with F2194–12a. Some could respond to the rule by discontinuing the import of their noncomplying bassinets/cradles, possibly discontinuing the product line altogether. The impact of such a decision could be mitigated by replacing the noncompliant bassinet/cradle with a compliant bassinets/cradle, or by deciding to import an alternative product.

As is the case with manufacturers, all importers will be subject to third party testing and certification requirements, and consequently, will experience costs similar to those for manufacturers if their supplying foreign firm(s) does not perform third party testing. The resulting costs could have a significant impact on a few small importers that must perform the testing themselves if more than one sample per model were required.

Other Possible Suppliers

Eight known small firms specialize in the supply of bedding, including bedding for bassinets and cradles, and the eight firms sell bassinet and cradle bedding with a bassinet or cradle. Although these firms do not manufacture the bassinets or cradles themselves, whether they purchase the bassinets or cradles domestically or from overseas is not known. These firms may source the bassinets and cradles sold with bedding in full or in part from one of the 62 firms discussed above. If the eight firms do not source from one of the 62 firms, then the eight firms represent additional suppliers to the U.S. market.

The eight firms with unknown supply sources would be affected in a manner similar to importers; they would need to find an alternate source if their existing supplier does not come into compliance with the requirements of the final rule. Unlike most importers, however, the firms would not have the option of replacing a noncompliant bassinet/cradle with another product. Although the firms could opt to sell the bedding without the associated bassinet/cradle, such an approach would represent a change from their historical method of sale and might adversely impact their business strategy.

As with manufacturers and importers, these eight firms will also be subject to third party testing and certification requirements, and will experience costs similar to those for manufacturers if their supplying firm(s) does not perform third party testing. The resulting costs could have a significant impact on some of these small bassinet or cradle suppliers that must perform the testing themselves.

G. Alternatives

Under the Danny Keysar Child Product Safety Notification Act of the CPSIA, one alternative that would reduce the impact on small entities is to make the voluntary standard mandatory with no modifications. Doing so would reduce the potential impact on firms whose bassinets/cradles comply with the voluntary standard. However, because of the severity of the incidents associated with removable bassinet beds, instability, and mattress tilt, the Commission is not pursuing this alternative.

The Commission is imposing a six-month effective date for the final rule with an 18-month effective date, supported by SNPR comments submitted by one manufacturer, for the removable bassinet bed requirement. Setting a later effective date for either part will allow suppliers additional time to modify and/or develop compliant bassinets/cradles and spread the associated costs over a longer period of time.

X. Environmental Considerations

The Commission's regulations address whether the Commission is required to prepare an environmental assessment or an environmental impact statement. These regulations recognize that certain CPSC actions normally have ''little or no potential for affecting the human environment.'' One such action is establishing rules or safety standards for products. 16 CFR 1021.5(c)(1). This rule falls within the categorical exclusion.

XI. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The preamble to the proposed rule (77 FR at 64055 through 64076) discussed the information collection burden of the proposed rule and specifically requested comments on the accuracy of our estimates. Briefly, sections 8 and 9 of ASTM F2194–13 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of ''collection of information,'' as defined in 44 U.S.C. 3502(3).

OMB has assigned control number 3041–0157 to this information collection. The Commission did not receive any comments regarding the information collection burden of this proposal. However, the final rule makes modifications regarding the information collection burden because the number of estimated suppliers subject to the information collection burden is now estimated to be 62 firms, rather than the 55 firms initially estimated in the proposed rule.

Accordingly, the estimated burden of this collection of information is modified as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR Section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1218	62	5	310	1	310

There are 62 known entities supplying bassinets to the U.S. market. All 62 firms are assumed to use labels already on both their products and their packaging, but they might need to make some modifications to their existing labels. The estimated time required to make these modifications is about one hour per model. Each entity supplies an average of five different models of bassinets; therefore, the estimated burden associated with labels is 1 hour per model × 55 entities × 5 models per entity = 310 hours. We estimate that the hourly compensation for the time required to create and update labels is $27.55 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2012, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated annual cost to industry associated with the labeling requirement is $8,540.50 ($27.55 per hour × 310 hours = $8,540.50).

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this final rule to the OMB, and OMB has assigned control number 3041–0157 to the information collection.

XII. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules,'' thus implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

XIII. Certification and Notice of Requirements (NOR)

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children's products subject to a children's product safety rule be based on testing conducted by a CPSC-accepted third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a notice of requirements (NOR) for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children's product safety rule to which a children's product is subject. The safety standard for bassinets and cradles is a children's product safety rule that requires the Commission to issue an NOR.

The Commission recently published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as Part 1112). This rule became effective June 10, 2013. Part 1112 establishes requirements for accreditation of third party conformity assessment bodies (or laboratories) to test for conformance with a children's product safety rule in accordance with Section14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the bassinet and cradle standard, require an amendment to part 1112. Accordingly, this rule amends part 1112 to include the bassinet and cradle standard in the list with the other children's product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for bassinets and cradles are required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, it can apply to the CPSC to have 16 CFR part 1218, ''Safety Standard for Bassinets and Cradles,'' included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

In connection with the part 1112 rulemaking, CPSC staff conducted an analysis of the potential impacts on small entities of the rule establishing accreditation requirements, 78 FR 15836, 15855–58 (March 12, 2013), as required by the Regulatory Flexibility Act and prepared a Final Regulatory Flexibility Analysis (FRFA). Briefly, the FRFA concluded that the requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements are imposed on laboratories that do not intend to provide third party testing services under section 14(a)(2) of the CPSA. The only laboratories that are expected to provide such services are those that anticipate receiving sufficient revenue from providing the mandated testing to justify accepting the requirements as a business decision. Laboratories that do not expect to receive sufficient revenue from these services to justify accepting these requirements would not likely pursue accreditation for this purpose. Similarly, amending the part 1112 rule to include the NOR for the bassinet and cradle standard would not have a significant adverse impact on small laboratories. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards and the only costs to them would be the cost of adding the bassinet and cradle standard to their scope of accreditation. As a consequence, the Commission certifies that the notice requirements for the bassinet and cradle standard will not have a significant impact on a substantial number of small entities.

To ease the transition to new third party testing requirements for bassinets and cradles subject to the standard and to avoid a ''bottlenecking'' of products at laboratories at or near the effective date of required third party testing for bassinets and cradles, the Commission, will, under certain circumstances, accept certifications based on testing that occurred before the effective date for third party testing.

The Commission will accept retrospective testing for 16 CFR part 1218, safety standard for bassinets and cradles, if the following conditions are met:

- The children's product was tested by a third party conformity assessment body accredited to ISO/IEC 17025:2005(E) by a signatory to the ILAC–MRA at the time of the test. The scope of the third party conformity body accreditation must include testing in accordance with 16 CFR part 1218. For firewalled third party conformity assessment bodies, the firewalled third party conformity assessment body must be one that the Commission, by order, has accredited on or before the time that the children's product was tested, even if the order did not include the tests contained in the safety standard for bassinets and cradles at the time of initial Commission acceptance. For governmental third party conformity

assessment bodies, accreditation of the body must be accepted by the Commission, even if the scope of accreditation did not include the tests contained in the safety standard for bassinets and cradles at the time of initial CPSC acceptance.

- The test results show compliance with 16 CFR part 1218.
- The bassinet or cradle was tested, with the exception of the removable bassinet bed attachment requirements, on or after the date of publication in the **Federal Register** of the final rule for 16 CFR part 1218 and before April 23, 2014. For bassinets or cradles that are subject to the removable bassinet bed attachment requirements, testing to the removable bassinet bed attachment requirements was conducted on or after the date of publication in the **Federal Register** of the final rule for 16 CFR part 1218 and before April 23, 2015.
- The laboratory's accreditation remains in effect through April 23, 2014.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1218

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

■ 2. Amend § 1112.15 by adding paragraph (b)(33) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(33) 16 CFR part 1218, Safety Standard for Bassinets and Cradles.

■ 3. Add a new part 1218 to read as follows:

PART 1218—SAFETY STANDARD FOR BASSINETS AND CRADLES

Sec.

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

§ 1218.1 Scope.

This part establishes a consumer product safety standard for bassinets and cradles manufactured or imported on or after April 23, 2014, except for the removable bassinet bed attachment requirements at § 1218.2(b)(3)(i) through (iv), (b)(5), and (b)(7), which are effective April 23, 2015.

§ 1218.2 Requirements for bassinets and cradles.

(a) Except as provided in paragraph (b) of this section, each bassinet and cradle must comply with all applicable provisions of ASTM F2194–13, Standard Consumer Safety Specification for Bassinets and Cradles, approved on April 1, 2013. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.* You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) Comply with ASTM F2194–13 standard with the following additions or exclusions:

(1) Instead of complying with Note 1 of section 1.3.1 of ASTM F2194–13, comply with the following:

(i) **Note 1**—Cradle swings with an incline less than or equal to 10° from horizontal while in the rest (non-rocking) position are covered under the scope of this standard. A sleep product that only has inclined sleeping surfaces (intended to be greater than 10° from horizontal while in the rest (non-rocking) position) does not fall under the scope of this standard. If a product can be converted to a bassinet/cradle use mode and meets the definition of a bassinet/cradle found in 3.1.1 while in that mode, the product shall be included in the scope of this standard, when it is in the bassinet/cradle use mode. For example, strollers that have a carriage/bassinet feature are covered by the stroller/carriage standard when in the stroller use mode. Carriage baskets/bassinets that are removable from the stroller base are covered under the scope of this standard when the carriage basket/bassinet meets the definition of a bassinet/cradle found in 3.1.1. In addition, bassinet/cradle attachments to cribs or play yards, as defined in 3.1.2 or 3.1.12, are included in the scope of the standard when in the bassinet/cradle use mode.

(ii) [Reserved]

(2) Add ''CAMI Newborn Dummy (see Figure 1A). Drawing numbers 126–0000 through 126–0015 (sheets 1 through 3), 126–0017 through 126–0027, a parts list entitled ''Parts List for CAMI Newborn Dummy,'' and a construction manual entitled ''Construction of the Newborn Infant Dummy'' (July 1992). Copies of the materials may be inspected at NHTSA's Docket Section, 400 Seventh Street SW., Room 5109, Washington, DC, or at the Office of the Federal Register, 800 North Capital Street NW., Suite 700, Washington, DC.'' to ''2.3 Other References'' and use the following figure:

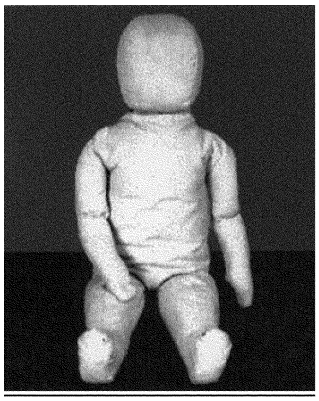

FIG. 1a CAMI Newborn Dummy

(3) In addition to complying with section 3.1.17 of ASTM F2194–13, comply with the following:

(i) 3.1.18. *bassinet bed, n*—the sleeping area of the bassinet/cradle, containing the sleep surface and side walls.

(ii) 3.1.19. *removable bassinet bed, n*—A bassinet bed that is designed to separate from the base/stand without the use of tools. Play yard bassinets, as defined in 3.1.13, are excluded from this definition.

(iii) 3.1.20. *false lock/latch visual indicator, n*—a warning system, using contrasting colors, lights, or other similar means designed to visually alert caregivers when a removable bassinet bed is not properly locked onto its base/stand.

(iv) 3.1.21. *intended use orientation, n*—The bassinet bed orientation (*i.e.,* the position where the head and foot ends of the bassinet bed are located), with respect to the base/stand, as recommended by the manufacturer for intended use.

(4) Instead of complying with section 6.7 of ASTM F2194–13, comply with the following:

(i) 6.7. *Bassinets with Segmented Mattresses: Flatness Test*—If the bassinet or bassinet accessory has a folding or segmented mattress, or both, any angle when measured in 7.8 less than or equal to 10° is an immediate pass. Any angle when measured in 7.8 greater than 10° is an immediate failure. Segmented bassinet mattresses that have seams (located between segments or where the mattress folds) that are less than 15 inches in length are excluded from this requirement.

(ii) [Reserved]

(5) In addition to complying with section 6.9.2 of ASTM F2194–13, comply with the following:

(i) 6.10. *Removable Bassinet Bed Attachment*—Any product containing a removable bassinet bed with a latching or locking device intended to secure the bassinet bed to the base/stand, shall comply with at least one of the following 6.10.1, 6.10.2, 6.10.3, 6.10.4 or 6.10.5 when tested in accordance with 7.12.

(ii) 6.10.1. The base/stand shall not support the bassinet bed (i.e., the bassinet bed falls from the stand and contacts the floor or the base/stand collapses when the bassinet bed is not locked on the base/stand).

(iii) 6.10.2. The lock/latch shall automatically engage under the weight of the bassinet bed (without any other force or action) in all lateral positions (Figure 24).

(iv) 6.10.3. The sleep surface of the bassinet bed shall be at an angle of at least 20° from a horizontal plane when the bassinet bed is in an unlocked position.

(v) 6.10.4. The bassinet/cradle shall provide a false latch/lock visual indicator(s). At a minimum, an indicator shall be visible to a person standing near both of the two longest sides of the product.

(vi) 6.10.5. The bassinet bed shall not tip over and shall retain the CAMI newborn dummy when tested in accordance with 7.12.5.3.

(6) Instead of complying with section 7.4.4 of ASTM F2194–13, comply with the following:

(i) 7.4.4. Place the CAMI Newborn Dummy, Mark II, on the sleeping pad in the center of the product face up with the arms and legs straightened.

(A) *Rationale.* The newborn CAMI dummy represents a 50th percentile newborn infant, which is a more appropriate user of a bassinet than the CAMI infant dummy, which represents a 50th percentile 6-month-old infant.

(B) [Reserved]

(ii) [Reserved]

(7) In addition to complying with section 7.11.4 of ASTM F2194–13, comply with the following:

(i) 7.12. *Removable Bassinet Bed Attachment Tests*

(ii) 7.12.1. Assemble the bassinet/cradle base/stand only, in accordance with manufacturer's instructions in one of the manufacturer's recommended use positions. If the base/stand does not remain in the use position when the bassinet bed is not locked onto it, the product meets the requirements of 6.10.1.

(iii) 7.12.2. Place the base/stand and the inclinometer on a flat level horizontal surface ($0 \pm -0.5°$) to establish a test plane. Zero the inclinometer.

(iv) 7.12.3. Remove the mattress pad from the bassinet bed.

Note to paragraph (b)(7)(iv): For mattresses that are integral with the mattress support, do not remove the mattress and perform all angle measurements for 7.12 on a 6 by 6 by ⅜-in. nominal aluminum block placed on the center of the mattress.

(v) 7.12.4. Place the bassinet bed on the base/stand in the intended use orientation without engaging any latch or lock mechanism between the base/stand and the bassinet bed. If the bed automatically engages to the base/stand do not disengage the lock/latch. If the bassinet bed can rest on the base/stand in its intended use orientation in one or more lateral unlocked position (Figure 24), the unit shall be evaluated in the lateral position most likely to fail the requirements specified in 6.10.

(vi) Figure 24: Bassinet Bed Resting on Stand, Showing Possible Alternate Lateral Positions.

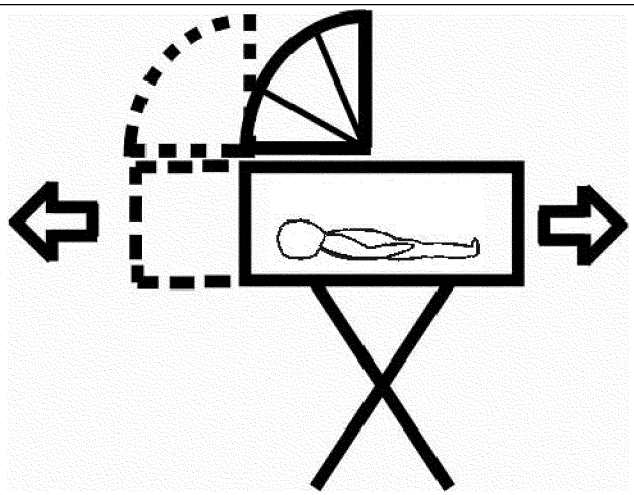

Figure 24: Bassinet Bed Resting on Stand, Showing Possible Alternate Lateral Positions

(vii) 7.12.4.1. If the base/stand supports the bassinet bed in any unlocked position, place the inclinometer on the mattress support at the approximate center of the mattress support. Care should be taken to avoid seams, snap fasteners, or other items that may affect the measurement reading. Record the angle measurement.

(viii) 7.12.4.2. If the base/stand supports the bassinet bed and the angle of the mattress support surface measured in 7.12.4.1 is less than 20 degrees from a horizontal plane, evaluate whether the bassinet has a false latch/lock visual indicator per 6.10.4.

(ix) 7.12.4.3. If the base/stand supports the bassinet bed, and the angle of the mattress support surface measured in 7.12.4.1 is less than 20 degrees from a horizontal plane, and the bassinet does not contain a false latch/lock visual indicator, test the unit in accordance with sections 7.4.2 through 7.4.7.

(x) 7.12.5. Repeat 7.12.2 through 7.12.4 for all of the manufacturer's base/stand recommended positions and use modes.

(xi) 7.12.6. Repeat 7.12.4 through 7.12.5 with the bassinet bed rotated 180 degrees from the manufacturers recommended use orientation, if the base/stand supports the bassinet bed in this orientation.

(A) *Rationale.* (*1*) This test requirement addresses fatal and nonfatal incidents involving bassinet beds that tipped over or fell off their base/stand when they were not properly locked/latched to their base/stand or the latch failed to engage as intended. Products that appear to be in an intended use position when the lock or latch is not properly engaged can create a false sense of security by appearing to be stable. Unsecured or misaligned lock/latch systems are a hidden hazard because they are not easily seen by consumers due to being located beneath the bassinet or covered by decorative skirts. In addition, consumers will avoid activating lock/latch mechanisms for numerous reasons if a bassinet bed appears stable when placed on a stand/base. Because of these foreseeable use conditions, this requirement has been added to ensure that bassinets with a removable bassinet bed feature will be inherently stable or it is obvious that they are not properly secured.

(*2*) 6.10 allows bassinet bed designs that:

(*i*) Cannot be supported by the base/stand in an unlocked configuration,

(*ii*) Automatically lock and cannot be placed in an unlocked position on the base/stand,

(*iii*) Are clearly and obviously unstable when the lock/latch is misaligned or unused,

(*iv*) Provide a visual warning to consumers when the product is not properly locked onto the base/stand, or

(*v*) Have lock/latch mechanisms that are not necessary to provide needed stability.

(B) [Reserved]

Dated: September 30, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–24203 Filed 10–22–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket Nos. RM12–1–000 and RM13–9–000; Order No. 786]

Transmission Planning Reliability Standards

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Under section 215 of the Federal Power Act, the Federal Energy Regulatory Commission approves Transmission Planning (TPL) Reliability Standard TPL–001–4, submitted by the North American Electric Reliability Corporation, the Commission-certified Electric Reliability Organization. Reliability Standard TPL–001–4 introduces significant revisions and improvements by requiring annual assessments addressing near-term and long-term planning horizons for steady state, short circuit and stability conditions. Reliability Standard TPL–001–4 also includes a provision that allows a transmission planner to plan for non-consequential load loss following a single contingency by providing a blend of specific quantitative and qualitative parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues, including firm limitations on the maximum amount of load that an entity may plan to shed, safeguards to ensure against inconsistent results and arbitrary determinations that allow for the planned non-consequential load loss,

and a more specifically defined, open and transparent, verifiable, and enforceable stakeholder process. The Commission finds in the Final Rule that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In addition, the Commission directs NERC to modify Reliability Standard TPL–001–4 to address the concern that the standard could exclude planned maintenance outages of significant facilities from future planning assessments and directs NERC to change the TPL–001–4, Requirement R1 Violation Risk Factor from medium to high.

DATES: This rule will become effective December 23, 2013.

FOR FURTHER INFORMATION CONTACT:

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Robert T. Stroh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8473, *Robert.Stroh@ferc.gov*.

SUPPLEMENTARY INFORMATION:

145 FERC ¶ 61,051

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony Clark.

(Issued October 17, 2013)

1. Under section 215(d) of the Federal Power Act (FPA), the Commission approves Transmission Planning (TPL) Reliability Standard TPL–001–4, submitted by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO).[1] The Commission finds that Reliability Standard TPL–001–4 introduces significant revisions and improvements to the TPL Reliability Standards, including increased specificity of data required for modeling conditions, and requires annual assessments addressing near-term and long-term planning horizons for steady state, short circuit and stability conditions. Further, we find that the Reliability Standard generally addresses the Commission directives set forth in Order No. 693 and subsequent Commission orders.[2] We agree with NERC that Reliability Standard TPL–001–4 includes specific improvements over the currently-effective Transmission Planning Reliability Standards and is responsive to the Commission's directives.

2. Further, in response to Order No. 762,[3] Reliability Standard TPL–001–4 includes a provision that allows a transmission planner to plan for non-consequential load loss following a single contingency. While the Reliability Standard provides that ''an objective of the planning process is to limit the likelihood and magnitude of Non-Consequential Load Loss following planning events,'' the standard also recognizes that ''[i]n limited circumstances, Non-Consequential Load Loss may be needed throughout the planning horizon to ensure that BES performance requirements are met.'' [4] Thus, for such limited circumstances, Reliability Standard TPL–001–4 provides a blend of specific quantitative and qualitative parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues, including firm limitations on the maximum amount of load that an entity may plan to shed, safeguards to ensure against inconsistent results and arbitrary determinations that allow for the planned non-consequential load loss, and a more specifically defined, open and transparent, verifiable, and enforceable stakeholder process.

3. For the reasons discussed in detail below, the Commission finds that Reliability Standard TPL–001–4 is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Therefore, pursuant to section 215(d) of the FPA the Commission approves proposed Reliability Standard TPL–001–4. Thus, the Commission approves footnote 12 to Table 1 of the Reliability Standard (formerly referred to as footnote 'b'). In addition, as discussed below, the Commission finds NERC's explanation on protection system failures versus relay failures, assessment of backup or redundant protection systems, single line to ground faults and the Order No. 693 directives to be reasonable. However, the Commission has concerns about two issues and directs NERC to modify Reliability Standard TPL–001–4 to address the concern that the standard could exclude planned maintenance outages of significant facilities from future planning assessments and directs NERC to change the TPL–001–4, Requirement R1 VRF from medium to high.

I. Background

A. Regulatory History

4. In Order No. 693, the Commission accepted the Version 0 TPL Reliability Standards.[5] Further, pursuant to FPA section 215(d)(5), the Commission directed NERC to develop modifications through the Reliability Standards development process to address certain issues identified by the Commission. In addition, the Commission neither approved nor remanded Reliability Standards TPL–005–0 and TPL–006–0 because these two standards applied only to regional reliability organizations, the predecessors to the statutorily recognized Regional Entities. With regard to Reliability Standard TPL–002–0b, Table 1, footnote 'b,' which applies to planned non-consequential load loss, the Commission directed NERC to clarify footnote 'b' regarding the planned non-consequential load loss for a single contingency event.[6] In a March 18, 2010 order, the Commission directed NERC to submit a modification to footnote 'b' responsive to the Commission's directive in Order No. 693 by June 30, 2010.[7] In a June 11, 2010 order, the Commission extended the compliance deadline until March 31, 2011.[8]

Remand of Footnote b of the Version 1 TPL Reliability Standard (RM11–18–000)

5. On March 31, 2011, NERC submitted proposed Reliability Standard TPL–002–1 (Version 1). NERC proposed to modify Table 1, footnote 'b' to permit planned non-consequential load loss when documented and subjected to an open stakeholder process.[9] In Order No.

[1] 16 U.S.C. 824o(d) (2006).

[2] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[3] *Transmission Planning Reliability Standards,* Order No. 762, 139 FERC ¶ 61,060 (2012) (Order No. 762), *order on reconsideration,* 140 FERC ¶ 61,101 (2012). *See also Transmission Planning Reliability Standards,* 139 FERC ¶ 61,059 (2012) (April 2012 NOPR).

[4] Reliability Standard TPL–001–4, Table I (Steady State and Stability Performance Extreme Events), n.12.

[5] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 1840, 1845. The currently-effective versions of the TPL Reliability Standards are as follows: TPL–001–0.1, TPL–002–0b, TPL–003–0a, and TPL–004–0.

[6] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1792.

[7] *Mandatory Reliability Standards for the Bulk Power System,* 130 FERC ¶ 61,200 (2010).

[8] *Mandatory Reliability Standards for the Bulk Power System,* 131 FERC ¶ 61,231 (2010).

[9] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1794. Non-consequential load loss includes the removal, by any means, of any planned firm load that is not directly served by the elements that are removed from service as a result of the contingency. Currently-effective footnote 'b' deals with both consequential load loss and non-consequential load loss. NERC's proposed footnote 'b' characterized both types of load loss as ''firm demand.''

762, the Commission remanded to NERC the proposed modification to footnote 'b,' concluding that the proposed revisions did not meet the Commission's Order No. 693 directives, nor did the revisions achieve an equally effective and efficient alternative.[10] The Commission stated that the proposal did not adequately clarify or define the circumstances in which an entity can use planned non-consequential load loss as a mitigation plan to meet performance requirements for single contingency events. The Commission also explained that the procedural and substantive parameters of NERC's proposal were too undefined to provide assurances that the process will be effective in determining when it is appropriate to plan for non-consequential load loss, did not contain NERC-defined criteria on circumstances to determine when an exception for planned non-consequential load loss is permissible, and could result in inconsistent results in implementation. Accordingly, the Commission remanded the filing to NERC and directed NERC to develop revisions to footnote 'b' that would address the Commission's concerns. Additionally, in Order No. 762, the Commission directed NERC to ''identify the specific instances of any planned interruptions of firm demand under footnote 'b' and how frequently the provision has been used.'' [11]

Proposed Remand of Version 2 of the TPL Reliability Standard (RM12–1–000)

6. On October 19, 2011, NERC submitted a petition seeking approval of a revised and consolidated TPL Reliability Standard that combined the four currently-effective TPL Reliability Standards into a single standard, TPL–001–2 (Version 2).[12] The Version 2 standard included language similar to NERC's Version 1 proposal with regard to utilizing non-consequential load loss. The Version 2 standard included a non-consequential load loss provision in Table 1—Steady State & Stability Performance Footnotes (Planning Events and Extreme Events), footnotes 9 and 12.[13]

7. On the same day that the Commission issued Order No. 762, the Commission issued a notice of proposed rulemaking (April 2012 NOPR) stating that, notwithstanding that proposed Version 2 included specific improvements over the currently-effective Transmission Planning Reliability Standards, footnote 12 ''allow[s] for transmission planners to plan for non-consequential load loss following a single contingency without adequate safeguards [and] undermines the potential benefits the proposed Reliability Standard may provide.'' [14] Thus, the Commission stated that its concerns regarding the stakeholder process set forth in footnote 12 required a proposal to remand the entire Reliability Standard. The Commission added that resolution of the footnote 12 concerns ''would allow the industry, NERC and the Commission to go forward with the consideration of other improvements contained in proposed Version 2.'' [15] In addition, the April 2012 NOPR asked for comment on various aspects of the consolidated Version 2 Reliability Standard. Comments on the NOPR were due by July 20, 2012. The following entities submitted comments: NERC, the Edison Electric Institute (EEI), ISO/RTOs,[16] ITC Companies,[17] Midcontinent Independent System Operator Inc. (MISO),[18] American Transmission Company LLC (ATCLLC), Powerex Corporation (Powerex), Bonneville Power Administration (BPA), and Hydro One Networks and the Independent Electricity System Operator (Hydro One and IESO).

Proposed Reliability Standard TPL–001–4—Version 4 (RM13–9–000)

8. On February 28, 2013, NERC submitted proposed Reliability Standard TPL–001–4 (Version 4) in response to the Commission's remand in Order No. 762 and concerns with regard to Table 1 footnote 12 identified in the April 2012 NOPR.[19] Reliability Standard TPL–001–4 includes eight requirements and Table 1:[20]

Requirement R1: Requires the transmission planner and planning coordinator to maintain system models and provides a specific list of items required for the system models and that the models represent projected system conditions. The planner is required to model the items that are variable, such as load and generation dispatch, based specifically on the expected system conditions.

Requirement R2: Requires each transmission planner and planning coordinator to prepare an annual planning assessment of its portion of the bulk electric system and must use current or qualified past studies, document assumptions, and document summarized results of the steady state analyses, short circuit analyses, and stability analyses. Requirement R2, Part 2.1.3 requires the planner to assess system performance utilizing a current annual study or qualified past study for each known outage with a duration of at least six months for certain events. It also clarifies that qualified past studies can be utilized in the analysis while tightly defining the qualifications for those studies. Requirement R2 includes a new part 2.7.3 that allows transmission planners and planning coordinators to utilize non-consequential load loss to meet performance requirements if the applicable entities are unable to complete a corrective action plan due to circumstances beyond their control.

Requirements R3 and R4: Requirement R3 describes the requirements for steady state studies and Requirement R4 explains the requirements for stability studies. Requirement R3 and Requirement R4 also require that simulations duplicate what will occur in an actual power system based on the expected performance of the protection systems.

[10] Order No. 762, 139 FERC ¶ 61,060.

[11] *Id.* P 20.

[12] NERC's October 2011 petition sought approval of Reliability Standard TPL–001–2, the associated implementation plan and Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs), as well as five new definitions to be added to the NERC Glossary of Terms. NERC also requested approval to retire four currently-effective TPL Reliability Standards: TPL–001–1, TPL–002–1b, TPL–003–1a; and TPL–004–1. In addition, NERC requested to withdraw two pending Reliability Standards: TPL–005–0 and TPL–006–0.1.

[13] NERC's October 2011 Petition at 12. NERC's proposal in Docket No. RM11–18–000, Table 1, footnote 'b' referred to planned load shed as planned ''interruption of Firm Demand.'' In footnote 12, proposed to replace footnote 'b,' NERC changed the term from ''interruption of Firm Demand'' to utilization of ''Non-Consequential Load Loss.''

[14] April 2012 NOPR, 139 FERC ¶ 61,059 at P 55.

[15] *Id.* P 3.

[16] The ISO/RTOs consist of Electric Reliability Council of Texas, Inc., ISO New England, Inc., Midcontinent Independent Transmission System Operator Inc., New York Independent System Operator, Inc., PJM Interconnection L.L.C., and Southwest Power Pool, Inc.

[17] ITC Companies consist of ITC*Transmission,* Michigan Electric Transmission Company LLC, ITC Midwest LLC, and ITC Great Plains.

[18] Effective April 26, 2013, MISO changed its name from ''Midwest Independent Transmission System Operator, Inc.'' to ''Midcontinent Independent System Operator, Inc.''

[19] In its filing, NERC stated that the Version 4 standard, i.e., TPL–001–4, modifies the pending Version 2 consolidated standard, TPL–001–2. NERC also submitted, alternatively, a group of four TPL standards (TPL–001–3, TPL–002–2b, TPL–003–2a, and TPL–004–2, collectively, the Version 3 TPL standards) that would modify ''footnote b'' of the currently-effective TPL standards, ''[i]n the event the Commission does not approve the Consolidated TPL Standards [Version 4].'' NERC Petition at 4. Because we approve TPL–001–4, references throughout this Final Rule are to the Version 4 standard.

[20] The filed proposed Reliability Standard is not attached to the Final Rule but is available on the Commission's eLibrary document retrieval system in Docket Nos. RM12–1–000 and RM13–9–000 and are available on NERC's Web site, *http://www.nerc.com.*

Requirement R3 and Requirement R4 also include new parts that require the planners to conduct an evaluation of possible actions designed to reduce the likelihood or the consequences of extreme events that cause cascading.

Requirement R5: Requirement R5 deals with voltage criteria and voltage performance. NERC proposes in Requirement R5 that each transmission planner and planning coordinator must have criteria for acceptable system steady state voltage limits, post-contingency voltage deviations, and the transient voltage response for its system. For transient voltage response the criteria must specify a low-voltage level and a maximum length of time that transient voltages may remain below that level. This requirement will establish more robust transmission planning for organizations and greater consistency as these voltage criteria are shared.

Requirement R6: Specifies that an entity must define and document the criteria or methodology used to identify system instability for conditions such as cascading, voltage instability, or uncontrolled islanding within its planning assessment.

Requirement R7: Mandates coordination of individual and joint responsibilities for the planning coordinator and the transmission planner which is intended to eliminate confusion regarding the responsibilities of the applicable entities and assures that all elements needed for regional and wide area studies are defined with a specific entity responsible for each element and that no gaps will exist in planning for the Bulk-Power System.

Requirement R8: Addresses the sharing of planning assessments with neighboring systems. The requirement ensures that information is shared with and input received from adjacent entities and other entities with a reliability related need that may be affected by an entity's system planning.

Table 1: Similar to the currently-effective TPL Reliability Standard, the revised standard contains a series of planning events and describes system performance requirements in Table 1 for a range of potential system contingencies required to be evaluated by the planner. Table 1 includes three parts: Steady State & Stability Performance Planning Events, Steady State & Stability Performance Extreme Events, and Steady State & Stability Performance Footnotes. Table 1 categorizes the events as either ''planning events'' or ''extreme events.'' The proposed table lists seven contingency planning events that require steady-state and stability analysis as well as five extreme event contingencies.

9. NERC modified footnote 12 of Table 1 to provide specific parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues, including: (1) Firm limitations on the maximum amount of load that an entity may plan to shed, (2) safeguards to ensure against inconsistent results and arbitrary determinations that allow for the planned non-consequential load loss, and (3) a more specifically defined, open and transparent, verifiable, and enforceable stakeholder process. Footnote 12 as modified provides:

> An objective of the planning process is to minimize the likelihood and magnitude of Non-Consequential Load Loss following planning events. In limited circumstances, Non-Consequential Load Loss may be needed throughout the planning horizon to ensure that BES performance requirements are met. However, when Non-Consequential Load Loss is utilized under footnote 12 within the Near-Term Transmission Planning Horizon to address BES performance requirements, such interruption is limited to circumstances where the Non-Consequential Load Loss meets the conditions shown in Attachment 1. In no case can the planned Non-Consequential Load Loss under footnote 12 exceed 75 MW for US registered entities. The amount of planned Non-Consequential Load Loss for a non-US Registered Entity should be implemented in a manner that is consistent with, or under the direction of, the applicable governmental authority or its agency in the non-US jurisdiction.

10. Attachment 1 to TPL–001–4, referenced in footnote 12 has three sections: (I) Stakeholder process, (II) information an entity must provide to stakeholders, and (III) instances for which regulatory review of planned non-consequential load loss under footnote 12 is required. Section I describes five criteria that apply to the open and transparent stakeholder process that an entity must implement when it seeks to use footnote 12. Section I provides that an entity does not have to repeat the stakeholder process for a specific application of footnote 12 with respect to subsequent planning assessments unless conditions have materially changed for that specific application.

11. Section II of Attachment 1 specifies eight categories of information that entities must provide to stakeholders, including estimated amount, frequency and duration of planned non-consequential load loss under footnote 12. An entity must also provide information on alternatives considered and future plans to alleviate the need for planned non-consequential load loss.

12. Section III of Attachment 1 describes the process for planned non-consequential load loss greater than 25 MW. Specifically, planned non-consequential load loss between 25 MW and 75 MW, or any planned non-consequential load loss at the 300 kV level or above would receive greater scrutiny by regulatory authorities and the ERO. Where these parameters apply, ''the Transmission Planner or Planning Coordinator must ensure that applicable regulatory authorities or governing bodies responsible for retail electric service issues do not object to the use of Non-Consequential Load Loss under footnote 12.'' [21] Further, ''[o]nce assurance has been received that the applicable regulatory authorities . . . responsible for retail electric service issues do not object . . . the Planning Coordinator or Transmission Planner must submit the information [in Section II of Attachment 1] to the ERO for a determination of whether there are any Adverse Reliability Impacts'' caused by the responsible entity's request to use footnote 12.[22] According to NERC, this provision provides safeguards against arbitrary or inconsistent determinations, and also ''preserves, to the extent practicable, the role of Retail Regulators,'' while allowing ERO review for possible adverse reliability impacts.[23]

13. NERC stated that the combination of numerical limitations and other considerations, such as costs and alternatives, guards against a determination based solely on a quantitative threshold becoming an acceptable *de facto* interpretation of planned non-consequential load loss. According to NERC, the procedures in footnote 12 would enable acceptable, but limited, circumstances of planned non-consequential load loss after a thorough stakeholder review and approval and ERO review.

14. NERC also stated that, because footnote 12 differs from footnote 'b' included in the currently-effective TPL Reliability Standards, data do not yet exist on the frequency of instances of planned non-consequential load loss under the new footnote 12. Consequently, NERC stated that it will monitor the use of footnote 12 and will report the results of this monitoring

[21] NERC Petition, Exhibit A, proposed Reliability Standard TPL–001–4, Attachment I, section 3.

[22] NERC Petition, Exhibit A, proposed Reliability Standard TPL–001–4, Attachment I, section 3. NERC defines ''Adverse Reliability Impact'' as ''[t]he impact of an event that results in frequency-related instability; unplanned tripping of load or generation; or uncontrolled separation or cascading outages that affects a widespread area of the Interconnection.'' NERC Glossary at 4.

[23] NERC February 2013 Petition at 19.

after the first two years of the footnote's implementation.[24]

15. NERC requested that requirements R1 and R7 of the Version 4 Reliability Standard as well as the definitions become effective on the first day of the first calendar quarter twelve months after applicable regulatory approval. In addition, except as indicated below, NERC requested that Requirements R2 through R6 and Requirement R8 including Table 1—Steady State & Stability Performance Planning Events, Table 1—Steady State & Stability Performance Extreme Events, Table 1—Steady State & Stability Performance Footnotes (Planning Events & Extreme Events) and Attachment 1 become effective and subject to compliance on the first day of the first calendar quarter, 24 months after applicable regulatory approval.

16. NERC also proposed that, for 84 calendar months beginning the first day of the first calendar quarter following applicable regulatory approval, concurrent with the 24 month effective date of Requirement R2, corrective action plans applying to specific categories of contingencies and events identified in TPL–001–4, Table 1 are allowed to include non-consequential load loss and curtailment of firm transmission service (in accordance with Requirement R2, Part 2.7.3) that would not otherwise be permitted by the requirements of the Version 4 Reliability Standard. Further, NERC stated that Requirement R2, Part 2.7.3 addresses situations that are beyond the control of the planner that prevent the implementation of a corrective action plan in the required timeframe. Some examples of situations beyond the control of the planner could include a state road widening project taking substation land that was targeted for expansion or a ruling preventing the entity from condemning the land necessary for a project.

17. NERC also requested approval to retire the currently-effective TPL Reliability Standards and to withdraw two pending TPL Reliability Standards, TPL–005–0 and TPL–006–0.1, because it transferred the requirements of the pending Reliability Standards to sections 803 and 804 of NERC's Rules of Procedure. NERC proposed to retire TPL Reliability Standards TPL–001–0.1, TPL–002–0b, TPL–003–0a, and TPL–004–0 on midnight of the day immediately prior to the effective date of TPL–001–4. However, during the 24-month implementation period, all aspects of the currently-effective TPL Reliability Standards, TPL–001–0.1 through TPL–004–0 will remain in effect for compliance monitoring. NERC stated that the 24 month period is to allow entities to develop, perform and/or validate new or modified studies necessary to implement and meet Reliability Standard TPL–001–4. NERC explained that the specified effective dates allow sufficient time for proper assessment of the available options necessary to create a viable corrective action plan that is compliant with the new TPL Reliability Standard.

Supplemental NOPR

18. On May 16, 2013, the Commission issued a Supplemental NOPR which proposed to approve the Version 4 TPL Reliability Standard, TPL–001–4, as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[25] In the Supplemental NOPR, the Commission suggested that, while NERC's proposal differs from the Commission directives on the matter of utilizing non-consequential load loss, NERC's proposal adequately addresses the underlying reliability concerns raised in Order No. 693, Order No. 762 and the April 2012 NOPR and, thus, is an equally effective and efficient alternative to address the Commission's directives.[26] In the Supplemental NOPR, the Commission proposed to find that proposed footnote 12 would improve reliability by providing a blend of specific quantitative and qualitative parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues. In addition, the Commission stated that the stakeholder process appears to be adequately defined and includes specific criteria and guidelines that a responsible entity must follow before it may use planned non-consequential load loss to meet Reliability Standard TPL–001–4 performance requirements for a single contingency event. Further, the Supplemental NOPR indicated that NERC's proposal provides reasonable safeguards, including a review process by NERC, to protect against adverse reliability impacts that could otherwise result from planned non-consequential load loss.[27]

19. In the Supplemental NOPR, the Commission proposed to direct that NERC submit a report on the use of footnote 12, due at the end of the first calendar quarter after the first two years of implementation of footnote 12 to provide an analysis of the use of footnote 12, including but not limited to information on the duration, frequency and magnitude of planned non-consequential load loss, and typical (and if significant, atypical) scenarios where entities plan for non-consequential load loss. The Commission proposed that the report should also address the effectiveness of the stakeholder process and the use and effectiveness of the local regulatory review and NERC review.[28]

20. Comments on the Supplemental NOPR were due on June 24, 2013. NERC, MISO and ITC Companies filed comments in response to the Supplemental NOPR.

II. Discussion

21. Pursuant to FPA section 215(d), we find that Reliability Standard TPL–001–4 is just, reasonable, not unduly discriminatory or preferential, and in the public interest. While NERC's proposal differs from the Commission directives, we find that NERC adequately addressed the directives and underlying reliability concerns of Order No. 693, Order No. 762 and the April 2012 NOPR and, thus, is an equally effective and efficient alternative to address the Commission's concerns.[29] We find that the revised TPL Reliability Standard improves uniformity and transparency in the transmission planning process and clarifies the instances where planners may utilize planned load loss in establishing transmission planning performance requirements for reliable bulk electric system operations across normal and contingency conditions. We also find that Reliability Standard TPL–001–4 will serve as a foundation for annual planning assessments conducted by planning coordinators and transmission planners to plan the bulk electric system reliably in response to a range of potential contingencies. Further, we find that the Reliability Standard presents clear, measurable, and enforceable requirements that each planning coordinator and transmission planner must follow when planning its system.

22. In the Supplemental NOPR, the Commission stated it would issue a final rule that addresses the consolidated transmission planning Reliability Standard, TPL–001–4. Therefore, this Final Rule addresses the modified footnote 12 and comments received in response to the Supplemental NOPR as

[24] NERC's February 2013 Petition at 11.

[25] *Transmission Planning Reliability Standards,* Notice of Proposed Rulemaking, 143 FERC ¶ 61,136 (2013) (Supplemental NOPR).

[26] Supplemental NOPR, 143 FERC ¶ 61,136 at P 18.

[27] *Id.* P 19.

[28] *Id.* P 20.

[29] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1792.

well as other aspects of the consolidated TPL Reliability Standard raised in the April 2012 NOPR.

A. Footnote 12 and Planned Use of Non-Consequential Load Loss NOPR Proposal

23. In the Supplemental NOPR, the Commission proposed to approve footnote 12. The Commission indicated that the proposal differs from the Commission directives but adequately addresses the underlying reliability concerns raised in Order No. 693, Order No. 762 and the April 2012 NOPR and, thus, is an equally effective and efficient alternative to address the Commission's directives.[30] The Supplemental NOPR indicated that proposed footnote 12 would improve reliability by providing a blend of specific quantitative and qualitative parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues. In addition, the Supplemental NOPR stated that the stakeholder process appeared to be adequately defined and includes specific criteria and guidelines that a responsible entity must follow before it may use planned non-consequential load loss to meet Reliability Standard TPL–001–4 performance requirements for a single contingency event. Further, the Supplemental NOPR stated that NERC's proposal provides reasonable safeguards, including a review process by NERC, to protect against adverse reliability impacts that could otherwise result from planned non-consequential load loss.

Comments

24. NERC supports the Commission's proposal in the Supplemental NOPR. NERC also commits to monitor the use of footnote 12 and issue a report containing the findings of the monitoring by the end of the first calendar quarter following the first two years of implementation. ITC Companies believe NERC's proposal is a significant improvement over the currently-effective standard and support approval. ITC Companies urge the Commission to clarify that the use of planned non-consequential load loss should be used rarely and should not be considered a *de facto* planning solution.

25. MISO supports Reliability Standard TPL–001–4 as an improvement over the current standard but has two concerns regarding Attachment 1, referenced in footnote 12. First, MISO argues that the Commission should direct NERC to eliminate or clarify the requirement that requires interaction with and approval by applicable regulatory authorities or government bodies responsible for retail electric service. MISO claims that such a requirement adds an additional layer of complexity and administrative burden to compliance of proposed Reliability Standard TPL–001–4 without any attendant benefit. According to MISO, the reference in Attachment 1 to ''applicable regulatory authorities or governing bodies'' is not clear. MISO states that, while these terms could encompass a state's public service commission or public utility commission, the terms could also potentially include other state bodies or agencies such as consumer advocacy and protection bodies, state legislatures, and city or municipal bodies. According to MISO, if these other entities would be considered ''governing bodies responsible for retail electric issues,'' a transmission planner would need to seek and receive assurances from each of these bodies. MISO also suggests that, prior to finalization of its transmission expansion plan each year, a planner could obtain the assent of the applicable public utility commission, and yet have its transmission plans subsequently upended because it did not obtain additional assent from a different state agency that has some involvement in retail electric matters.

26. MISO also questions what it means to ensure that an applicable regulatory authority or governing body ''does not object'' to the inclusion of non-consequential load loss in the planning process. MISO suggests that it could mean input of agency staff or a more formal decision that is voted on by the agency's commissioners. MISO argues that use of an open stakeholder process that allows for robust input by any interested parties will ensure that all interested state agencies will have a say in the process, and that any objections of such agencies to the inclusion of non-consequential load loss will be incorporated into the relevant planning decisions.

27. Alternatively, MISO requests that the Commission clarify or direct NERC to clarify the ''does not object'' language to mean that: (1) The phrase ''applicable regulatory authorities or governing bodies'' means only the public utility commission or public service commission in the affected states, and does not refer to any other state entity; and (2) comments or other input submitted by the affected state public service commission or public utility commission in the Attachment 1 stakeholder process indicating that the agency ''does not object'' to the inclusion of non-consequential load loss in the planning process are sufficient to satisfy the ''does not object'' requirement.

28. Further, MISO requests that the Commission clarify, or direct NERC to clarify, the language in section II of Attachment 1 that requires planning coordinators and transmission planners to provide stakeholders all assessments of ''potential overlapping uses of footnote 12 including overlaps with adjacent Transmission Planners and Planning Coordinators.'' MISO believes that this phrase suggests that there are other ''potential overlapping uses'' that are encompassed by the requirement. MISO states it is not clear what these other overlapping uses might be or how they might be incorporated into the planning process.

Commission Determination

29. We approve Reliability Standard, TPL–001–4 with footnote 12 because it satisfies the concerns raised in the Supplemental NOPR. Footnote 12 provides a blend of specific quantitative and qualitative parameters for the permissible use of planned non-consequential load loss to address bulk electric system performance issues, including firm limitations on the maximum amount of load that an entity may plan to shed, safeguards to ensure against inconsistent results and arbitrary determinations that allow for the planned non-consequential load loss, and a more specifically defined, open and transparent, verifiable, and enforceable stakeholder process. Use of planned non-consequential load loss should be rare and must be used consistent with the process established here.

30. We disagree with MISO that Attachment 1 to footnote 12 adds an additional layer of complexity and administrative burden to compliance without any attendant benefit. Commenters have stated in prior proceedings that a blend of quantitative and qualitative parameters ''should not overly burden NERC or Regional Entity resources as utilization of the planned load shed exception is—and would be—rarely utilized.'' [31] Further, the Commission directs NERC to report on the use of footnote 12 including the use and effectiveness of the local regulatory review and NERC review. This report is important because it will provide an analysis of the use of footnote 12, including but not limited to information on the duration, frequency and

[30] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1792; *Mandatory Reliability Standards for the Bulk Power System,* 131 FERC ¶ 61,231 at P 21.

[31] Order No. 762, 139 FERC ¶ 61,060 at P 55.

magnitude of planned non-consequential load loss, and typical (and if significant, atypical) scenarios where entities plan for non-consequential load loss. Further, the report will serve as a tool to evaluate the usefulness and effectiveness of local regulatory and ERO review, and identify whether MISO's concern or other issues arise that need to be addressed.

31. We decline to direct NERC to limit the meaning of the phrase ''applicable regulatory authorities or governing bodies.'' Because each state and locality has different entities that are responsible for reliability of retail electric service, we are reluctant to further define who may participate. NERC's report should identify any issues with respect to how effective and efficient the review process is working. With regard to MISO's request that input by the affected regulatory body is sufficient to satisfy the language in the Attachment 1 stakeholder process indicating that the agency ''does not object'' to the inclusion of non-consequential load loss, we note that during the standard development process NERC ''modified the footnote to require regulatory authority review rather than approval.'' [32] Use of an open stakeholder process that allows for robust input and review will ensure that all interested state agencies will have a say in the process, and that any objections of such agencies to the inclusion of non-consequential load loss will be considered in the relevant planning decisions. With regard to MISO's requested clarification of the phrase ''potential overlapping uses,'' we note that Attachment 1 section II encompasses potential overlapping uses of footnote 12 either within the responsible entity or with adjacent transmission planners and planning coordinators.[33] Accordingly, no further clarification is required.

B. Reliability Issues Raised in the April 2012 NOPR

32. In the April 2012 NOPR, the Commission sought comments regarding the following issues regarding the proposed Version 2 Reliability Standard: (1) Planned maintenance outages, (2) violation risk factors, (3) protection system failures versus relay failures, (4) assessment of backup or redundant protection systems, (5) single line to ground faults and (6) Order No. 693 directives. The Version 4 TPL standard that we approve in this Final Rule contains the same provisions as the Version 2 standard, with the exception of footnote 12, Attachment 1 and the VRF for Requirement R6. Accordingly, we address below the issues raised in the April 2012 NOPR.

1. Planned Maintenance Outages

NERC Petition

33. NERC proposed new language in TPL–001–2, Requirement R1 to remove an ambiguity in the current standard concerning what the planner needs to include in the specific studies. Requirement R1 also requires the planner to evaluate six-month or longer duration planned outages within its system. NERC states that, while Requirement R1.3.12 of the currently-effective TPL–002–0b includes planned outages (including maintenance outages) in the planning studies and requires simulations at the demands levels for which the planned outages are performed, it is not appropriate to have the planner select specific planned outages for inclusion in their studies.[34] Consequently, NERC proposes a bright-line test to determine whether a planned outage should be included in the system models.

NOPR

34. In the April 2012 NOPR, the Commission expressed concern that, under proposed Requirement R1, planned maintenance outages with a duration of less than six months would be excluded from future planning assessments. As a result, any potential impact to bulk electric system reliability from these outages would be unknown.[35] The Commission sought comment on whether the proposed six month threshold would materially change the number of planned outages included in planning assessments compared to the number included in planning assessments under the currently-effective standard, and whether the threshold would exclude nuclear plant refueling, large fossil and hydro generating station maintenance, and spring and fall transmission construction projects from future planning assessments. The Commission also sought comment on possible alternatives.

35. In the NOPR, the Commission noted that, with respect to protection system maintenance, currently-effective Reliability Standard TPL–002–0, Requirement R1.3.12 requires the planner to ''[i]nclude the planned (including maintenance) outage of any bulk electric equipment (including protection systems or their components) at those demand levels for which planned (including maintenance) outages are performed.'' [36] NERC explained in the petition that this language did not carry over because protection system maintenance or other outages are not anticipated to last six months. The Commission indicated in the NOPR that it is critical to plan the system so that a protection system can be removed for maintenance and still be operated reliably and sought comment on whether protection systems are necessary to be included as a type of planned outage.

Comments

36. NERC and EEI state that the proposed Reliability Standard will not materially change the number of planned outages that must be reflected in initial system conditions as compared to the existing standards. NERC states that applying existing Requirement R1.3.12, planners have traditionally only included those planned outages in their category ''P0 or N–0'' system condition that resulted from catastrophic equipment failures or extended outage conditions associated with construction or maintenance projects that place their system in an abnormal starting condition.[37] NERC believes that going beyond those scenarios would consider ''hypothetical planned outages,'' and doing so in a planning study horizon would introduce multiple contingency conditions within the existing standard. Further, NERC states that planners will establish sensitivity cases around key generation unit outages, and when applying the category P3 planning event to those sensitivity cases, it will further cover multiple generator unit outages. Similarly, transmission maintenance outages are covered in the planning events when applying the category P6 planning events.

37. BPA believes the six-month planned outage window is workable but that it may be too short to consider in system planning models and suggests a one-year planned outage window. BPA states that planned outages with duration of less than one year should be

[32] NERC's Petition, Exhibit H, Consideration of Comments, period from July 31, 2012 through August 29, 2012 at 73.

[33] Proposed TPL–001–4 Reliability Standard, Attachment 1, section II, category 8: ''Assessment of potential overlapping uses of footnote 12 including overlaps with adjacent Transmission Planners and Planning Coordinators.''

[34] NERC's October 2011 Petition at 35.

[35] April 2012 NOPR, 139 FERC ¶ 61,059 at P 18.

[36] Reliability Standard TPL–002–0, Requirement R1.3.12.

[37] Table 1 of the TPL Reliability Standard contains a series of planning events and describes system performance requirements and lists seven categories of contingency planning events, identified as P0 through P6. P0 is the ''No Contingency,'' normal system condition. Reliability Standard TPL–001–4, Table 1.

dealt with operationally by determining new operating limits and taking other actions to mitigate the planned outage. According to Hydro One, it is not necessary to include planned outage of less than six months since long-term planning is intended to assess transmission expansion needs in the usual three to ten year timeframe. Hydro One states that the inclusion of planned outages of less than six months will not increase the accuracy of the results as these are moving targets and there are operational planning measures to provide the required transmission transfer capability to meet forecast demand.

38. On the other hand, ITC Companies, MISO and ATCLLC express concern that some planned outages of less than six months are relevant and should not be eliminated from consideration in planning evaluations. ATCLLC states that, although the number of planned outages may not materially change, the impact of eliminating pertinent planned outages of less than six months in duration is perhaps more material than the impact of outages six months in duration or longer. Some planned outages of less than six months in duration may also result in relevant impacts during one or both of the seasonal off-peak periods. ITC Companies state that, in some instances, certain transmission elements may be so critical that when taken out of service for system maintenance or to facilitate a new capital project, a subsequent single unplanned transmission outage could result in the loss of firm system load. ITC Companies adds that including only known maintenance outages of six months or longer in the transmission models could be a step backwards from the current standard. Since these unplanned outages can have consequential impacts on transmission customers, prudent transmission planning should include providing an adequate transmission system to avoid these undesired outcomes.

39. MISO suggests that limiting planning studies to only include known outages of generation or transmission with duration of at least six months may have a detrimental impact to bulk electric system reliability. According to MISO, proper transmission system planning should ensure that the removal of a facility for maintenance purposes can be accomplished without the need to deny or re-schedule such maintenance to prevent the loss of firm load resulting from the types of contingencies enumerated in the TPL Reliability Standards. MISO requests that the Commission direct NERC to further expand the base planning conditions and assumptions by requiring inclusion of unscheduled, planned outages of any element when applying at a minimum P0 and P1 events to the off-peak cases.

Commission Determination

40. Pursuant to section 215(d)(5) of the FPA, we direct NERC to modify Reliability Standard TPL–001–4 to address the concern that the six month threshold could exclude planned maintenance outages of significant facilities from future planning assessments.

41. For the reasons discussed below, the Commission finds that planned maintenance outages of less than six months in duration may result in relevant impacts during one or both of the seasonal off-peak periods. Prudent transmission planning should consider maintenance outages at those load levels when planned outages are performed to allow for a single element to be taken out of service for maintenance without compromising the ability of the system to meet demand without loss of load.[38] We agree with commenters such as MISO and ATCLLC that certain elements may be so critical that, when taken out of service for system maintenance or to facilitate a new capital project, a subsequent unplanned outage initiated by a single-event could result in the loss of non-consequential load or may have a detrimental impact to the bulk electric system reliability. A properly planned transmission system should ensure the known, planned removal of facilities (i.e., generation, transmission or protection system facilities) for maintenance purposes without the loss of non-consequential load or detrimental impacts to system reliability such as cascading, voltage instability or uncontrolled islanding.

42. We remain concerned that proposed Reliability Standard TPL–001–4 will materially change the number of planned outages that must be reflected in initial system conditions as compared to the existing standards. Planned outages lasting less than six months are common, and yet could be overlooked for planning purposes under the proposal. These planned outages are not ''hypothetical planned outages,'' and should not be treated as multiple contingency conditions within the planning standard. The Commission's directive is to include known generator and transmission planned maintenance outages in planning assessments, not hypothetical planned outages.

43. While NERC has flexibility on how to address the identified concern, we believe that acceptable approaches include eliminating the six-month threshold altogether; decreasing the threshold to fewer months to include additional significant planned outages; or including parameters on what constitutes a significant planned outage based, for example, on MW or facility ratings.

44. Further, we disagree with NERC's position that category P3 contingencies cover generator maintenance outages and category P6 covers transmission maintenance outages. P3 and P6 both consist of multiple contingencies, e.g., loss of a generating unit or transmission circuit followed by system adjustments and then the loss of another generator or transmission circuit. In approving NERC's interpretation of Requirement R1.3.12 of TPL–002–0 and TPL–003–0, the Commission stated that ''planned (including maintenance) outages are not contingencies and are required to be addressed in transmission planning for any bulk electric equipment at demand levels for which the planned outages are performed.'' [39] The Commission further stated that it ''understands that planned maintenance outages tend to be for a relatively short duration and are routinely planned at a time that provides favorable system conditions, i.e., off-peak conditions. Given that all transmission and generation facilities require maintenance at some point during their service lives, these 'potential' planned outages must be addressed, so long as their planned start times and durations may be anticipated as occurring for some period of time during the planning time [horizon]'' required in the TPL Reliability Standards.[40]

45. With regard to BPA's comment, we disagree that planned outages of less than one year in duration should be addressed operationally by determining new operating limits and taking other actions to mitigate the planned outage. The Commission understands that some planned outages such as planned generation outages are known more than one year in advance.[41] As a result, the Commission believes the planning time horizon of the TPL Reliability Standards offers more flexibility to assess planned maintenance outages than the

[38] ITC Companies Comments at 5.

[39] *North American Electric Reliability Corp.,* 131 FERC ¶ 61,068, at P 39 (2010) (approving interpretation of Reliability Standards TPL–002–0 and TPL–003–0).

[40] *Id.* P 39.

[41] *See, e.g.,* Commissioner-Led Reliability Technical Conference, Docket Nos. AD13–6–000, RC11–6–004, RR13–2–000, July 9, 2013, Volume I at 242.

operational time horizon. Further, we disagree with Hydro One's comment that including planned outages of less than six months is unnecessary since long-term planning to assess transmission expansion occurs in the three to ten year timeframe. The Commission recognizes that the TPL–001–4 Reliability Standard addresses near-term and long-term transmission planning horizons and, for the near-term horizon, requires annual assessments for years one through five. Accordingly, known planned facility outages (i.e. generation, transmission or protection system facilities) of less than six months should be addressed so long as their planned start times and durations may be anticipated as occurring for some period of time during the planning time horizon.

2. Violation Risk Factors

a. Requirement R1

NERC Petition

46. NERC assigned a ''medium'' violation risk factor (VRF) for proposed Requirement R1. NERC maintains that Requirements R1.3.5, R1.3.7, R1.3.8, and R1.3.9 of the currently-effective Reliability Standard carry a VRF of ''medium'' and are similar in purpose and effect to proposed Reliability Standard, Requirement R1 because they refer to planning models that include firm transfers, existing and planned facilities, and reactive power requirements.[42]

NOPR Proposal

47. In the April 2012 NOPR, the Commission expressed that, if system models are not properly modeled or maintained, the analysis required in the Reliability Standard that uses the models in Requirement R1 may lose their validity and could directly cause or contribute to Bulk-Power System instability, separation, or a cascading sequence of failures, or could place the Bulk-Power System at an unacceptable risk of instability, separation, or cascading, or hinder restoration to a normal condition.[43] The Commission noted that Requirement R1 of the Version 0 TPL Standard, which is assigned a ''high'' VRF, explicitly establishes Category A as the normal system in Table 1, which also creates the model of the normal system prior to any contingency and stated its belief that Requirement R1 of the proposed Reliability Standard and Requirement 1 of currently-effective standard both establish the normal system planning model that serves as the foundation for all other conditions and contingencies that are required to be studied and evaluated in a planning assessment. In the NOPR, the Commission sought comment on why Requirement R1 of proposed Reliability Standard carries a VRF of ''medium'' while Requirement R1 of the currently-effective standard carries a VRF of ''high.''

Comments

48. NERC states that Requirement R1 of the currently-effective standard directly relates to Requirement R2 of the proposed standard, which has a High VRF. NERC states that Requirement R1 of the proposed standard is a new requirement that addresses the models needed for planning assessments and therefore can have a different VRF. NERC states that while the accuracy of the transmission system model plays a key role in the TPL Reliability Standards, it is ''a model, an approximation constructed and built with multiple entity inputs within a controlled process (e.g., Multiregional Model Working Group).'' [44] NERC states the base model in proposed Requirement R1 must be modified by adjusting load forecasts and generation dispatch to better assess the range of probable outcomes that the transmission system may experience for various contingency scenarios.

49. ISO/RTOs state that proposed Requirement R1 relates to model maintenance, a necessary condition to being able to perform an assessment, which is a different matter from the current Requirement R1. According to ISO/RTOs Requirement R1 of the currently-effective standard, relating to performing an assessment, corresponds to Requirement R2 of the proposed standard, both of which carry a VRF of ''high.''

50. EEI does not believe that proposed Requirement R1 aligns with Requirement R1 of the currently-effective standard. According to EEI, however, Requirement R1 does obligate ''Transmission Planners and Planning Coordinators to maintain system models within their respective area for performing studies needed to complete its Planning Assessments.'' [45] EEI further notes that these studies establish a baseline (Category P0) by which all other studies are based. EEI advocates that, if this requirement is not adhered to, faulty studies could result, possibly leading to misoperation of the system. For this reason, EEI believes the VRF was improperly categorized as a medium risk VRF and suggests consideration be given to increasing the VRF to ''high.''

Commission Determination

51. We direct NERC to modify Reliability Standard TPL–001–4, Requirement R1 and change its VRF from medium to high. As discussed in the April 2012 NOPR, Requirement R1 establishes the normal system planning model that serves as the foundation for all other conditions and contingencies that are required to be studied and evaluated in a planning assessment. The Commission agrees with EEI that if the baseline studies established in Requirement R1 are not adhered to, faulty studies could result, possibly leading to misoperation of the system.

52. The Commission is not persuaded by NERC's argument that Reliability Standard TPL–001–4, Requirement R1 warrants a medium VRF because the base model in Requirement R1 must be modified by adjusting load forecasts and generation dispatch for various contingency scenarios. Rather, the Commission finds that Requirement R1 and its sub-parts require system models to represent projected system conditions including items such as resources required for load, and real and reactive load forecasts, all of which ''establishes Category P0 as the normal condition in Table 1.'' [46] Although the Commission agrees with NERC that the accuracy of the system model plays a key role in the TPL Reliability Standards and that a system model is ''a model, an approximation constructed and built with multiple entity inputs within a controlled process,'' the Commission finds that the system model of Requirement R1 establishes a baseline (Category P0) for which all other studies are based and if not adhered to, faulty studies could result, possibly leading to misoperation of the system.

53. Further, the Commission disagrees with ISO/RTOs that proposed Requirement R1 is a different matter from the current Requirement R1. The Commission stated in the April 2012 NOPR that Requirement R1 of the Version 0 TPL Standard, which is assigned a ''high'' VRF, explicitly establishes Category A as the normal system in Table 1 that serves as the foundation for all other conditions and contingencies that are required to be studied and evaluated in a planning assessment. Accordingly, the Commission believes that TPL–001–4, Requirement R1 similarly establishes

[42] NERC October 2011 Petition at Exhibit C, Table 1.

[43] April 2012 NOPR, 139 FERC ¶ 61,059 at P 21.

[44] NERC Comments at 8.

[45] EEI Comments at 5.

[46] NERC's February 2013 Petition, Exhibit A, TPL–001–4, Requirement R1.

Category P0 as the normal system in Table 1 that serves as the foundation for all other conditions and contingencies that are required to be studied and evaluated in a planning assessment. For these reasons, the Commission directs NERC to modify the VRF assigned to Requirement R1 from medium to high.

b. VRF for Requirement R6

NERC Petition

54. NERC proposed to assign a ''low'' VRF for Requirement R6 [47] because ''failure to have established criteria for determining System instability is an administrative requirement affecting a planning time frame.'' [48] NERC explains that Requirement R6 is a new requirement and that violations would not be expected to adversely affect the electrical state or capability of the bulk electric system.

NOPR Proposal

55. In the NOPR, the Commission recognized that documenting criteria or methodology is an administrative act but stated that defining the criteria or methodology to be used is not an administrative act. The Commission sought clarification why the VRF level assigned to Requirement R6 is ''low'' since it appears that Requirement R6 requires more than a purely administrative task.

Comments

56. NERC agrees that proposed TPL–001–2 Requirement R6 is not strictly an administrative task, and therefore the VRF should be adjusted to medium. In its February 28, 2013 Petition, NERC revised the VRF for Reliability Standard TPL–001–4, Requirement R6 from low to medium.

57. EEI and ISO/RTOs contend that Requirement R6 was correctly assigned a ''low'' VRF because ''defining and documenting'' is an administrative task. According to EEI, the fact that the planner poorly documented the criteria and methodology does not mean that their assessment was not conducted appropriately or that it placed the bulk electric system at risk.

Commission Determination

58. The Commission agrees with NERC that TPL–001–4, Requirement R6 is not strictly an administrative task and approves the change from a low VRF to a medium VRF. The Commission disagrees with commenters that TPL–001–4 Reliability Standard, Requirement R6 is purely an administrative task of documentation of criteria and methodologies. Requirement R6 goes beyond documentation by requiring planners to apply engineering judgment and analysis to ''define…the criteria or methodology used in the analysis to identify system instability for conditions such as cascading, voltage instability or uncontrolled islanding.'' [49]

3. Protection System Failures versus Relay Failures

NERC Petition

59. NERC's proposal includes modifications to the planning contingency categories in Table 1. NERC explains that the modifications are intended to add clarity and consistency regarding the modeling of a delayed fault clearing in a planning study. NERC stated that the basic elements of any protection system design involve inputs to protective relays and outputs from protective relays and that reliability issues associated with improper clearing of a fault on the bulk electric system can result from the failure of hundreds of individual protection system components in a substation. According to NERC, while the population of components that could fail and result in improper clearing is large, the population can be reduced dramatically by eliminating those components which share failure modes with other components. NERC stated that the critical components in protection systems are the protective relays themselves, and a failure of a non-redundant protective relay will often result in undesired consequences during a fault. According to NERC, other protection system components related to the protective relay could fail and lead to a bulk electric system issue, but the event that would be studied is identical, from both transient and steady state perspectives, to the event resulting from a protective relay failure if an adequate population of protective relays is considered.[50]

NOPR Proposal

60. In the April 2012 NOPR, the Commission expressed that, based on various protection system designs, the planner will have to choose which protection system component failure would have the most significant impact on the Bulk-Power System because as-built designs are not standardized and the most critical component failure may not always be the relay.[51] The Commission sought comment on whether the proposed provisions pertaining to study of multiple contingencies limits the planners' assessment of a protection system failure because the proposed provisions only include the contingency of a faulty relay component. The Commission also sought comment on whether the relay is always the larger contingency and how the loss of protection system components that is integral to multiple protection systems impacts reliability.

Comments

61. NERC states that the proposed Reliability Standard addresses the existing ambiguity requiring a study of a stuck breaker or protection system failure by specifying that both a stuck breaker and protection system failure must be evaluated. NERC states that its solution ensures that simulations of both categories are performed, reducing the probability of multiple contingency events leading to cascading and uncontrolled islanding. Similarly, Hydro One and EEI contend that a planner does not need to choose which protection system component failure would have the most significant impact on the Bulk-Power System in the planning assessment. According to Hydro One, the contingencies stipulated in Table 1, P5 of the proposed TPL Standard are appropriate for the conditions and events to be assessed in the P5 groups which focus on the combination of a single line to ground fault coupled with delayed clearing that may be caused by a protection system failing to open to clear the fault. Hydro One also states that what causes the protection system to fail is irrelevant in the context of delayed clearing by the backup protection system to clear the fault. EEI expresses concern that expanding planning studies to include all manner of protection system failures could create a scenario where planners would have to conduct unlimited and unbounded studies.';

62. In contrast, MISO agrees with the NOPR that the more severe or larger contingency may not be assessed because the proposed Reliability Standard limits the planners' assessment of a protection system failure since it only includes the contingency of a faulty relay component. MISO suggests expanding the assessment of relay failures to

[47] NERC's February 2013 Petition, Exhibit A, TPL–001–4, Requirement R6 states ''[e]ach Transmission Planner and Planning Coordinator shall define and document, within their Planning Assessment, the criteria or methodology used in the analysis to identify System instability for conditions such as Cascading, voltage instability, or uncontrolled islanding.''

[48] NERC's October 2011 Petition, Exhibit C, at 110.

[49] Proposed TPL–001–4 Reliability Standard, Requirement R6.

[50] NERC's October 2011 Petition at 48.

[51] April 2012 NOPR, 139 FERC ¶ 61,059 at P 31.

include all components of a protection system, including instrument transformers, protective relays, auxiliary relays and communications systems.

63. With regard to the Commission's question whether, based on protection system as-built designs, the relay may not always be the larger contingency, NERC states that the proposed Table 1, category P5 (fault plus relay failure to operate) planning event requires evaluation of the failure of the protection system relays whose failure is most likely to cause cascading or uncontrolled islanding of the bulk electric system.

64. Hydro One recognizes that a number of components necessary to operate properly may fail to render a protection system failing to operate when needed, and that such component failures may result in disabling more than one protective relay and the impact of multiple relay failures may be more severe than the SLG fault on a bulk electric system facility with delayed clearing. According to Hydro One, the more severe consequences of an initial bulk electric system facility contingency combined with multiple or more severe protection system failures would more appropriately be considered or included in the extreme events category.

65. ISO/RTOs agree that the range of potential assessments should be expanded to include all components of a protection system including instrument transformers, protective relays, auxiliary relays and communications systems for the purpose of category P–5 contingencies, but because these devices are often in series, consideration of all of these components will not necessarily have any significant impact on analyses.

66. With regard to the question of how does the loss of a protection system component integral to multiple protection systems impact reliability, NERC states that the loss of a relay that is integral to multiple protection systems would require simulation of the full impact of that relay's failure on the system for the event being studied under the category P5 planning event. With respect to whether there is a reliability concern regarding single points of failure on protection systems, NERC indicates that it has a project underway to assess that question.[52]

67. Hydro One views the avoidance of having single component failure affecting more than one protection system as a protection system design issue. Hydro One states that some regional reliability organizations have in place criteria to ensure protection systems operate properly and to avoid failure of a single component affecting multiple protection systems.

Commission Determination

68. The Commission agrees with NERC's statement that Reliability Standard-TPL–001–4 addresses the existing ambiguity of the currently-effective TPL Reliability Standards requiring a study of a stuck breaker or protection system failure. We find that Reliability Standard TPL–001–4, specifying that both a stuck breaker and a relay failure must be evaluated, is reasonable to remove the ambiguity. Further, as explained by NERC, the loss of a relay that is integral to multiple protection systems would require simulation of the full impact of that relay's failure on the system for the event being studied under the category P5 planning event. In addition, Reliability Standard TPL–001–4 requires study and evaluation of both a stuck breaker (Table 1, Category P4) and a relay failure (Table 1, Category P5) and that simulations of both categories reduce the probability of multiple contingency events leading to cascading, instability or uncontrolled islanding.

69. The Commission does not find the need to take any further action with regard to this issue. We note, however, that an assessment of a relay component failure may not necessarily assess the more severe or larger contingency, compared to a protection system failure under the currently-effective TPL Standards. Based on various protection system as-built designs, NERC has indicated that the planner should use ''engineering judgment in its selection of the protection system component failures for evaluation that would produce the more severe system results or impact. . . . The evaluation would include addressing all protection systems affected by the selected component. A protection system component failure that impacts one or more protection systems and increases the total fault clearing time requires the [planner] to simulate the full impact (clearing time and facilities removed) on the Bulk Electric System performance.'' [53] However, the Commission will not direct NERC to modify the standard at this time, pending completion of NERC's work on single points of failure on protection systems.[54]

4. Assessment of Backup or Redundant Protection Systems NOPR Proposal

70. Requirement R3, Part 3.3.1 and Requirement R4, Part 4.3.1 of Reliability Standard TPL–001–4 require that simulations duplicate what will happen in an actual power system based on the expected performance of the protection systems.[55] According to NERC, these requirements ensure that, for a protection system designed ''to remove multiple Elements from service for an event that the simulation will be run with all of those Elements removed from service.'' [56] In the NOPR, the Commission observed that these provisions do not explicitly refer to ''backup or redundant systems'' as in the currently-effective Reliability Standards and sought clarification whether the proposal includes backup and redundant protection systems.

Comments

71. NERC clarifies that proposed Requirement R3, Part 3.3.1 and Requirement R4, Part 4.3.1 ''require the consideration of all protection systems that are relevant to the contingency studied,'' which includes ''backup and redundant systems.'' [57] EEI believes that the language is sufficiently clear to ensure a common understanding that backup and redundant protection system impacts needed to be studied regardless of whether the specific words as found in the currently active standard were used. ISO/RTOs and MISO believe that if a protection system is not fully redundant, contingencies should be studied to simulate both delayed clearing and operation of remote backup protection to trip additional facilities when required. MISO states that if a protection system is fully redundant, that is, if a single failure of any component in the protection system (other than monitored DC voltage) would not result in delayed or failed tripping it should not be necessary to analyze the redundant protection system failure.

Commission Determination

72. The Commission agrees with NERC and finds that Requirement R3, Part 3.3.1 and Requirement R4, Part 4.3.1 include the assessments of backup protection systems. The Commission

[52] NERC Comments at 10.

[53] NERC Petition For The Approval of An Interpretation to Reliability Standards TPL–003–0a and TPL–004–0, April 12, 2013 at 13, Docket No. RD13–8–000, approved by unpublished letter order June 20, 3013.

[54] March 15, 2012 NERC Informational Filing in Docket No. RM10–6–000 at 5, 7, stating that NERC has initiated a data request to evaluate potential exposure to types of protection system failures.

[55] NERC's October 2011 Petition at 20.

[56] *Id.*

[57] NERC Comments at 11.

agrees with ISOs/RTOs and MISO that if a primary protection system has a fully redundant backup protection system, assessments of the primary protection system is required, but not of the fully redundant backup protection system since the assessment results will be identical. Further, we agree that if a protection system is not fully redundant, contingencies are studied to simulate both delayed clearing and operation of remote backup protection which may trip additional facilities when required.

P5 Single Line to Ground Faults

NOPR Proposal

73. In the April 2012 NOPR, the Commission sought clarification whether ''fault types'' in Table 1 refers to the initiating event.[58]

Comments

74. NERC, EEI, BPA and ISO/RTOs all concur that ''fault types'' refer to the initiating fault to be studied, not to what the fault may evolve into as a result of the simulated conditions. According to NERC, the possibility of a single-line-to-ground fault evolving into a three-phase fault is addressed by requiring the study of a three-phase fault as the initial fault.

Commission Determination'

75. The Commission finds that the explanation of NERC and others, i.e., ''fault types'' in Reliability Standard TPL–001–4, Table 1—Steady State & Stability Performance Planning Events means the type of fault that initiated the event, is reasonable. For example, if the initiating fault type is a single-line-to-ground fault and it evolves into a three-phase fault, the single-line-to-ground fault is still evaluated as the initiating fault type. If a three-phase fault occurs as the initiating event, the fault is assessed as a three phase fault. Regardless of what the initiating fault type becomes, it does not change the initiating fault type.

6. Order No. 693 Directives

76. In the April 2012 NOPR, the Commission indicated that the Version 4 TPL Standard appeared responsive to the Order No. 693 directives regarding the TPL Reliability Standards. However, the Commission sought clarification and comment on the following issues: (a) Peer review of planning assessments, (b) spare equipment strategy, (c) range of extreme events, (d) footnote 'a' and (e) controlled load interruption, dynamic load models and proxies to simulate cascade.[59]

77. The Commission is satisfied and agrees with the comments submitted by NERC, EEI and ISO/RTO on issues regarding controlled load interruption (i.e., third parties must have the same non-consequential load loss options as available to the planner), dynamic load models (i.e., documentation of dynamic load models used in system studies and the supporting rationale for their use is required) and proxies to simulate cascade (i.e., planners must define and document their criteria or methodology including proxies that are used in planning assessments due to modeling and simulation limitations). Below, we address in greater detail the comments on peer review of planning assessments, spare equipment strategy, range of extreme events, and footnote 'a.'

a. Peer Review of Planning Assessments

NOPR Proposal

78. The Commission stated in Order No. 693 that, because neighboring systems may adversely impact one another, such systems should be involved in determining and reviewing system conditions and contingencies to be assessed under the currently-effective TPL Reliability Standards.[60] In its petition, NERC stated the proposed Reliability Standard does not include a ''peer review'' of planning assessments but instead includes an equally effective and efficient manner to provide for the appropriate sharing of information with neighboring systems in proposed Requirement R3, Part 3.4.1, Requirement R4, Part 4.4.1, and Requirement R8.[61]

79. In the April 2012 NOPR, the Commission sought clarification on how the NERC proposal ensures the early input of peers into the planning assessments or any type of coordination among peers will occur. The Commission also sought comment on whether and how neighboring systems can sufficiently evaluate and provide feedback to the planners on the development and result of assessments and whether it requires input on the comments to be included in the results or the development of the planning assessments.

Comments

80. NERC and EEI state that, prior to sharing planning assessment results in Requirement R8, Requirement R3, Part 3.4.1 and Requirement R4, Part 4.4.1 require planners to coordinate with adjacent planners to develop contingency lists for steady state and stability analysis. EEI states it is most beneficial to planners if coordination occurs earlier in the planning assessment process.

81. NERC and EEI also explain that Requirements R2 through R6 provide adjacent entities sufficient information on how the assessment was performed and expected system performance to effectively evaluate the assessment results and to provide feedback. Further, Requirement R8 requires that each planner must distribute its planning assessment results to adjacent planners within 90 calendar days of completing its assessment.

82. 1BPA states that, while adjacent planners and coordinators should have a stake in the results of an affected planning assessment, they should not be allowed to second guess the transmission planner's or planning coordinator's studies and methodologies. BPA adds that it is important for adjacent planners to have input on how other planning assessments will affect them, and the proposed Reliability Standards allows such input.

Commission Determination

83. The Commission agrees with NERC and EEI that coordination of contingency lists with adjacent planners under TPL–001–4 Reliability Standard, Requirement R3, Part 3.4.1 and Requirement R4, Part 4.4.1 ensures that contingencies on adjacent systems that impact other systems are developed and included in the planners' steady state and stability analysis planning assessments.[62] Coordination of contingency lists provides one aspect of early coordination among planners.

84. We are satisfied with the explanation of NERC and EEI that TPL–001–4 Reliability Standard, Requirement R8 allows planners to coordinate and distribute conditions to adjacent planners as part of their planning assessment and to provide feedback to other planners. While we also agree with BPA that adjacent planners should be informed of and have a stake in the results of another planner's assessment, we disagree with BPA's characterization that a planner ''should not be allowed to second guess'' another planner's studies or

[58] April 2012 NOPR, 139 FERC ¶ 61,059 at P 38.

[59] April 2012 NOPR, 139 FERC ¶ 61,059 at PP 39–54.

[60] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1750.

[61] NERC's October 2011 Petition at 21.

[62] Because neighboring systems may be adversely impacted by other systems, such systems should be involved early in determining and reviewing conditions and contingencies in planning assessments. Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 1750, 1754.

methodologies. Rather, early peer input in the planning assessments and coordination among peers to identify possible interdependent or adverse impacts on neighboring systems are essential to the reliable operation of the bulk electric system.[63]

Spare Equipment Strategy

NOPR Proposal

85. In Order No. 693, the Commission directed NERC to develop a modification ''to require assessments of outages of critical long lead-time equipment, consistent with the entity's spare equipment strategy.'' [64] In response, NERC developed proposed Requirement 2, Part 2.1.5 which addresses steady state conditions to determine system response when equipment is unavailable for prolonged periods of time.

86. In the NOPR, the Commission raised the concern that the proposed spare equipment strategy appears to be limited to ''steady state analysis'' and sought clarification why ''stability analysis'' conditions are not mentioned.

Comments

87. NERC, ISOs/RTOs, and EEI comment that the burden of additional stability analyses would not provide significant reliability benefits because stability analysis already required under ''category P6'' will produce more definitive tests of longer-term equipment unavailability. They also claim that any potential stability impacts related to an entity's spare equipment strategy will be observed in the normal planning process driven by other requirements.

Commission Determination

88. The Commission agrees that NERC has met the spare equipment strategy directive for steady state analysis under Reliability Standard TPL–001–4, Requirement R2, Part 2.1.5. However, the Commission finds that a spare equipment strategy for stability analysis is not addressed under category P6.

89. The spare equipment strategy for steady state analysis under Reliability Standard TPL–001–4, Requirement R2, Part 2.1.5 requires that steady state studies be performed for the P0, P1 and P2 categories identified in Table 1 with the conditions that the system is expected to experience during the possible unavailability of the long lead time equipment. The Commission believes that a similar spare equipment strategy for stability analysis should exist that requires studies to be performed for P0, P1 and P2 categories with the conditions that the system is expected to experience during the possible unavailability of the long lead time equipment. Further, we are not persuaded by the explanation of NERC and others that a similar spare equipment strategy for stability analysis would cause unjustified burden because stability analysis is already required under category P6. The Commission notes that the category P2 contingencies studied under the spare equipment strategy for steady state analysis are different than the contingencies studied under category P6. For example, under the spare equipment strategy for steady state, a planner would study a long lead-time piece of equipment out of service (e.g., a transformer) along with a bus section fault contingency (i.e., category P2, event 2). The study of this same condition for stability analysis under category P6 is not addressed. However, the Commission will not direct a change and instead directs NERC to consider a similar spare equipment strategy for stability analysis upon the next review cycle of Reliability Standard TPL–001–4.

C. Range of Extreme Events

NOPR Proposal

90. In Order No. 693, the Commission directed NERC to modify the Version 0 Reliability Standard, TPL–004–0, to require that, in determining the range of the extreme events to be assessed, the contingency list of category D would be expanded to include recent events such as hurricanes and ice storms.[65] In the April 2012 NOPR, the Commission indicated that, while the proposed Version 4 TPL Standard appropriately expands the list of extreme event examples in Table 1, the list limits these items to the loss of two generating stations under Item No. 3a. The Commission sought clarification on conditioning extreme events on the loss of two generating stations.[66] The Commission also sought clarification regarding whether the ''two generation stations'' limitation would adequately capture a scenario where an extreme event can impact more than two generation stations.

Comments

91. NERC asserts that it addressed the Order No. 693 directive to expand the range of events considered in the planning assessment by adding a new category ''wide area events'' as extreme events. NERC contends that it is raising the bar concerning extreme events by requiring the planners to evaluate the loss of two generating stations for a wide range of external events that could cause the loss of all generating units at two generating stations. NERC adds that extreme events in item 3b of Table 1 means that the planner will consider even more extreme events (i.e., the loss of more facilities than the loss of two generating stations) based upon operating experience and knowledge of its system.

92. EEI agrees with the Commission that there are conditions that provide far more serious impacts to the grid than that which is described in item 3a of Table 1 of the proposed standard. However, those conditions are largely area specific thereby making it impossible to describe or address all possibilities in a Standard. EEI, therefore, supports NERC's approach which obligates planners to consider, as stated in Item 3b, ''[o]ther events based upon operating experience that may result in wide area disturbances.'' EEI believes that Table 1, Item No. 3b provides the necessary backstop to ensure that extreme events are fully captured from a planning standpoint.[67]

Commission Determination

93. The Commission is satisfied with the explanation of NERC and EEI that Table 1, item No. 3b provides the necessary backstop to ensure that extreme events are fully captured from a planning standpoint including extreme events that can impact more than two generating stations and that a planner will consider even more extreme events based on operating experience and knowledge of its system.

d. Footnote 'a'

NOPR Proposal

94. In Order No. 693, the Commission directed NERC to modify footnote 'a' of Table 1 with regard to ''applicability of emergency ratings and consistency of normal ratings and voltages with values obtained from other reliability standards.'' [68] In its petition, NERC noted that proposed Table 1, header note 'e,' which provides that planned system adjustments must be executable

[63] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1754: ''Given that neighboring systems assessments by one entity may identify possible interdependant or adverse impacts on its neighboring systems, this peer review will provide an early opportunity to provide input and coordinate plans.''

[64] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1786.

[65] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1834.

[66] April 2012 NOPR, 139 FERC ¶ 61,059 at P 48.

[67] EEI Comments at 14–15.

[68] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1770.

within the time duration applicable to facility ratings. Further, according to NERC, header note 'f,' which states applicable facility ratings shall not be exceeded, meets the Order No. 693 directive pertaining to footnote 'a' in the current standard.

95. In the NOPR the Commission observed that the proposed standard applies header note 'e' to ''Steady State and Stability,'' while header note 'f' is excluded from ''Stability'' and only applies to ''Steady State'' studies. Accordingly, the Commission sought clarification regarding the rationale for excluding header note 'f' from ''Stability'' studies. In addition, for Table 1, header notes 'e' and 'f,' the Commission sought comment on whether the normal facility ratings align with Reliability Standard FAC–008–1 and normal voltage ratings align with Reliability Standard VAR–001–1. Furthermore, the Commission sought clarification whether facility ratings used in planning assessments align with other reliability standards such as Reliability Standards NUC–001–2, BAL–001–0.1a and the PRC Reliability Standards for UFLS and UVLS.

Comments

96. NERC states that it excluded header note 'f' from stability studies because facility ratings are defined for a finite period which may be between a few minutes and several hours, or longer. According to NERC, in stability studies the analysis is conducted over a few seconds and because facility ratings are established based on the overheating of elements, the few seconds in the stability timeframe is not significant to the overheating of elements.[69]

97. ISO/RTO states that the observation of facility trip ratings (i.e., relay trip ratings) are valid in the stability simulation time frame, and should be considered if associated protective relay schemes are sensitive to power swings (e.g., impedance relays with no out-of step trip blocking for stable swings, etc.). Further, ISO/RTO believes that there is no reason to include a requirement to observe thermal facility ratings in stability studies, but also believes that facility trip ratings should be observed in stability studies.

98. NERC and EEI also explain that the values used for facility ratings within transmission planning models are developed in accordance with standard FAC–008–1 ''Facility Ratings Methodology'' and communicated to other functional entities as required by FAC–009–1 ''Establish and Communicate Facility Ratings.''

99. In response to the Commission's request for clarification whether facility ratings used in planning assessments align with other Reliability Standards, commenters generally stated that facility ratings used in the TPL standard are consistent throughout the NERC standards. Further, commenters stated that Reliability Standard VAR–001–2 is not a ratings standard but an operational (real-time) standard to ensure voltage levels, reactive flows and reactive resources are monitored, controlled and maintained within the limits of the equipment.[70]

Commission Determination

100. The Commission is satisfied with commenters' explanation and agrees that it is not necessary to include a requirement to observe thermal facility ratings in stability studies. The Commission agrees with ISO/RTO that facility trip ratings (i.e., relay trip ratings) are valid ratings in the stability simulation time frame, and should be considered in the planning assessment if associated protective relay schemes are sensitive to power swings (e.g., impedance relays with no out-of step trip blocking for stable swings). Further, the Commission accepts the explanation of NERC and others that facility ratings used in planning assessments are determined in accordance with Reliability Standard FAC–008–3,[71] which states that a ''Facility Rating shall respect the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.''

C. Other Matters Raised by Commenters

101. Powerex states that additional clarification is needed with respect to Footnote 9 to Table 1 in order to provide clarity and ensure consistent interpretation as to when transmission planners may plan to curtail firm transmission service. Powerex is concerned that the revised TPL Standard may provide transmission planners with broad discretion to plan for the curtailment of firm transmission service without providing purchase-selling entities with the notice and certainty they need to make appropriate alternate arrangements. Powerex believes that the phrase in footnote 9 ''resources obligated to re-dispatch'' should be clarified as referring to a formal agreement between the transmission provider and a generation owner, located on the load side of a transmission constraint, to resupply the load that had been receiving energy from a remote source before the firm transmission service was curtailed.

Commission Determination

102. We will not direct NERC to modify footnote 9. We find NERC's explanation satisfactory that ''the planner must be able to show that the curtailment is supported by a valid re-dispatch of generation that would be 'obligated to redispatch' . . . [t]herefore, the planner cannot simply re-dispatch units outside the area of control for the transmission system for which it is reviewing—the re-dispatch must be valid and realistic.'' [72]

III. Information Collection Statement

103. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[73] Upon approval of a collection(s) of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

104. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of Paperwork Reduction Act of 1995. The Commission solicited comments on the need for and the purpose of the information contained in Reliability Standard TPL–001–4 and the corresponding burden to implement the Reliability Standard. The Commission received comments on specific requirements in the Reliability Standard, which we address in this Final Rule. However, the Commission did not receive any comments on our reporting burden estimates. The Final Rule approves Reliability Standard TPL–001–4.

105. *Public Reporting Burden:* The burden and cost estimates below are based on the increase in the reporting and recordkeeping burden imposed by the proposed Reliability Standards. Our estimates are based on the NERC Compliance Registry as of February 28, 2013, which indicate that NERC has

[69] *See also* BPA Comments at 5, EEI Comments at 15 and ISO/RTOs Comments at 11.

[70] *See* NERC Comments at 16 and EEI Comments at 15.

[71] In ''Order Approving Reliability Standard'' issued November 17, 2011 (Docket No. RD11–10–000), the Commission approved FAC–008–3 Reliability Standard and the retirement of FAC–008–1 and FAC–009–1 Reliability Standards.

[72] NERC Petition, Consideration of Comments on Assess Transmission Future Needs and Develop Transmission Plans—Project 2006–02, draft 6, pp. 78–79.

[73] 5 CFR 1320.11.

registered 183 transmission planners and planning coordinators.

Improved requirement[74]	Year	Number and type of entity[75] (1)	Number of annual responses per entity (2)	Average number of paperwork hours per response (3)	Total burden hours (1)*(2)*(3)
Identification of Joint Responsibilities and System Modeling Enhancements[76].	Year 1	183 Transmission Planners and Planning Coordinators.	1 response	9 (5 engineer hours and 4 record keeping hours).	1,647
	Year 2 and Year 3	183 Transmission Planners and Planning Coordinators.	1 response	5 (3 engineer hours and 2 record keeping hours).	915
New Assessments, Simulations, Studies, Modeling Enhancements and associated Documentation[77].	Year 2	183 Transmission Planners and Planning Coordinators.	1 response	145 (84 engineer hours, 61 record keeping hours).	26,535
	Year 3	183 Transmission Planners and Planning Coordinators.	1 response	84 (45 engineer hours, 39 record keeping hours).	15,372
Attachment 1 stakeholder process.	Year 3	1 Transmission Planner and Planning Coordinator.	12 responses to Attachment 1, sections I and II.	63 (40 engineer hours, 17 record keeping hours, 6 legal hours).	756
	Year 3	1 Transmission Planner and Planning Coordinator.	4 responses to Attachment 1, Sections I, II, and III.	68 (40 engineer hours, 20 record keeping hours, 8 legal hours).	272

Costs To Comply With Paperwork Requirements

- Year 1: $77,592.
- Year 2: $1,312,659.
- Year 3 and ongoing: $820,149.

106. Year 1 costs include the implementation of those improved requirements that become effective on the first day of the first calendar quarter, 12 months after applicable regulatory approval, which include requirements such as coordination between entities and incremental system modeling enhancements. Year 2 costs include a portion of year 1 reoccurring costs plus the implementation of the remaining improved requirements that become effective on the first day of the first calendar quarter, 24 months after applicable regulatory approval, which include requirements such as sensitivity studies for steady state and stability analysis, implementation of a spare equipment strategy, short circuit studies, an expansion of contingencies and extreme events, and all associated system modeling enhancements and documentation. Year 3 costs include a portion of year 2 reoccurring costs plus an estimated cost for Attachment 1 stakeholder process, if needed.

107. For the burden categories above, the loaded (salary plus benefits) costs are: $60/hour for an engineer; $31/hour for recordkeeping; and $128/hour for legal.[78] The estimated breakdown of annual cost is as follows:

- Year 1
  - Identification of Joint Responsibilities and System Modeling Enhancements: 183 entities * [(5 hours/response * $60/hour) + (4 hours/response * $31/hour)] = $77,592.
- Year 2
  - Identification of Joint Responsibilities and System Modeling Enhancements: 183 entities * [(3 hours/response * $60/hour) + (2 hours/response * $31/hour)] = $44,286.
  - New Assessments, Simulations, Studies, Modeling Enhancements and associated Documentation: 183 entities * [(84 hours/response * $60/hour) + (61 hours/response * $31/hour)] = $1,268,373.
- Year 3
  - Identification of Joint Responsibilities and System Modeling Enhancements: 183 entities * [(3 hours/response * $60/hour) + (2 hours/response * $31/hour)] = $44,286.
  - New Assessments, Simulations, Studies, Modeling Enhancements and associated Documentation: 183 entities * [(45 hours/response * $60/hour) + (39 hours/response * $31/hour)] = $715,347.
  - Implementation of footnote 12 and the stakeholder process: {12 responses * [(40 hours/response * $60/hour) + (17 hours/response * $31/hour) + (6 hours/response * $128/hour)]} + {4 responses * [(40 hours/response * $60/hr) + (20 hours/response * $31/hour) + (8 hours/response * $128/hour)]} = $60,516.

Title: 725N, Mandatory Reliability Standards: Reliability Standard TPL–001–4.[79]

[74] Each requirement identifies a reliability improvement by proposed Reliability Standard TPL–001–4.

[75] NERC registered transmission planners and planning coordinators responsible for the improved requirement. Further, if a single entity is registered as both a transmission planner and planning coordinator, that entity is counted as one unique entity.

[76] The Commission estimates a reduction in burden hours from year 1 to year 2 because year 1 represents a portion of one-time tasks not repeated in subsequent years.

[77] The Commission estimates a reduction in burden hours from year 2 to year 3 because year 2 represents a portion of one-time tasks not repeated in subsequent years.

[78] Labor rates from Bureau of Labor Statistics (BLS) (*http://bls.gov/oes/current/naics2_22.htm*). Loaded costs are BLS rates divided by 0.703 and rounded to the nearest dollar (*http://www.bls.gov/news.release/ecec.nr0.htm*).

[79] The Supplemental NOPR used the identifier FERC–725A (OMB Control No. 1902–0244). However, for administrative purposes and to submit the information collection requirements to OMB timely, the requirements were labeled FERC–725N (OMB Control No. 1902–0264) in the submittal to OMB associated with the NOPR. We are using

Action: Proposed Collection FERC–725N.

OMB Control No: 1902–0264.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: Annually and one-time.

Necessity of the Information: The approved Reliability Standard TPL–001–4 implements the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the Reliability Standard ensures that planning coordinators and transmission planners establish transmission system planning performance requirements within the planning horizon to develop a bulk electric system that will operate reliability and meet specified performance requirements over a broad spectrum of system conditions to meet present and future system needs.

Internal review: The Commission has reviewed the revised Reliability Standard TPL–001–4 and made a determination that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: 202–502–8663, fax: 202–273–0873]. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: 202–395–4638, fax: 202–395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov*. Comments submitted to OMB should include FERC–725N and Docket Nos. RM12–1–000 and RM13–9–000.

IV. Environmental Analysis

108. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[80] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[81] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Analysis

109. The Regulatory Flexibility Act of 1980 (RFA)[82] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[83] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[84]

110. As discussed above, Reliability Standard TPL–001–4 would apply to 183 transmission planners and planning coordinators identified in the NERC Compliance Registry. Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that, of the 183 registered transmission planners and planning coordinators registered by NERC, 41 may qualify as small entities.

111. The Commission estimates that, on average, each of the 41 small entities affected will have an estimated cost of $1,324 in Year 1, $16,953 in Year 2[85] and $11,471 in Year 3 (without Attachment 1). In addition, based on the results of NERC's data request approximately 10 percent of all registered transmission planners and planning coordinators used planned non-consequential load loss under the currently-effective TPL Reliability Standards. The Commission estimates that approximately 4 of the 41 small entities would use the stakeholder process set forth in Attachment 1. The total estimated cost per response for each of these 4 small entities in Year 3 is approximately $19,500 if Attachment 1, sections I and II are used, or $20,000 if Attachment 1, sections I, II and III are used. These figures are based on information collection costs plus additional costs for compliance. Based on this estimate, the Commission certifies that Reliability Standard TPL–001–4 will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Document Availability

112. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

113. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

114. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

115. These regulations are effective December 23, 2013. The Commission has determined that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

FERC–725N in this Final Rule and in the associated submittal to OMB.

[80] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[81] 18 CFR 380.4(a)(2)(ii).

[82] 5 U.S.C. 601–12.

[83] 13 CFR 121.101.

[84] 13 CFR 121.201, Sector 22, Utilities & n.1.

[85] The increase in Year 2 costs include a portion of year 1 recurring costs plus the implementation of the remaining improved requirements that become effective on the first day of the first calendar quarter, 24 months after applicable regulatory approval.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24828 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, and 178

[USCBP–2013–0040; CBP Dec. 13–17]

RIN 1515–AD93

United States-Panama Trade Promotion Agreement

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This rule amends the U.S. Customs and Border Protection (CBP) regulations on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the United States-Panama Trade Promotion Agreement entered into by the United States and the Republic of Panama.

DATES: Interim rule effective October 23, 2013; comments must be received by December 23, 2013.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2013–0040.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT:

Textile Operational Aspects: Diane Liberta, Textile Operations Branch, Office of International Trade, (202) 863–6241.

Other Operational Aspects: Katrina Chang, Trade Policy and Programs, Office of International Trade, (202) 863–6532.

Legal Aspects: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325–0041.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in developing these regulations will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

On June 28, 2007, the United States and the Republic of Panama (the ''Parties'') signed the United States-Panama Trade Promotion Agreement (''PANTPA'' or ''Agreement'').

On October 21, 2011, the President signed into law the United States-Panama Trade Promotion Agreement Implementation Act (the ''Act''), Public Law 112–43, 125 Stat. 497 (19 U.S.C. 3805 note), which approved and made statutory changes to implement the PANTPA. Section 103 of the Act requires that regulations be prescribed as necessary to implement the provisions of the PANTPA.

On October 29, 2012, the President signed Proclamation 8894 to implement the PANTPA. The Proclamation, which was published in the **Federal Register** on November 5, 2012, (77 FR 66507), modified the Harmonized Tariff Schedule of the United States (''HTSUS'') as set forth in Annexes I and II of Publication 4349 of the U.S. International Trade Commission. The modifications to the HTSUS included the addition of new General Note 35, incorporating the relevant PANTPA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the PANTPA where the special program indicator ''PA'' appears in parenthesis in the ''Special'' rate of duty subcolumn. The modifications to the HTSUS also included a new Subchapter XIX to Chapter 99 to provide for temporary tariff-rate quotas and applicable safeguards implemented by the PANTPA, as well as modifications to Subchapter XXII of Chapter 98. After the Proclamation was signed, CBP issued instructions to the field and the public implementing the Agreement by allowing the trade to receive the benefits under the PANTPA effective on or after October 31, 2012.

CBP is responsible for administering the provisions of the PANTPA and the Act that relate to the importation of goods into the United States from the Republic of Panama (''Panama''). Those customs-related PANTPA provisions, which require implementation through regulation, include certain tariff and non-tariff provisions within Chapter One (Initial Provisions), Chapter Two (General Definitions), Chapter Three (National Treatment and Market Access for Goods), Chapter Four (Rules of Origin and Origin Procedures), and Chapter Five (Customs Administration and Trade Facilitation).

Certain general definitions set forth in Chapter Two of the PANTPA have been incorporated into the PANTPA implementing regulations. These regulations also implement Article 3.6 (Goods Re-entered after Repair or Alteration) of the PANTPA.

Chapter Three of the PANTPA sets forth provisions relating to trade in textile and apparel goods between Panama and the United States. The provisions within Chapter Three that require regulatory action by CBP are Articles 3.21 (Customs Cooperation), Article 3.25 (Rules of Origin and Related Matters), and Article 3.30 (Definitions).

Chapter Four of the PANTPA sets forth the rules for determining whether an imported good is an originating good of a Party and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment under the PANTPA as specified in the Agreement

and the HTSUS. The basic rules of origin in Section A of Chapter Four are set forth in General Note 35, HTSUS.

Under Article 4.1 of Chapter Four and section 203(b) of the Act, originating goods may be grouped in three broad categories: (1) Goods that are wholly obtained or produced entirely in the territory of one or both of the Parties; (2) goods that are produced entirely in the territory of one or both of the Parties and that satisfy the product-specific rules of origin in PANTPA Annex 4.1 (Specific Rules of Origin) and all other applicable requirements of Chapter Four; and (3) goods that are produced entirely in the territory of one or both of the Parties exclusively from originating materials. Article 4.2 (section 203(c) of the Act) sets forth the methods for calculating the regional value content of a good. Articles 4.3 and 4.4 (section 203(d) of the Act) set forth the rules for determining the value of materials for purposes of calculating the regional value content of a good. Article 4.5 (section 203(e) of the Act) provides that production that takes place in the territory of one or both of the Parties may be accumulated such that, provided other requirements are met, the resulting good is considered originating. Article 4.6 (section 203(f) of the Act) provides a *de minimis* criterion. The remaining Articles within Section A of Chapter Four consist of additional sub-rules applicable to the originating good concept involving: fungible goods and materials (Article 4.7; section 203(g) of the Act); accessories, spare parts, and tools (Article 4.8; section 203(h) of the Act); packaging materials and containers for retail sale (Article 4.9; section 203(i) of the Act); packing materials and containers for shipment (Article 4.10; section 203(j) of the Act); indirect materials used in production (Article 4.11; section 203(k) of the Act); transit and transshipment (Article 4.12; section 203(l) of the Act); sets of goods (Article 4.13; section 203(m) of the Act); and consultation and modifications (Article 4.14). All Articles within Section A are reflected in the PANTPA implementing regulations, except for Article 4.14 (Consultation and Modifications).

Section B of Chapter Four sets forth procedures that apply under the PANTPA in regard to claims for preferential tariff treatment. Specifically, Section B includes provisions concerning: claims of origin (Article 4.15); obligations relating to importations (Article 4.16) and exportations (Article 4.18); exceptions to the certification requirement (Article 4.17); recordkeeping requirements (Article 4.19); verification of preference claims (Article 4.20); common guidelines (Article 4.21); application of certain provisions (Article 4.22); and definitions of terms used within the context of the rules of origin (Article 4.23). All Articles within Section B, except for Articles 4.21 (Common Guidelines) and 4.22 (Application of Certain Provisions) are reflected in these implementing regulations.

Chapter Five sets forth operational provisions related to customs administration and trade facilitation under the PANTPA. Article 5.9 (section 205 of the Act), concerning the general application of penalties to PANTPA transactions, is the only provision within Chapter Five that is reflected in the PANTPA implementing regulations.

The majority of the PANTPA implementing regulations set forth in this document have been included within a new Subpart S in Part 10 of the CBP regulations (19 CFR Part 10). However, in those cases in which PANTPA implementation is more appropriate in the context of an existing regulatory provision, the PANTPA regulatory text has been incorporated in an existing Part within the CBP regulations. In addition, this document sets forth several cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new PANTPA implementing regulations. The regulatory changes are discussed below in the order in which they appear in this document.

Discussion of Amendments

Part 10

Section 10.31(f) concerns temporary importations under bond. It is amended by adding references to certain goods originating in Panama for which, as in the case of goods originating in Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, the Republic of Korea, or Colombia, no bond or other security will be required when imported temporarily for prescribed uses. The provisions of PANTPA Article 3.5 (Temporary Admission of Goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the CBP regulations and in Chapter 98 of the HTSUS.

Part 10, Subpart S

General Provisions

Section 10.2001 outlines the scope of Subpart S, Part 10 of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart S, Part 10 are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart S, Part 10 are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.2002 sets forth definitions of common terms used within Subpart S, Part 10. Although the majority of the definitions in this section are based on definitions contained in Article 2.1 and Annex 2.1 of the PANTPA, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions that apply in a more limited Subpart S, Part 10 context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.2003 sets forth the procedure for claiming PANTPA preferential tariff treatment at the time of entry and, as provided in PANTPA Article 4.15.1, states that an importer may make a claim for PANTPA preferential tariff treatment based on a certification by the importer, exporter, or producer or the importer's knowledge that the good is an originating good. Section 10.2003 also provides, consistent with PANTPA Article 4.16.4(d), that when an importer has reason to believe that a claim is based on inaccurate information, the importer must correct the claim and pay any duties that may be due.

Section 10.2004, which is based on PANTPA Articles 4.15 and 4.16.4, requires a U.S. importer, upon request, to submit a copy of the certification of the importer, exporter, or producer if the certification forms the basis for the claim. Section 10.2004 specifies the information that must be included on the certification, sets forth the circumstances under which the certification may be prepared by the exporter or producer of the good, and provides that the certification may be used either for a single importation or for multiple importations of identical goods.

Section 10.2005 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential tariff treatment. Section 10.2006, which is based on PANTPA Article 4.17, provides that the certification is not required for certain non-commercial or low-value importations.

Section 10.2007 implements PANTPA Article 4.19 concerning the maintenance of relevant records regarding the imported good.

Section 10.2008, which reflects PANTPA Article 4.16.2, authorizes the denial of PANTPA tariff benefits if the importer fails to comply with any of the requirements under Subpart S, Part 10, CBP regulations.

Export Requirements

Section 10.2009, which implements PANTPA Articles 4.18.1 and 4.19.1, sets forth certain obligations of a person who completes and issues a certification for a good exported from the United States to Panama. Paragraphs (a) and (b) of § 10.2009, reflecting PANTPA Article 4.18.1, require a person who completes such a certification to provide a copy of the certification to CBP upon request and to give prompt notification of any errors in the certification to every person to whom the certification was given. Paragraph (c) of § 10.2009 reflects Article 4.19.1, concerning the recordkeeping requirements that apply to a person who completes and issues a certification for a good exported from the United States to Panama.

Post-Importation Duty Refund Claims

Sections 10.2010 through 10.2012 implement PANTPA Article 4.16.5 and section 206 of the Act, which allow an importer who did not claim PANTPA tariff benefits on a qualifying good at the time of importation to apply for a refund of any excess duties at any time within one year after the date of importation. Such a claim may be made even if liquidation of the entry would otherwise be considered final under other provisions of law.

Rules of Origin

Sections 10.2013 through 10.2025 provide the implementing regulations regarding the rules of origin provisions of General Note 35, HTSUS, Chapter Four and Article 3.25 of the PANTPA, and section 203 of the Act.

Definitions

Section 10.2013 sets forth terms that are defined for purposes of the rules of origin as found in section 203(n) of the Act and other definitions have been included to clarify the application of the regulatory texts.

General Rules of Origin

Section 10.2014 sets forth the basic rules of origin established in Article 4.1 of the PANTPA, section 203(b) of the Act, and General Note 35, HTSUS. The provisions of § 10.2014 apply both to the determination of the status of an imported good as an originating good for purposes of preferential tariff treatment and to the determination of the status of a material as an originating material used in a good which is subject to a determination under General Note 35, HTSUS.

Section 10.2014(a), reflecting section 203(b)(1) of the Act, specifies those goods that are originating goods because they are wholly obtained or produced entirely in the territory of one or both of the Parties.

Section 10.2014(b), reflecting section 203(b)(2) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties from non-originating materials, each of which undergoes an applicable change in tariff classification and satisfies any applicable regional value content or other requirement set forth in General Note 35, HTSUS, are originating goods. Essential to the rules in § 10.2014(b) are the specific rules of General Note 35, HTSUS.

Section 10.2014(c), reflecting section 203(b)(3) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties exclusively from originating materials are originating goods.

Value Content

Section 10.2015 reflects PANTPA Article 4.2 and section 203(c) of the Act concerning the basic rules that apply for purposes of determining whether an imported good satisfies a minimum regional value content (''RVC'') requirement. Section 10.2016, reflecting PANTPA Articles 4.3 and 4.4, and section 203(d) of the Act, sets forth the rules for determining the value of a material for purposes of calculating the regional value content of a good as well as for purposes of applying the *de minimis* rules.

Accumulation

Section 10.2017, which is derived from PANTPA Article 4.5 and section 203(e) of the Act, sets forth the rule by which originating materials from the territory of a Party that are used in the production of a good in the territory of the other Party will be considered to originate in the territory of that other country. In addition, this section also establishes that a good that is produced by one or more producers in the territory of one or both of the Parties is an originating good if the good satisfies all of the applicable requirements of the rules of origin of the PANTPA.

De Minimis

Section 10.2018, as provided for in PANTPA Article 4.6 and section 203(f) of the Act, sets forth *de minimis* rules for goods that may be considered to qualify as originating goods even though they fail to qualify as originating goods under the rules specified in § 10.2014. There are a number of exceptions to the *de minimis* rule set forth in PANTPA Annex 4.6 (Exceptions to Article 4.6) as well as a separate rule for textile and apparel goods.

Fungible Goods and Materials

Section 10.2019, as provided for in PANTPA Article 4.7 and section 203(g) of the Act, sets forth the rules by which ''fungible'' goods or materials may be claimed as originating.

Accessories, Spare Parts, or Tools

Section 10.2020, as provided for in PANTPA Article 4.8 and section 203(h) of the Act, specifies the conditions under which a good's standard accessories, spare parts, or tools are: (1) treated as originating goods; and (2) disregarded in determining whether all non-originating materials used in the production of the good undergo an applicable change in tariff classification under General Note 35, HTSUS.

Goods Classifiable as Goods Put Up in Sets

Section 10.2021, as provided for in PANTPA Articles 3.25.9 and 4.13, and section 203(m) of the Act, provides that, notwithstanding the specific rules of General Note 35, HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not qualify as originating goods unless: (1) Each of the goods in the set is an originating good; or (2) the total value of the non-originating goods in the set does not exceed 15 percent of the adjusted value of the set, or 10 percent of the adjusted value of the set in the case of textile or apparel goods.

Packaging Materials and Packing Materials

Sections 10.2022 and 10.2023, as provided for in PANTPA Articles 4.9 and 4.10, and sections 203(i) and (j) of the Act, respectively, provide that retail packaging materials and packing materials for shipment are to be disregarded with respect to their actual origin in determining whether non-originating materials undergo an applicable change in tariff classification under General Note 35, HTSUS. These sections also set forth the treatment of packaging and packing materials for purposes of the regional value content requirement of the note.

Indirect Materials

Section 10.2024, as provided for in PANTPA Article 4.11 and section 203(k) of the Act, provides that indirect materials, as defined in § 10.2013(i), are considered to be originating materials without regard to where they are produced.

Transit and Transshipment

Section 10.2025, as provided for in PANTPA Article 4.12 and section 203(l) of the Act, sets forth the rule that an originating good loses its originating status and is treated as a non-originating good if, subsequent to production in the territory of one or both of the Parties that qualifies the good as originating, the good: (1) Undergoes production outside the territories of the Parties, other than certain specified minor operations; or (2) does not remain under the control of customs authorities in the territory of a non-Party.

Origin Verifications and Determinations

Section 10.2026 implements PANTPA Article 4.20 which concerns the conduct of verifications to determine whether imported goods are originating goods entitled to PANTPA preferential tariff treatment. This section also governs the conduct of verifications directed to producers of materials that are used in the production of a good for which PANTPA preferential duty treatment is claimed.

Section 10.2027, as provided for in PANTPA Article 3.21 and section 208 of the Act, sets forth the verification and enforcement procedures specifically relating to trade in textile and apparel goods.

Section 10.2028 also implements PANTPA Articles 3.21 and 4.20, and sections 205 and 208 of the Act and provides the procedures that apply when preferential tariff treatment is denied on the basis of an origin verification conducted under Subpart S, Part 10 of the CBP regulations.

Section 10.2029 implements PANTPA Article 4.20.5 and section 205(b) of the Act, concerning the denial of preferential tariff treatment in situations in which there is a pattern of conduct by an importer, exporter, or producer of false or unsupported PANTPA preference claims.

Penalties

Section 10.2030 concerns the general application of penalties to PANTPA transactions and is based on PANTPA Article 5.9 and section 205 of the Act.

Section 10.2031 implements PANTPA Article 4.16.3 and section 205 of the Act with regard to an exception to the application of penalties in the case of an importer who promptly and voluntarily makes a corrected claim and pays any duties owing.

Section 10.2032 implements PANTPA Article 4.18.2 and section 205 of the Act, concerning an exception to the application of penalties in the case of a U.S. exporter or producer who promptly and voluntarily provides notification of the making of an incorrect certification with respect to a good exported to Panama.

Section 10.2033 sets forth the circumstances under which the making of a corrected claim or certification by an importer or the providing of notification of an incorrect certification by a U.S. exporter or producer will be considered to have been done ''promptly and voluntarily''. Corrected claims or certifications that fail to meet these requirements are not excepted from penalties, although the U.S. importer, exporter, or producer making the corrected claim or certification may, depending on the circumstances, qualify for a reduced penalty as a prior disclosure under 19 U.S.C. 1592(c)(4). Section 10.2033(c) also specifies the content of the statement that must accompany each corrected claim or certification, including any certifications and records demonstrating that a good is an originating good.

Goods Returned After Repair or Alteration

Section 10.2034 implements PANTPA Article 3.6 regarding duty-free treatment for goods re-entered after repair or alteration in Panama.

Other Amendments

Part 24

An amendment is made to § 24.23(c) (19 CFR 24.23(c)), which concerns the merchandise processing fee, to implement section 204 of the Act, providing that the merchandise processing fee is not applicable to goods that qualify as originating goods under the PANTPA.

Part 162

Part 162 contains regulations regarding the inspection and examination of, among other things, imported merchandise. A cross-reference is added to § 162.0 (19 CFR 162.0), which is the scope section of the part, to refer readers to the additional PANTPA records maintenance and examination provisions contained in Subpart S, Part 10, CBP regulations.

Part 163

A conforming amendment is made to § 163.1 (19 CFR 163.1) to include, as required by PANTPA Article 4.19, the maintenance by the importer, whose claim for preferential tariff treatment is based on either the importer's certification or its knowledge, of all records and documents necessary to support a claim for preferential tariff treatment under the PANTPA, including a PANTPA importer's certification. Also, based on PANTPA Article 4.19, the conforming amendment includes the maintenance by the importer, whose claim for preferential tariff treatment is based on the certification issued by the exporter or producer, of the certification issued by the exporter or producer. The list of records and information required for the entry of merchandise appearing in the Appendix to Part 163 (commonly known as the ''(a)(1)(A) list'') is also amended to add the records and documents necessary to support a PANTPA claim for preferential tariff treatment, including, where applicable, the importer's certification or the exporter's or producer's certification.

Part 178

Part 178 sets forth the control numbers assigned to information collections of CBP by the Office of Management and Budget (OMB), pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The list contained in § 178.2 (19 CFR 178.2) is amended to add the information collections used by CBP to determine eligibility for preferential tariff treatment under the PANTPA and the Act.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (''APA'') (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the PANTPA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all

comments received before issuing a final rule.

Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 4, 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information contained in these regulations are under the review of OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1651–0117, which covers many of the free trade agreement requirements that CBP administers, and 1651–0076, which covers general recordkeeping requirements. The addition of the PANTPA requirements will result in an increase in the number of respondents and burden hours for this information collection. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

The collections of information in these regulations are in §§ 10.2003, 10.2004, and 10.2007. This information is required in connection with general recordkeeping requirements (§ 10.2007), as well as claims for preferential tariff treatment under the PANTPA and the Act and will be used by CBP to determine eligibility for tariff preference under the PANTPA and the Act (§§ 10.2003 and 10.2004). The likely respondents are business organizations including importers, exporters and manufacturers. The burdens imposed by these regulations are:

Estimated total annual burden: 500 hours.

Estimated number of respondents: 2,500.

Estimated annual frequency of responses per respondent: 1.

Estimated average annual burden per response: .2 hours.

Comments concerning these collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for Part 10 continues to read, and the specific authority for new Subpart S is added, to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Sections 10.2001 through 10.2034 also issued under 19 U.S.C. 1202 (General Note 35, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 112–43, 125 Stat. 497 (19 U.S.C. 3805 note).

■ 2. In § 10.31(f), the last sentence is revised to read as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, the Republic of Korea, Colombia, or Panama and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating, within the meaning of General Note 12, 25, 26, 27, 29, 30, 31, 32, 33, 34, and 35, HTSUS, in the country of which the importer is a resident.

■ 3. Add Subpart S to Part 10 to read as follows:

Subpart S—United States-Panama Trade Promotion Agreement

General Provisions

Sec.
10.2001 Scope.
10.2002 General definitions.

Import Requirements

10.2003 Filing of claim for preferential tariff treatment upon importation.
10.2004 Certification.
10.2005 Importer obligations.
10.2006 Certification not required.
10.2007 Maintenance of records.
10.2008 Effect of noncompliance; failure to provide documentation regarding transshipment.

Export Requirements

10.2009 Certification for goods exported to Panama.

Subpart S—United States-Panama Trade Promotion Agreement

General Provisions

§ 10.2001 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported and exported goods under the United States-Panama Trade Promotion Agreement (the PANTPA) signed on June 28, 2007, and under the United States-Panama Trade Promotion Agreement Implementation Act (''the Act''), Public Law 112–43, 125 Stat. 497 (19 U.S.C. 3805 note). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the PANTPA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.2002 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* ''Claim for preferential tariff treatment'' means a claim that a good is entitled to the duty rate applicable under the PANTPA to an originating good and to an exemption from the merchandise processing fee;

(b) *Claim of origin.* ''Claim of origin'' means a claim that a textile or apparel good is an originating good or satisfies the non-preferential rules of origin of a Party;

(c) *Customs authority.* ''Customs authority'' means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

(d) *Customs duty.* ''Customs duty'' includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994 in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party's domestic law; or

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(e) *Customs Valuation Agreement.* ''Customs Valuation Agreement'' means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994,* contained in Annex 1A to the WTO Agreement;

(f) *Days.* ''Days'' means calendar days;

(g) *Enterprise.* ''Enterprise'' means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(h) *Enterprise of a Party.* ''Enterprise of a Party'' means an enterprise constituted or organized under a Party's law;

(i) *Goods of a Party.* ''Goods of a Party'' means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party;

(j) *GATT 1994.* ''GATT 1994'' means the *General Agreement on Tariffs and Trade 1994,* which is part of the *WTO Agreement;*

(k) *Harmonized System.* ''Harmonized System'' means the *Harmonized Commodity Description and Coding System,* including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(l) *Heading.* ''Heading'' means the first four digits in the tariff classification number under the Harmonized System;

(m) *HTSUS.* ''HTSUS'' means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(n) *Identical goods.* ''Identical goods'' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods;

(o) *Originating.* ''Originating'' means qualifying for preferential tariff treatment under the rules of origin set out in Article 3.25 (Rules of Origin and Related Matters) or Chapter Four (Rules of Origin and Origin Procedures) of the PANTPA, and General Note 35, HTSUS;

(p) *Party.* ''Party'' means the United States or Panama;

(q) *Person.* ''Person'' means a natural person or an enterprise;

(r) *Preferential tariff treatment.* ''Preferential tariff treatment'' means the duty rate applicable under the PANTPA to an originating good, and an exemption from the merchandise processing fee;

(s) *Subheading.* ''Subheading'' means the first six digits in the tariff classification number under the Harmonized System;

(t) *Textile or apparel good.* ''Textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as ''the ATC''), which is part of the WTO Agreement, except for those goods listed in Annex 3.30 of the PANTPA;

(u) *Territory.* ''Territory'' means:

(1) With respect to Panama, the land, maritime, and the air space under Panama's sovereignty and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law;

(2) With respect to the United States:

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(v) *WTO.* ''WTO'' means the World Trade Organization; and

(w) *WTO Agreement.* ''WTO Agreement'' means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

Import Requirements

§ 10.2003 Filing of claim for preferential tariff treatment upon importation.

(a) *Basis of claim.* An importer may make a claim for PANTPA preferential tariff treatment, including an exemption from the merchandise processing fee, based on either:

(1) A written or electronic certification, as specified in § 10.2004, that is prepared by the importer, exporter, or producer of the good; or

(2) The importer's knowledge that the good is an originating good, including reasonable reliance on information in the importer's possession that the good is an originating good.

(b) *Making a claim.* The claim is made by including on the entry summary, or equivalent documentation, the letters ''PA'' as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(c) *Corrected claim.* If, after making the claim specified in paragraph (b) of this section, the importer has reason to believe that the claim is based on inaccurate information or is otherwise invalid, the importer must, within 30 calendar days after the date of discovery of the error, correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§ 10.2031 and 10.2033).

§ 10.2004 Certification.

(a) *General.* An importer who makes a claim pursuant to § 10.2003(b) based on a certification by the importer, exporter, or producer that the good is originating must submit, at the request of the port director, a copy of the certification. The certification:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must be in the possession of the importer at the time the claim for preferential tariff treatment is made if the certification forms the basis for the claim;

(3) Must include the following information:

(i) The legal name, address, telephone number, and email address of the certifying person;

(ii) If not the certifying person, the legal name, address, telephone number, and email address of the importer of record, the exporter, and the producer of the good, if known;

(iii) The legal name, address, telephone number, and email address of the responsible official or authorized agent of the importer, exporter, or producer signing the certification (if different from the information required by paragraph (a)(3)(i) of this section);

(iv) A description of the good for which preferential tariff treatment is claimed, which must be sufficiently detailed to relate it to the invoice and the HS nomenclature;

(v) The HTSUS tariff classification, to six or more digits, as necessary for the specific change in tariff classification rule for the good set forth in General Note 35, HTSUS;

(vi) The applicable rule of origin set forth in General Note 35, HTSUS, under which the good qualifies as an originating good;

(vii) Date of certification; and

(viii) In case of a blanket certification issued with respect to multiple shipments of identical goods within any period specified in the written or electronic certification, not exceeding 12 months from the date of certification, the period that the certification covers; and

(4) Must include a statement, in substantially the following form:

''I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods comply with all requirements for preferential tariff treatment specified for those goods in the United States-Panama Trade Promotion Agreement; and

This document consists of ____ pages, including all attachments.''

(b) *Responsible official or agent.* The certification provided for in paragraph (a) of this section must be signed and dated by a responsible official of the importer, exporter, or producer, or by the importer's, exporter's, or producer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The certification provided for in paragraph (a) of this section must be completed in either the English or Spanish language. In the latter case, the port director may require the importer to submit an English translation of the certification.

(d) *Certification by the exporter or producer.* (1) A certification may be prepared by the exporter or producer of the good on the basis of:

(i) The exporter's or producer's knowledge that the good is originating; or

(ii) In the case of an exporter, reasonable reliance on the producer's certification that the good is originating.

(2) The port director may not require an exporter or producer to provide a written or electronic certification to another person.

(e) *Applicability of certification.* The certification provided for in paragraph (a) of this section may be applicable to:

(1) A single shipment of a good into the United States; or

(2) Multiple shipments of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the certification.

(f) *Validity of certification.* A certification that is properly completed, signed, and dated in accordance with the requirements of this section will be accepted as valid for four years following the date on which it was issued.

§ 10.2005 Importer obligations.

(a) *General.* An importer who makes a claim for preferential tariff treatment under § 10.2003(b):

(1) Will be deemed to have certified that the good is eligible for preferential tariff treatment under the PANTPA;

(2) Is responsible for the truthfulness of the claim and of all the information and data contained in the certification provided for in § 10.2004; and

(3) Is responsible for submitting any supporting documents requested by CBP, and for the truthfulness of the information contained in those documents. When a certification prepared by an exporter or producer forms the basis of a claim for preferential tariff treatment, and CBP requests the submission of supporting documents, the importer will provide to CBP, or arrange for the direct submission by the exporter or producer of, all information relied on by the exporter or producer in preparing the certification.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim or submitted a certification based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

(c) *Exemption from penalties.* An importer will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for making an incorrect claim for preferential tariff treatment or submitting an incorrect certification, provided that the importer promptly and voluntarily corrects the claim or certification and pays any duty owing (*see* § 10.2031 through 10.2033).

§ 10.2006 Certification not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a copy of a certification under § 10.2004 for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the originating goods does not exceed U.S. $2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section is part of a series of importations carried out or planned for the purpose of evading compliance with the certification requirements of § 10.2004, the port director will notify the importer that for that importation the importer must submit to CBP a copy of the certification. The importer must submit such a copy within 30 days from the date of the notice. Failure to timely submit a copy of the certification will result in denial of the claim for preferential tariff treatment.

§ 10.2007 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good imported into the United States under § 10.2003(b) based on either the importer's certification or its knowledge must maintain, for a minimum of five years after the date of importation of the good, all records and documents necessary to demonstrate that the good qualifies for preferential tariff treatment under the PANTPA. An importer claiming preferential tariff treatment for a good imported into the United States under § 10.2003(b) based on the certification issued by the exporter or producer must maintain, for a minimum of five years after the date of importation of the good, the certification issued by the exporter or producer. These records are in addition to any other records that the importer is required to prepare, maintain, or make available to CBP under Part 163 of this chapter.

(b) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

§ 10.2008 Effect of noncompliance; failure to provide documentation regarding transshipment.

(a) *General.* If the importer fails to comply with any requirement under this subpart, including submission of a complete certification prepared in accordance with § 10.2004 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding transshipment.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential tariff treatment to an originating good if the good is shipped through or transshipped in a country other than a Party to the PANTPA, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the conditions set forth in § 10.2025(a) were met.

Export Requirements

§ 10.2009 Certification for goods exported to Panama.

(a) *Submission of certification to CBP.* Any person who completes and issues a certification for a good exported from the United States to Panama must provide a copy of the certification (written or electronic) to CBP upon request.

(b) *Notification of errors in certification.* Any person who completes and issues a certification for a good exported from the United States to Panama and who has reason to believe that the certification contains or is based on incorrect information must promptly notify every person to whom the certification was provided of any change that could affect the accuracy or validity of the certification. Notification of an incorrect certification must also be given either in writing or via an authorized electronic data interchange system to CBP specifying the correction (*see* §§ 10.2032 and 10.2033).

(c) *Maintenance of records*—(1) *General.* Any person who completes and issues a certification for a good exported from the United States to Panama must maintain, for a period of at least five years after the date the certification was issued, all records and supporting documents relating to the origin of a good for which the certification was issued, including the certification or copies thereof and records and documents associated with:

(i) The purchase, cost, and value of, and payment for, the good;

(ii) The purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) The production of the good in the form in which the good was exported.

(2) *Method of maintenance.* The records referred to in paragraph (c)(1) of this section must be maintained as provided in § 163.5 of this chapter.

(3) *Availability of records.* For purposes of determining compliance with the provisions of this part, the records required to be maintained under this section must be stored and made available for examination and inspection by the port director or other appropriate CBP officer in the same manner as provided in Part 163 of this chapter.

Post-Importation Duty Refund Claims

§ 10.2010 Right to make post-importation claim and refund duties.

Notwithstanding any other available remedy, where a good would have qualified as an originating good when it was imported into the United States but no claim for preferential tariff treatment was made, the importer of that good may file a claim for a refund of any excess duties at any time within one year after the date of importation of the good in accordance with the procedures set forth in § 10.2011. Subject to the provisions of § 10.2008, CBP may refund any excess duties by liquidation or reliquidation of the entry covering the good in accordance with § 10.2012(c).

§ 10.2011 Filing procedures.

(a) *Place of filing.* A post-importation claim for a refund must be filed with the director of the port at which the entry covering the good was filed. The post-importation claim may be filed by paper or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(b) *Contents of claim.* A post-importation claim for a refund must be filed by presentation of the following:

(1) A written or electronic declaration or statement stating that the good was an originating good at the time of importation and setting forth the number and date of the entry or entries covering the good;

(2) A copy of a written or electronic certification prepared in accordance with § 10.2004 if a certification forms the basis for the claim, or other

information demonstrating that the good qualifies for preferential tariff treatment;

(3) A written statement indicating whether the importer of the good provided a copy of the entry summary or equivalent documentation to any other person. If such documentation was so provided, the statement must identify each recipient by name, CBP identification number, and address and must specify the date on which the documentation was provided; and

(4) A written statement indicating whether any person has filed a protest relating to the good under any provision of law; and if any such protest has been filed, the statement must identify the protest by number and date.

§ 10.2012 CBP processing procedures.

(a) *Status determination.* After receipt of a post-importation claim pursuant to § 10.2011, the port director will determine whether the entry covering the good has been liquidated and, if liquidation has taken place, whether the liquidation has become final.

(b) *Pending protest or judicial review.* If the port director determines that any protest relating to the good has not been finally decided, the port director will suspend action on the claim filed pursuant to § 10.2011 until the decision on the protest becomes final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the port director will suspend action on the claim filed pursuant to § 10.2011 until judicial review has been completed.

(c) *Allowance of claim*—(1) *Unliquidated entry.* If the port director determines that a claim for a refund filed pursuant to § 10.2011 should be allowed and the entry covering the good has not been liquidated, the port director will take into account the claim for refund in connection with the liquidation of the entry.

(2) *Liquidated entry.* If the port director determines that a claim for a refund filed pursuant to § 10.2011 should be allowed and the entry covering the good has been liquidated, whether or not the liquidation has become final, the entry must be reliquidated in order to effect a refund of duties under this section. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, the port director will reliquidate the entry taking into account the claim for refund pursuant to § 10.2011.

(d) *Denial of claim*—(1) *General.* The port director may deny a claim for a refund filed under § 10.2011 if the claim was not filed timely, if the importer has not complied with the requirements of §§ 10.2008 and 10.2011, or if, following an origin verification under § 10.2026, the port director determines either that the imported good was not an originating good at the time of importation or that a basis exists upon which preferential tariff treatment may be denied under § 10.2026.

(2) *Unliquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has not been liquidated, the port director will deny the claim in connection with the liquidation of the entry, and notice of the denial and the reason for the denial will be provided to the importer in writing or via an authorized electronic data interchange system.

(3) *Liquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has been liquidated, whether or not the liquidation has become final, the claim may be denied without reliquidation of the entry. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, such reliquidation may include denial of the claim filed under this subpart. In either case, the port director will provide notice of the denial and the reason for the denial to the importer in writing or via an authorized electronic data interchange system.

Rules of Origin

§ 10.2013 Definitions.

For purposes of §§ 10.2013 through 10.2025:

(a) *Adjusted value.* ''Adjusted value'' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude:

(1) Any costs, charges, or expenses incurred for transportation, insurance and related services incident to the international shipment of the good from the country of exportation to the place of importation; and

(2) The value of packing materials and containers for shipment as defined in paragraph (o) of this section;

(b) *Class of motor vehicles.* ''Class of motor vehicles'' means any one of the following categories of motor vehicles:

(1) Motor vehicles classified under subheading 8701.20, motor vehicles for the transport of 16 or more persons classified under subheading 8702.10 or 8702.90, and motor vehicles classified under subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, HTSUS;

(2) Motor vehicles classified under subheading 8701.10 or any of subheadings 8701.30 through 8701.90, HTSUS;

(3) Motor vehicles for the transport of 15 or fewer persons classified under subheading 8702.10 or 8702.90, HTSUS, or motor vehicles classified under subheading 8704.21 or 8704.31, HTSUS; or

(4) Motor vehicles classified under subheadings 8703.21 through 8703.90, HTSUS;

(c) *Enterprise.* ''Enterprise'' means an enterprise as defined in § 10.2002(g), and includes an enterprise involved in:

(1) Production, processing, or manipulation of textile or apparel goods in the territory of Panama, including in any free trade zone, foreign trade zone, or export processing zone;

(2) Importation of textile or apparel goods into the territory of Panama, including into any free trade zone, foreign trade zone, or export processing zone; or

(3) Exportation of textile or apparel goods from the territory of Panama, including from any free trade zone, foreign trade zone, or export processing zone;

(d) *Exporter.* ''Exporter'' means a person who exports goods from the territory of a Party;

(e) *Fungible good or material.* ''Fungible good or material'' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material;

(f) *Generally Accepted Accounting Principles.* ''Generally Accepted Accounting Principles'' means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These principles may encompass broad guidelines of general application, as well as detailed standards, practices, and procedures;

(g) *Good.* ''Good'' means any merchandise, product, article, or material;

(h) *Goods wholly obtained or produced entirely in the territory of one or both of the Parties.* ''Goods wholly obtained or produced entirely in the territory of one or both of the Parties'' means:

(1) Plants and plant products harvested or gathered in the territory of one or both of the Parties;

(2) Live animals born and raised in the territory of one or both of the Parties;

(3) Goods obtained in the territory of one or both of the Parties from live animals;

(4) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or both of the Parties;

(5) Minerals and other natural resources not included in paragraphs (h)(1) through (h)(4) of this section that are extracted or taken in the territory of one or both of the Parties;

(6) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of the Parties by:

(i) Vessels registered or recorded with Panama and flying its flag; or

(ii) Vessels documented under the laws of the United States;

(7) Goods produced on board factory ships from the goods referred to in paragraph (h)(6) of this section, if such factory ships are:

(i) Registered or recorded with Panama and flying its flag; or

(ii) Documented under the laws of the United States;

(8) Goods taken by a Party or a person of a Party from the seabed or subsoil outside territorial waters, if a Party has rights to exploit such seabed or subsoil;

(9) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;

(10) Waste and scrap derived from:

(i) Manufacturing or processing operations in the territory of one or both of the Parties; or

(ii) Used goods collected in the territory of one or both of the Parties, if such goods are fit only for the recovery of raw materials;

(11) Recovered goods derived in the territory of one or both of the Parties from used goods, and used in the territory of one or both of the Parties in the production of remanufactured goods; and

(12) Goods produced in the territory of one or both of the Parties exclusively from goods referred to in any of paragraphs (h)(1) through (h)(10) of this section, or from the derivatives of such goods, at any stage of production;

(i) *Indirect material.* ''Indirect material'' means a good used in the production, testing, or inspection of another good in the territory of one or both of the Parties but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment or buildings;

(4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production;

(j) *Material.* ''Material'' means a good that is used in the production of another good, including a part or an ingredient;

(k) *Model line.* ''Model line'' means a group of motor vehicles having the same platform or model name;

(l) *Net cost.* ''Net cost'' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

(m) *Non-allowable interest costs.* ''Non-allowable interest costs'' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the Party in which the producer is located;

(n) *Non-originating good or non-originating material.* ''Non-originating good'' or ''non-originating material'' means a good or material, as the case may be, that does not qualify as originating under General Note 35, HTSUS, or this subpart;

(o) *Packing materials and containers for shipment.* ''Packing materials and containers for shipment'' means the goods used to protect a good during its transportation to the United States, and does not include the packaging materials and containers in which a good is packaged for retail sale;

(p) *Producer.* ''Producer'' means a person who engages in the production of a good in the territory of a Party;

(q) *Production.* ''Production'' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

(r) *Reasonably allocate.* ''Reasonably allocate'' means to apportion in a manner that would be appropriate under Generally Accepted Accounting Principles;

(s) *Recovered goods.* ''Recovered goods'' means materials in the form of individual parts that are the result of:

(1) The disassembly of used goods into individual parts; and

(2) The cleaning, inspecting, testing, or other processing that is necessary to improve such individual parts to sound working condition;

(t) *Remanufactured good.* ''Remanufactured good'' means a good classified in Chapter 84, 85, 87, or 90 or heading 9402, HTSUS, other than a good classified in heading 8418 or 8516, HTSUS, and that:

(1) Is entirely or partially comprised of recovered goods as defined in paragraph (s) of this section; and

(2) Has a similar life expectancy and enjoys a factory warranty similar to such a good that is new;

(u) *Royalties.* ''Royalties'' means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as:

(1) Personnel training, without regard to where performed; and

(2) If performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services;

(v) *Sales promotion, marketing, and after-sales service costs.* ''Sales promotion, marketing, and after-sales service costs'' means the following costs related to sales promotion, marketing, and after-sales service:

(1) Sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(2) Sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(3) Salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), traveling and living expenses, membership and professional fees, for sales promotion, marketing, and after-sales service personnel;

(4) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(5) Product liability insurance;

(6) Office supplies for sales promotion, marketing, and after-sales service of goods, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(7) Telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(8) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers;

(9) Property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer; and

(10) Payments by the producer to other persons for warranty repairs;

(w) *Self-produced material.* ''Self-produced material'' means an originating material that is produced by a producer of a good and used in the production of that good;

(x) *Shipping and packing costs.* ''Shipping and packing costs'' means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale;

(y) *Total cost.* ''Total cost'' means all product costs, period costs, and other costs for a good incurred in the territory of one or both of the Parties. Product costs are costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead. Period costs are costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses. Other costs are all costs recorded on the books of the producer that are not product costs or period costs, such as interest. Total cost does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

(z) *Used.* ''Used'' means utilized or consumed in the production of goods; and

(aa) *Value.* ''Value'' means the value of a good or material for purposes of calculating customs duties or for purposes of applying this subpart.

§ 10.2014 Originating goods.

Except as otherwise provided in this subpart and General Note 35, HTSUS, a good imported into the customs territory of the United States will be considered an originating good under the PANTPA only if:

(a) The good is wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) The good is produced entirely in the territory of one or both of the Parties and:

(1) Each non-originating material used in the production of the good undergoes an applicable change in tariff classification specified in General Note 35, HTSUS, and the good satisfies all other applicable requirements of General Note 35, HTSUS; or

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 35, HTSUS, and satisfies all other applicable requirements of General Note 35, HTSUS; or

(c) The good is produced entirely in the territory of one or both of the Parties exclusively from originating materials.

§ 10.2015 Regional value content.

(a) *General.* Except for goods to which paragraph (d) of this section applies, where General Note 35, HTSUS, sets forth a rule that specifies a regional value content test for a good, the regional value content of such good must be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (b) of this section or the build-up method described in paragraph (c) of this section.

(b) *Build-down method.* Under the build-down method, the regional value content must be calculated on the basis of the formula $RVC = ((AV - VNM)/AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(c) *Build-up method.* Under the build-up method, the regional value content must be calculated on the basis of the formula $RVC = (VOM/AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VOM is the value of originating materials that are acquired or self-produced and used by the producer in the production of the good.

(d) *Special rule for certain automotive goods.*

(1) *General.* Where General Note 35, HTSUS, sets forth a rule that specifies a regional value content test for an automotive good provided for in any of subheadings 8407.31 through 8407.34 (engines), subheading 8408.20 (diesel engine for vehicles), heading 8409 (parts of engines), or any of headings 8701 through 8705 (motor vehicles), and headings 8706 (chassis), 8707 (bodies), and 8708 (motor vehicle parts), HTSUS, the regional value content of such good may be calculated by the importer, exporter, or producer of the good on the basis of the net cost method described in paragraphs (d)(2) through (d)(4) of this section.

(2) *Net cost method.* Under the net cost method, the regional value content is calculated on the basis of the formula $RVC = ((NC - VNM)/NC) \times 100$, where RVC is the regional value content, expressed as a percentage; NC is the net cost of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced. Consistent with the provisions regarding allocation of costs set out in Generally Accepted Accounting Principles, the net cost of the good must be determined by:

(i) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are

included in the portion of the total cost allocated to the automotive good; or

(iii) Reasonably allocating each cost that forms part of the total costs incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs.

(3) *Motor vehicles*—(i) *General.* For purposes of calculating the regional value content under the net cost method for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over the producer's fiscal year using any one of the categories described in paragraph (d)(3)(ii) of this section either on the basis of all motor vehicles in the category or those motor vehicles in the category that are exported to the territory of one or both Parties.

(ii) *Categories.* The categories referred to in paragraph (d)(3)(i) of this section are as follows:

(A) The same model line of motor vehicles, in the same class of vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated;

(B) The same class of motor vehicles, and produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated; and

(C) The same model line of motor vehicles produced in the territory of a Party as the motor vehicle for which the regional value content is being calculated.

(4) *Other automotive goods*—(i) *General.* For purposes of calculating the regional value content under the net cost method for automotive goods provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, 8706, 8707, or 8708, HTSUS, that are produced in the same plant, an importer, exporter, or producer may:

(A) Average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over any of the following: the fiscal year, or any quarter or month, of the motor vehicle producer to whom the automotive good is sold, or the fiscal year, or any quarter or month, of the producer of the automotive good, provided the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(B) Determine the average referred to in paragraph (d)(4)(i)(A) of this section separately for such goods sold to one or more motor vehicle producers; or

(C) Make a separate determination under paragraph (d)(4)(i)(A) or (d)(4)(i)(B) of this section for automotive goods that are exported to the territory of Panama or the United States.

(ii) *Duration of use.* A person selecting an averaging period of one month or quarter under paragraph (d)(4)(i)(A) of this section must continue to use that method for that category of automotive goods throughout the fiscal year.

§ 10.2016 Value of materials.

(a) *Calculating the value of materials.* For purposes of calculating the regional value content of a good under General Note 35, HTSUS, and for purposes of applying the *de minimis* (*see* § 10.2018) provisions of General Note 35, HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, i.e., in the same manner as for imported goods, with reasonable modifications to the provisions of the Customs Valuation Agreement as may be required due to the absence of an importation by the producer (including, but not limited to, treating a domestic purchase by the producer as if it were a sale for export to the country of importation); or

(3) In the case of a self-produced material, the sum of:

(i) All expenses incurred in the production of the material, including general expenses; and

(ii) An amount for profit equivalent to the profit added in the normal course of trade.

(b) *Examples.* The following examples illustrate application of the principles set forth in paragraph (a)(2) of this section:

Example 1. A producer in Panama purchases material x from an unrelated seller in Panama for $100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Panama ($100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Panama by the seller (or by anyone else). So long as the producer acquired material x in Panama, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

Example 2. Same facts as in Example 1, except that the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, it should be modified so that the value is the transaction value of identical goods sold within Panama at or about the same time the goods were sold to the producer in Panama. Thus, if the seller of material x also sold an identical material to another buyer in Panama without restrictions, that other sale would be used to determine the adjusted value of material x.

(c) *Permissible additions to, and deductions from, the value of materials*—(1) *Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products; and

(iv) The cost of originating materials used in the production of the non-originating material in the territory of one or both of the Parties.

(d) *Accounting method.* Any cost or value referenced in General Note 35, HTSUS, and this subpart, must be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

§ 10.2017 Accumulation.

(a) Originating materials from the territory of a Party that are used in the production of a good in the territory of another Party will be considered to originate in the territory of that other Party.

(b) A good that is produced in the territory of one or both of the Parties by one or more producers is an originating good if the good satisfies the requirements of § 10.2014 and all other applicable requirements of General Note 35, HTSUS.

§ 10.2018 De minimis.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, a good that does not undergo a change in tariff classification pursuant to General Note 35, HTSUS, is an originating good if:

(1) The value of all non-originating materials used in the production of the good that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

(2) The value of the non-originating materials described in paragraph (a)(1) of this section is included in the value of non-originating materials for any applicable regional value content requirement for the good under General Note 35, HTSUS; and

(3) The good meets all other applicable requirements of General Note 35, HTSUS.

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, HTSUS, that is used in the production of a good provided for in Chapter 4, HTSUS;

(2) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, HTSUS, which is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10, HTSUS;

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20, HTSUS;

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, HTSUS;

(iv) Goods provided for in heading 2105, HTSUS;

(v) Beverages containing milk provided for in subheading 2202.90, HTSUS; or

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90, HTSUS;

(3) A non-originating material provided for in heading 0805, HTSUS, or any of subheadings 2009.11 through 2009.39, HTSUS, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, HTSUS, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90, HTSUS;

(4) A non-originating material provided for in heading 0901 or 2101, HTSUS, that is used in the production of a good provided for in heading 0901 or 2101, HTSUS;

(5) A non-originating material provided for in heading 1006, HTSUS, that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90, HTSUS;

(6) A non-originating material provided for in Chapter 15, HTSUS, that is used in the production of a good provided for in Chapter 15, HTSUS;

(7) A non-originating material provided for in heading 1701, HTSUS, that is used in the production of a good provided for in any of headings 1701 through 1703, HTSUS;

(8) A non-originating material provided for in Chapter 17, HTSUS, that is used in the production of a good provided for in subheading 1806.10, HTSUS; or

(9) Except as provided in paragraphs (b)(1) through (b)(8) of this section and General Note 35, HTSUS, a non-originating material used in the production of a good provided for in any of Chapters 1 through 24, HTSUS, unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this subpart.

(c) *Textile and apparel goods*—(1) *General.* Except as provided in paragraph (c)(2) of this section, a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in General Note 35, HTSUS, will nevertheless be considered to be an originating good if:

(i) The total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) The yarns are nylon filament yarns (other than elastomeric yarns) that are provided for in subheading 5402.11.30, 5402.11.60, 5402.19.30, 5402.19.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.45.10, 5402.45.90, 5402.51.00 or 5402.61.00, HTSUS, and that are products of Canada, Mexico, or Israel.

(2) *Exception for goods containing elastomeric yarns.* A textile or apparel good containing elastomeric yarns (excluding latex) in the component of the good that determines the tariff classification of the good will be considered an originating good only if such yarns are wholly formed and finished in the territory of a Party. For purposes of this paragraph, ''wholly formed and finished'' means that all the production processes and finishing operations, starting with the extrusion of filaments, strips, film, or sheet, and including drawing to fully orient a filament or slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn.

(3) *Yarn, fabric, or fiber.* For purposes of paragraph (c) of this section, in the case of a textile or apparel good that is a yarn, fabric, or fiber, the term ''component of the good that determines the tariff classification of the good'' means all of the fibers in the good.

§ 10.2019 Fungible goods and materials.

(a) *General.* A person claiming that a fungible good or material is an originating good may base the claim either on the physical segregation of the fungible good or material or by using an inventory management method with respect to the fungible good or material. For purposes of this section, the term ''inventory management method'' means:

(1) Averaging;

(2) ''Last-in, first-out;''

(3) ''First-in, first-out;'' or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) *Duration of use.* A person selecting an inventory management method under paragraph (a) of this section for a particular fungible good or material must continue to use that method for that fungible good or material throughout the fiscal year of that person.

§ 10.2020 Accessories, spare parts, or tools.

(a) *General.* Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 35, HTSUS, provided that:

(1) The accessories, spare parts, or tools are classified with, and not invoiced separately from, the good, regardless of whether they are specified or separately identified in the invoice for the good; and

(2) The quantities and value of the accessories, spare parts, or tools are customary for the good.

(b) *Regional value content.* If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under § 10.2015.

§ 10.2021 Goods classifiable as goods put up in sets.

Notwithstanding the specific rules set forth in General Note 35, HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not be considered to be originating goods unless:

(a) Each of the goods in the set is an originating good; or

(b) The total value of the non-originating goods in the set does not exceed;

(1) In the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(2) In the case of a good other than a textile or apparel good, 15 percent of the adjusted value of the set.

§ 10.2022 Retail packaging materials and containers.

(a) *Effect on tariff shift rule.* Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which preferential tariff treatment under the PANTPA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 35, HTSUS.

(b) *Effect on regional value content calculation.* If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Example 1. Panamanian Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in § 10.2016(a)(1), the value of the blister packages is their adjusted value, which in this case is $10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method, RVC=((AV–VNM)/AV) × 100 (*see* § 10.2015(b)), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their $10 adjusted value is included in the VNM, value of non-originating materials, of good C.

Example 2. Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method, RVC=(VOM/AV) × 100 (*see* § 10.2015(c)), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.

§ 10.2023 Packing materials and containers for shipment.

(a) *Effect on tariff shift rule.* Packing materials and containers for shipment, as defined in § 10.2013(o), are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 35, HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) *Effect on regional value content calculation.* Packing materials and containers for shipment, as defined in § 10.2013(o), are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying the build-down, build-up, or net cost method for determining the regional value content of a good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, VOM, value of originating materials, or NC, net cost of a good.

Example. Panamanian producer A produces good C. Producer A ships good C to the United States in a shipping container that it purchased from Company B in Panama. The shipping container is originating. The value of the shipping container determined under § 10.2016(a)(2) is $3. Good C is subject to a regional value content requirement. The transaction value of good C is $100, which includes the $3 shipping container. The U.S. importer decides to use the build-up method, RVC= (VOM/AV) × 100 (*see* § 10.2015(c))), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section and the definition of AV require a $3 deduction for the value of the shipping container. Therefore, the AV is $97 ($100 − $3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

§ 10.2024 Indirect materials.

An indirect material, as defined in § 10.2013(i), will be considered to be an originating material without regard to where it is produced.

Example. Panamanian Producer A produces good C using non-originating material B. Producer A imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in § 10.2014(b)(1) and General Note 35, each of the non-originating materials in

good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material B must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are considered originating without regard to where they are produced.

§ 10.2025 Transit and transshipment.

(a) *General.* A good that has undergone production necessary to qualify as an originating good under § 10.2014 will not be considered an originating good if, subsequent to that production, the good:

(1) Undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party; or

(2) Does not remain under the control of customs authorities in the territory of a non-Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that the conditions and requirements set forth in paragraph (a) of this section were met. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

Origin Verifications and Determinations

§ 10.2026 Verification and justification of claim for preferential tariff treatment.

(a) *Verification.* A claim for preferential tariff treatment made under § 10.2003(b) or § 10.2011, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, or the port director finds a pattern of conduct, indicating that an importer, exporter, or producer has provided false or unsupported declarations or certifications, or the exporter or producer fails to consent to a verification visit, the port director may deny the claim for preferential treatment. A verification of a claim for preferential tariff treatment under PANTPA for goods imported into the United States may be conducted by means of one or more of the following:

(1) Written requests for information from the importer, exporter, or producer;

(2) Written questionnaires to the importer, exporter, or producer;

(3) Visits to the premises of the exporter or producer in the territory of Panama, to review the records of the type referred to in § 10.2009(c)(1) or to observe the facilities used in the production of the good, in accordance with the framework that the Parties develop for conducting verifications; and

(4) Such other procedures to which the Parties may agree.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

§ 10.2027 Special rule for verifications in Panama of U.S. imports of textile and apparel goods.

(a) *Procedures to determine whether a claim of origin is accurate*—(1) *General.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the Government of Panama conduct a verification, regardless of whether a claim is made for preferential tariff treatment.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action, which may include:

(i) Suspending the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made, if CBP determines there is insufficient information to support the claim;

(ii) Denying the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made that is the subject of a verification if CBP determines that an enterprise has provided incorrect information to support the claim;

(iii) Detention of any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient information to determine the country of origin of any such good; and

(iv) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines that the enterprise has provided incorrect information as to the country of origin of any such good.

(3) *Actions following a verification.* On completion of a verification under this paragraph, CBP, if directed by the President, may take appropriate action, which may include:

(i) Denying the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made that is the subject of a verification if CBP determines there is insufficient information, or that the enterprise has provided incorrect information, to support the claim; and

(ii) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient information to determine, or that the enterprise has provided incorrect information as to, the country of origin of any such good.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the United States*—(1) *General.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, CBP may request that the government of Panama conduct a verification.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action, which may include:

(i) Suspending the application of preferential tariff treatment to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient information to support a claim for preferential tariff treatment with respect to any such good;

(ii) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines that the enterprise has provided incorrect information to support a claim for preferential tariff treatment with respect to any such good;

(iii) Detention of any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient information to determine the country of origin of any such good; and

(iv) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines that the enterprise has provided incorrect information as to the country of origin of any such good.

(3) *Actions following a verification.* On completion of a verification under

this paragraph, CBP, if directed by the President, may take appropriate action, which may include:

(i) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient or incorrect information, or that the enterprise has provided incorrect information, to support a claim for preferential tariff treatment with respect to any such good; and

(ii) Denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification if CBP determines there is insufficient information to determine, or that the enterprise has provided incorrect information as to, the country of origin of any such good.

(c) *Action by U.S. officials in conducting a verification abroad.* U.S. officials may undertake or assist in a verification under this section by conducting visits in the territory of Panama, along with the competent authorities of Panama, to the premises of an exporter, producer, or any other enterprise involved in the movement of textile or apparel goods from Panama to the United States.

(d) *Denial of permission to conduct a verification.* If an enterprise does not consent to a verification under this section, CBP may deny entry of textile or apparel goods produced or exported by the enterprise.

(e) *Continuation of appropriate action.* CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section.

§ 10.2028 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment under this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 35, HTSUS, and in §§ 10.2013 through 10.2025, the legal basis for the determination.

§ 10.2029 Repeated false or unsupported preference claims.

Where verification or other information reveals a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the PANTPA rules of origin set forth in General Note 35, HTSUS, CBP may suspend preferential tariff treatment under the PANTPA to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until CBP determines that representations of that person are in conformity with General Note 35, HTSUS.

Penalties

§ 10.2030 General.

Except as otherwise provided in this subpart, all criminal, civil, or administrative penalties which may be imposed on U.S. importers, exporters, and producers for violations of the customs and related laws and regulations will also apply to U.S. importers, exporters, and producers for violations of the laws and regulations relating to the PANTPA.

§ 10.2031 Corrected claim or certification by importers.

An importer who makes a corrected claim under § 10.2003(c) will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or having submitted an incorrect certification, provided that the corrected claim is promptly and voluntarily made.

§ 10.2032 Corrected certification by U.S. exporters or producers.

Civil or administrative penalties provided for under 19 U.S.C. 1592 will not be imposed on an exporter or producer in the United States who promptly and voluntarily provides written notification pursuant to § 10.2009(b) with respect to the making of an incorrect certification.

§ 10.2033 Framework for correcting claims or certifications.

(a) ''*Promptly and voluntarily'' defined.* Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or certification by an importer or the providing of written notification of an incorrect certification by an exporter or producer in the United States will be deemed to have been done promptly and voluntarily if:

(1)(i) Done before the commencement of a formal investigation, within the meaning of § 162.74(g) of this chapter; or

(ii) Done before any of the events specified in § 162.74(i) of this chapter have occurred; or

(iii) Done within 30 days after the importer, exporter, or producer initially becomes aware that the claim or certification is incorrect; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) In the case of a corrected claim or certification by an importer, accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if applicable, in accordance with paragraph (d) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims*—(1) *Fraud.* Notwithstanding paragraph (a) of this section, a person who acted fraudulently in making an incorrect claim or certification may not make a voluntary correction of that claim or certification. For purposes of this paragraph, the term ''fraud'' will have the meaning set forth in paragraph (C)(3) of Appendix B to Part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim or certification must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim or certification relates;

(2) In the case of a corrected claim or certification by an importer, identifies each affected import transaction, including each port of importation and the approximate date of each importation;

(3) Specifies the nature of the incorrect statements or omissions regarding the claim or certification; and

(4) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the claim or certification, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim or certification within 30 days or within any extension of that 30-day period as CBP may permit

in order for the person to obtain the information or data.

(d) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within 30 days thereafter, or within any extension of that 30-day period as CBP may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

Goods Returned After Repair or Alteration

§ 10.2034 Goods re-entered after repair or alteration in Panama.

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Panama as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Panama, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, ''repair or alteration'' means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment that does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States. The term ''repair or alteration'' does not include an operation or process that transforms an unfinished good into a finished good.

(b) *Goods not eligible for duty-free treatment after repair or alteration.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Panama, are incomplete for their intended use and for which the processing operation performed in Panama constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of paragraphs (a), (b), and (c) of § 10.8, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Panama after having been exported for repairs or alterations and which are claimed to be duty free.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 4. The general authority citation for Part 24 and specific authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

■ 5. Section 24.23 is amended by adding paragraph (c)(14) to read as follows:

§ 24.23 Fees for processing merchandise.

* * * * *

(c) * * *

(14) The ad valorem fee, surcharge, and specific fees provided under paragraphs (b)(1) and (b)(2)(i) of this section will not apply to goods that qualify as originating goods under section 203 of the United States-Panama Trade Promotion Agreement Implementation Act (*see also* General Note 35, HTSUS) that are entered, or withdrawn from warehouse for consumption, on or after October 29, 2012.

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 6. The authority citation for Part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

■ 7. Section 162.0 is amended by revising the last sentence to read as follows:

§ 162.0 Scope.

* * * Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the Dominican Republic-Central America-U.S. Free Trade Agreement, the U.S.-Morocco Free Trade Agreement, the U.S.-Peru Trade Promotion Agreement, the U.S.-Korea Free Trade Agreement, the U.S.-Panama Trade Promotion Agreement, and the U.S.-Colombia Trade Promotion Agreement are contained in Part 10, Subparts H, I, J, M, Q, R, S and T of this chapter, respectively.

PART 163—RECORDKEEPING

■ 8. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

* * * * *

■ 9. Section 163.1 is amended by redesignating paragraph (a)(2)(xvi) as (a)(2)(xvii) and adding a new paragraph (a)(2)(xvi) to read as follows:

§ 163.1 Definitions.

* * * * *

(a) * * *

(2) * * *

(xvi) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Panama Trade Promotion Agreement (PANTPA), including a PANTPA importer's certification.

* * * * *

■ 10. The Appendix to Part 163 is amended by adding a new listing under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 10.2003–10.2007 PANTPA records that the importer may have in support of a PANTPA claim for preferential tariff treatment, including an importer's certification.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 11. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 12. Section 178.2 is amended by adding new listings for ''§§ 10.2003 and 10.2004'' to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB Control No.
* * *	* * * * * * *	*
§§ 10.2003 and 10.2004	Claim for preferential tariff treatment under the US-Panama Trade Promotion Agreement.	1651–0117
* * *	* * * * * * *	*

* * * * *

Thomas S. Winkowski,

Acting Commissioner.

Approved: September 25, 2013.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2013–23897 Filed 10–22–13; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–YELL–13706; PPWONRADE2, PMP00EI05.YP0000]

36 CFR Part 7

RIN 1024–AE15

Special Regulations; Areas of the National Park System; Yellowstone National Park; Winter Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is promulgating this rule to establish a management framework that allows the public to experience the unique winter resources and values at Yellowstone National Park. This rule includes provisions that allow greater flexibility for commercial tour operators, provide mechanisms to make the park cleaner and quieter than what has been allowed during the previous four winter seasons, reward oversnow vehicle innovations and technologies, and allow increases in visitation. It also requires snowmobiles and snowcoaches operating in the park to meet air and sound emission requirements and be accompanied by a guide.

DATES: This rule is effective November 22, 2013.

FOR FURTHER INFORMATION CONTACT: Wade Vagias, Management Assistant's Office, Headquarters Building, Yellowstone National Park, 307–344–2035.

SUPPLEMENTARY INFORMATION:

Executive Summary

This rule establishes a new and more flexible method for managing oversnow vehicle (OSV) access to the park.

Under 36 CFR 2.18(c), the use of snowmobiles is prohibited in parks unless a special regulation allowing such use is promulgated. In order to allow OSV use for the upcoming and future winter seasons, a special regulation must be in place. This rule authorizes snowmobile and snowcoach use.

Beginning with the 2014–2015 winter season, this rule replaces the former concept of a fixed maximum number of vehicles allowed in the park each day with a new, more flexible concept of transportation events. Within an allowable number of transportation events, commercial tour operators have the opportunity to combine snowcoach and snowmobile trips in a way that protects park resources and provides flexibility to respond to fluctuations in visitation demand. By relying upon user demand to determine the best mix of OSV use and focusing on the impacts of OSV use upon park resources, the transportation event concept strikes a common-sense balance between allowing adequate access and protecting park resources. This rule also requires snowmobiles and snowcoaches to meet new sound and air emissions standards established by the National Park Service (NPS) under the authority granted by the NPS Organic Act (16 U.S.C. 1 *et seq.*), which authorizes the Secretary of the Interior to ''promote and regulate'' the use of national parks.

The new approach allows commercial tour operators to exchange transportation event allocations within the same entrance, adjust the proportion of snowcoaches or snowmobiles in the park each day, increase the size of snowmobile groups to meet demand on peak days, and increase the vehicle group size per transportation event if voluntary enhanced emission standards are met.

Some specific key elements of the final rule include:

- A transportation event equals one group of snowmobiles (maximum group size of 10, seasonal average of 7 beginning in the 2015–2016 season) or one snowcoach. The group size of transportation events may increase from a seasonal average of 7 to 8 for snowmobiles and from a maximum of 1 to 2 for snowcoaches, not to exceed a seasonal average of 1.5 snowcoaches, if commercial tour operators use vehicles that meet voluntary enhanced emission standards. This is intended to encourage the adoption of improved OSV innovations and technologies.
- Up to 110 total transportation events are authorized each day. Commercial tour operators may decide whether to use their daily allocation for snowmobiles or snowcoaches, but no more than 50 transportation events each day may be comprised of snowmobiles.
- OSV use continues to be 100% guided. The rule allows up to 46 commercially guided snowmobile transportation events per day. Four non-commercially guided snowmobile transportation events of up to 5 snowmobiles per group are also permitted daily, one from each park entrance.
- Sound and air emission requirements for new and existing snowmobiles continue unchanged until the 2015–2016 winter season, when the maximum allowable sound and carbon monoxide (CO) emissions are lowered.
- Sound and air emission requirements begin in the 2016–2017 winter season for existing snowcoaches, and apply to all new snowcoaches brought into service starting in the 2014–2015 winter season.

Background

The National Park Service (NPS) has been managing winter use in Yellowstone National Park for several decades. A detailed history of the winter use issue, past planning efforts, and litigation is provided in the background section of the 2013 Final Winter Use Plan/Supplemental Environmental Impact Statement (Plan/SEIS). The Notice of Availability for the Plan/SEIS was published in the **Federal Register** on March 15, 2013 (78 FR 16500). The Plan/SEIS is available online at *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS,'' and then clicking on the link entitled ''Document List.'' Additional information about the history of winter use at Yellowstone National Park is

available online at *http://www.nps.gov/yell/planyourvisit/winteruse.htm.*

The park has most recently operated under an interim winter use rule that was originally in effect for the 2009–2010 and 2010–2011 winter seasons. The interim rule allowed up to 318 commercially guided snowmobiles and 78 commercially guided snowcoaches in the park per day. Due to a number of factors, the NPS extended the interim rule twice, through the 2011–2012 and 2012–2013 winter seasons, while a Winter Use Plan/Final Environmental Impact Statement (EIS) and the Plan/SEIS were completed to determine a long-term management strategy for winter use in Yellowstone National Park.

Implementing this long-term winter use rule creates a stable regulatory environment for snowmobile and snowcoach commercial tour operators, many of which are small businesses in the communities surrounding the park. This long-term rule allows these businesses to make prudent decisions and capital investments, such as investing in new and cleaner-running vehicles for their fleets, offering employment to area residents, preparing advertising and marketing materials, and purchasing equipment and accessories such as snowmobile suits, helmets, and boots. This long-term rule also provides certainty to visitors, allowing them to make advance plans to visit the park, and ensures that park resources are protected.

Final Plan/SEIS and the Preferred Alternative

The Plan/SEIS analyzed the issues and environmental impacts of four alternatives for the management of winter use in the park. Major issues analyzed in the Plan/SEIS include social and economic issues, human health and safety, wildlife, air quality, natural soundscapes, visitor use and experience, and park operations. Impacts associated with each of the alternatives are detailed in the Plan/SEIS, which is available online at *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS'' and then clicking on the link entitled ''Document List.''

Alternative 1, the no-action alternative, would prohibit public OSV use in Yellowstone but would allow for approved non-motorized use to continue. Alternative 1 has been identified as the environmentally preferable alternative. Alternative 2 would manage OSV use at the same levels as the interim rule (318 commercially guided snowmobiles and 78 snowcoaches per day). Alternative 3 would initially allow for the same level of use as Alternative 2 (318 commercially guided snowmobiles and 78 snowcoaches per day) but would transition to allowing only snowcoaches over a 3-year period beginning in the 2017–2018 winter season. Upon completing the transition, there would be zero snowmobiles and up to 120 snowcoaches per day in the park. The Plan/SEIS also describes several other alternatives that were considered but eliminated from further study.

The Plan/SEIS identified Alternative 4 as the preferred alternative. The NPS Intermountain Regional Director signed a Record of Decision on August 21, 2013 and an amended Record of Decision on September 27, 2013 identifying Alternative 4 as the Selected Alternative, which this rule implements. Alternative 4 provides for motorized winter use while protecting park resources. Traveling through the park on snowmobiles and snowcoaches allows visitors to experience and access the park's unique and stunning winter landscape and access areas that cannot be reached using non-motorized means of transportation. The NPS believes that, through proper management, motorized winter use is an appropriate activity in the park.

The Selected Alternative:

- Manages OSV use by transportation events, prescribes air and sound emission requirements, and continues the 100% guiding requirement to help ensure that the purpose and need for the Plan/SEIS are met. This allows for increases in visitation while making the park cleaner and quieter than what has been allowed under the interim rule, as well as reducing disturbances to wildlife.
- Requires snowmobiles and snowcoaches to meet new air and sound emission requirements and encourages commercial tour operators to meet voluntary enhanced emission standards by adopting improved vehicle innovations and technologies.
- Contains market-based elements that give commercial tour operators greater flexibility to respond to fluctuations in visitation demand during the winter season. The Selected Alternative allows commercial tour operators to exchange transportation event allocations within the same entrance, adjust the proportion of snowcoaches or snowmobiles in the park each day (a transportation event could be used for either snowmobiles or snowcoaches, but no more than 50 transportation events each day could come from snowmobiles), increase the size of snowmobile groups on peak days, and increase the size of transportation events if voluntary enhanced emission standards are met.
- Demonstrates the NPS commitment to monitor winter use and to use the results to adjust the winter use OSV management program. The results of past monitoring, including data regarding air quality, wildlife, soundscapes, and health and safety, were used in formulating the alternatives in the Plan/SEIS.
- Applies the lessons of the last several winters, which demonstrate, among other things, that requiring all snowmobile and snowcoach trips to be guided reduces accidents, law enforcement incidents, and disruption to wildlife, and offers the best opportunity for achieving the goals of protecting park resources and allowing balanced use of the park.

Summary of the Final Rule

Snowmobile and snowcoach use in Yellowstone National Park is referred to as oversnow vehicle or OSV use. The final rule is similar in many respects to plans and rules that have been in effect for the last eight winter seasons. Thus, many of the regulations regarding operating conditions, designated routes, and restricted hours of operation are similar to regulations enforced by the NPS for nearly a decade.

One notable difference is that the final rule manages OSV use by transportation events instead of placing fixed limits on the number of OSVs allowed in the park on each day of the winter season. Managing OSV use by transportation events gives snowcoach and snowmobile commercial tour operators greater flexibility, allows for higher numbers of visitors, and is designed to make the park cleaner and quieter than what has been allowed during the previous four winter seasons. Under the final rule, up to 110 transportation events are allowed in the park on any day during the winter season. A transportation event equals one group of snowmobiles (maximum group size of 10, seasonal average of 7 beginning in the 2015–2016 season) or one snowcoach. The group size of transportation events may increase from a seasonal average of 7 to 8 for snowmobiles and from a maximum of 1 to 2 for snowcoaches, not to exceed a seasonal average of 1.5 snowcoaches, if commercial tour operators use vehicles that meet voluntary enhanced emission standards. Commercial tour operators may decide whether to use their allocation of transportation events for snowmobiles or snowcoaches, but no more than 50 transportation events may consist of snowmobiles on any day.

The final rule also changes air and sound emission requirements for OSVs, to reduce impacts on park resources and help ensure that the impacts from snowmobile and snowcoach transportation events are comparable. Managing OSV use by transportation events represents a shift from an approach focused on the absolute number of vehicles allowed in the park to an approach focused on the impacts of those vehicles upon park resources. The NPS believes this will:

- Result in a cleaner and quieter park than what has been authorized under the previous four winter seasons, enhance visitor experience, and permit growth in the number of visitors able to experience the park;
- Give commercial tour operators greater flexibility;
- Reward OSV innovations, adoption of new technologies, and commitment to lowering impacts from OSVs;
- Create more extended periods of limited or no OSV-related impacts; and
- Potentially result in an increase in vehicles and visitors without increasing impacts on the park.

Another notable difference in the final rule concerns guiding requirements for snowmobiles. Although the final rule maintains the existing requirement that all snowmobile trips be guided, it reserves four snowmobile transportation events each day for groups of non-commercially guided snowmobiles. All snowmobile operators taking part in a non-commercially guided trip must comply with requirements under a Non-commercially Guided Snowmobile Access Program to be developed by the NPS before the start of the 2014–2015 winter season.

Phased Transition To New Management Paradigm

The new management paradigm under the final rule will be phased in over four winter seasons to provide the park and commercial tour operators sufficient time to adjust to the new emission requirements and the management of OSVs by transportation events.

Phase I (2013–2014 Season)

A one-season transition period to prepare for the implementation of the new winter use plan will be in place for the 2013–2014 winter season to allow time for the NPS to award concession contracts and for commercial tour operators to prepare for the shift to management by transportation events. During this transition period, provisions of the 2012–2013 interim plan will be extended, allowing up to 318 snowmobiles and 78 snowcoaches per day for the first year of the new plan only.

Phase II (2014–2015 and 2015–2016 Seasons)

Starting in the 2014–2015 winter season, the park will manage OSV use by transportation events instead of vehicle limits. Sound and air emission requirements will apply to all new snowcoaches brought into service starting in the 2014–2015 winter season. Commercial tour operators who are allocated snowmobile transportation events will be able to use their allocated transportation events for snowmobiles, snowcoaches, or a mix of both, as long as no more than 50 total transportation events come from snowmobiles on a given day. During the 2014–2015 and 2015–2016 winter seasons, in order to use a snowcoach in lieu of a snowmobile transportation event, the snowcoach will need to meet the air and sound emission requirements that apply to all snowcoaches beginning in the 2016–2017 season.

The average size of commercially guided snowmobile transportation events for the 2014–2015 winter season may not exceed 7 snowmobiles, averaged daily (i.e., a maximum of no more than 322 commercially guided snowmobiles in the park per day, and an additional 4 non-commercially guided transportation events per day not to exceed 5 snowmobiles each, for a total of no more than 342 snowmobiles). This limit will apply to any snowmobile transportation event that includes a snowmobile that does not meet the new air or sound emission requirements that will apply to all snowmobiles beginning in the 2015–2016 season. Commercial tour operators will be allowed to have up to 10 snowmobiles per single event, provided the average daily event size is 7 or less. For example, a commercial tour operator that is allocated 3 snowmobile transportation events per day could meet the daily average requirement through a combination of 3 snowmobile transportation events of 7 snowmobiles each, or 2 snowmobile transportation events of 8 snowmobiles each and 1 transportation event of 5 snowmobiles.

However, if commercial tour operators voluntarily upgrade their snowmobile fleets to meet the new air and sound emission standards (New Best Available Technology) during the 2014–2015 winter season (before these limits become mandatory in the 2015–2016 season), their group sizes will be more flexible. For commercial snowmobile tour operators who upgrade at least 10 snowmobiles in their fleets to the New Best Available Technology standards for snowmobiles, vehicle numbers will be averaged seasonally for transportation events that consist entirely of the upgraded snowmobiles. This allows commercial tour operators to have events with a maximum of 10 New Best Available Technology snowmobiles each, provided their seasonal transportation event size averages 7 or less. For example, a commercial tour operator that is allocated 3 snowmobile transportation events per day may have 3 groups of up to 10 snowmobiles each in a single day, provided there are smaller groups on other days during the winter season that bring the seasonal average group size to 7 or less. This incentive encourages voluntary early adoption of improved vehicle technologies that meet the New Best Available Technology emission requirements, and helps ensure that impacts to park resources during the 2014–2015 winter season are minimized.

Starting in the 2015–2016 winter season, all snowmobiles operating in the park must meet the new air and sound emission requirements. This is one season before air and sound emission requirements apply to all existing snowcoaches. This staggered implementation schedule recognizes the higher capital cost of investing in snowcoach engines and exhaust equipment and the fact that commercial tour operators replace snowmobile fleets more frequently than snowcoach fleets. In the proposed rule, the NPS requested comments on this accelerated implementation schedule. After considering public comments, the NPS believes that this accelerated implementation schedule is reasonably achievable given existing and demonstrated OSV technology. The NPS notes that the technology to meet the new air and sound emission standards for snowcoaches is currently available in the commercial marketplace, that at least 17 of the 78 snowcoaches in the commercial fleet already meet the new sound emission requirement and as many as 18 of the 78 snowcoaches in the commercial fleet already meet the new air emission requirement. For snowmobiles, one manufacturer has already certified to the NPS that it produces a model that meets the new air and sound emission requirements that will be mandatory beginning in the 2015–2016 season: The Bombardier Ski Doo GSX LE 900 ACE produces 90 g/kW-hr of CO, 8 g/kW-hr of HC (both FEL), and 69 dB(A) as measured via SAE J192 (forecasted to produce ~67 dB(A) as measured via SAE J1161). The NPS also notes that 36 different

snowmobile models already meet the new air emission standards that will be mandatory beginning in the 2015–2016 season.

Phase III (2016–2017 Season and Beyond)

Starting with the 2016–2017 winter season, the final rule implements all elements of the new management paradigm, including a requirement that all OSVs, including vehicles that had been operating in the park during prior seasons, meet the new air and sound emission requirements or be removed from service in the park.

Voluntary Enhanced Best Available Technology Upgrade

In addition to the above opportunities and requirements, the final rule offers commercial tour operators an opportunity to voluntarily upgrade their fleets further and receive an additional OSV per transportation event. As of December 15, 2014, commercial tour operators may voluntarily upgrade their fleets to meet enhanced air and sound emission standards that are more stringent than the new mandatory air and sound emission requirements described below. If these voluntary enhanced standards are met, the size of a transportation event for that commercial tour operator may increase from a seasonal average of 7 to 8 snowmobiles per event and from 1 to 2 snowcoaches per event, not to exceed a seasonal average of 1.5 snowcoaches per event.

Monitoring Will Continue

As part of the NPS's Adaptive Management Program for winter use, monitoring of winter visitor use and park resources continues under this rule. The NPS may take adaptive management actions, including the closure of selected areas of the park or sections of roads, if monitoring indicates that human presence or activities have a substantial effect on wildlife or other park resources that cannot be mitigated. A list of adaptive management actions that may be taken by the NPS is provided in Appendix D to the Plan/SEIS. The NPS will provide public notice under one or more of the methods listed in 36 CFR 1.7 before any closure is implemented. The Superintendent retains the authority under this rule or 36 CFR 1.5 to take emergency actions to protect park resources or values.

Air Emission Requirements

Snowmobiles

The final rule retains the requirement from previous winter use plans that all snowmobiles operated by guides and park visitors comply with air emission standards. While the past seven years of monitoring has shown that air quality has improved following implementation of air emissions standards for snowmobiles, the NPS believes that implementation of new air emission standards for snowmobiles and snowcoaches will further improve air quality in the world's first national park (a designated Class I area under the Clean Air Act), and will help ensure that a snowmobile transportation event and a snowcoach transportation event have comparable impacts to air quality. The NPS believes that snowmobile and snowcoach commercial tour operators can meet the air emission requirements in the final rule through the typical turnover of their fleets,[1] and that the technology to meet the new air emission standards for both types of OSVs is currently available in the commercial marketplace.

Air and sound emission requirements for snowmobiles and snowcoaches in Yellowstone National Park are park entrance requirements. The restrictions on air and sound emissions in this rule are not restrictions on what manufacturers may produce, but instead are end-use restrictions on which commercially produced snowmobiles and snowcoaches may be used in the park. The NPS Organic Act (16 U.S.C. 1) authorizes the Secretary of the Interior to ''promote and regulate'' the use of national parks ''by such means and measures as conform to the fundamental purpose of said parks . . . which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Further, the Secretary is expressly authorized by 16 U.S.C. 3 to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks.'' These requirements are not to be confused with Environmental Protection Agency (EPA) emission standards for these vehicles. The exercise of the NPS Organic Act authority is not an effort by NPS to regulate manufacturers and is consistent with Section 310 of the Clean Air Act (42 U.S.C. 7610).

During the late 1990s, when an average of 795 snowmobiles entered the park each day, elevated levels of carbon monoxide (CO), particulate matter (PM), and hydrocarbons (HC) were detected. To mitigate these emissions, the NPS implemented snowmobile air emission requirements beginning in 2004 that called for emission levels no greater than 120 grams per kilowatt hour (g/kW-hr) of CO and 15 g/kW-hr for HC. There are no emission requirements for PM because monitoring over the past several winter seasons has indicated that PM levels are extremely low and therefore not concerning at this time. The final rule maintains the existing air emission requirements through the 2014–2015 season, and then lowers the emission standard for CO to 90 g/kW-hr beginning with the 2015–2016 season. The requirements in place since December 2004 have significantly reduced CO, PM, and HC emissions. As compared to EPA baseline emissions assumptions for conventional two-stroke snowmobiles, the NPS air emission requirements have achieved a 70% reduction in CO and a 90% reduction in HC. Daily use limits and guiding (which helps assure use of NPS-certified snowmobiles and keeps idling to a minimum) have also improved air quality in the park.

All new snowmobiles manufactured for sale in the United States must be certified to EPA's emission standards. The NPS encourages each snowmobile manufacturer to demonstrate that its snowmobiles will meet the NPS air emission requirements by submitting to the NPS a copy of its EPA application (which includes the engine's Family Emissions Limits, i.e., the emission levels a given snowmobile is certified as meeting) used to demonstrate compliance with EPA's snowmobile emission regulation at the same time it submits the application to EPA. The NPS will accept the application and information from a manufacturer, while review and certification by EPA is pending, in support of the NPS conditionally certifying a snowmobile as meeting the NPS's emission requirements. Should EPA certify the snowmobile at emissions levels that do not meet the NPS requirements, this snowmobile model will no longer be considered NPS-compliant and its use in the park will be prohibited. If the NPS does not receive a request for conditional certification, the NPS will rely on the emission levels determined and certified by EPA to determine if an NPS certification is warranted.

Snowmobiles that have been modified from the manufactured design may increase emissions of HC and CO to greater than the emission restrictions, and therefore may not enter the park. It is the responsibility of the commercial

[1] According to existing commercial tour operators, snowmobiles are replaced every two to three years and the lifespan of a converted snowcoach is ten years.

tour operator and guide to ensure that a snowmobile complies with all applicable restrictions. Any snowmobile may be subject to periodic and unannounced inspections to measure tailpipe air emissions. To the extent possible, the NPS will conduct snowmobile inspections when it is mutually convenient for the operator and the NPS.

Snowmobiles operating on the Cave Falls Road, which extends approximately one mile into the park from the adjacent Caribou-Targhee National Forest, continue to be exempt from the air-emission requirements. The Cave Falls Road does not connect to other park roads and snowmobile use on this road is independent of the other oversnow routes in the park.

Snowcoaches

Under concessions contracts issued in 2003, 78 snowcoaches are currently authorized to operate in the park. Approximately 21 of these snowcoaches, known in the park as ''historic snowcoaches,'' were manufactured by Bombardier before 1983 and designed specifically for oversnow travel. These historic snowcoaches, and several late-model snowcoaches also designed specifically for oversnow travel, are considered purpose-built snowcoaches. All other snowcoaches are passenger vans, sport utility vehicles, or light- or medium-duty buses that have been converted for oversnow travel using tracks or skis. The conditions and requirements applicable to snowcoaches under the final rule apply to both purpose-built snowcoaches and snowcoaches converted from other types of vehicles.

In 2004, EPA began phasing in new and cleaner emissions standards for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles, and in 2008 for heavy duty spark and compression ignition vehicles (the vehicle classes most converted snowcoaches meet). These standards are called Tier 2 (for lighter-duty vehicles) or ''engine configuration certified'' (for heavier duty, diesel vehicles). Implementation of these standards was completed in 2010 (65 FR 6698, February 10, 2000).

The final rule requires that diesel-fueled snowcoaches with a gross vehicle weight rating (GVWR) less than 8,500 pounds meet the functional equivalent of 2010 (or newer) EPA Tier 2 Model Year engine and emission control technology requirements. This includes items such as engine control module (ECM) computers, onboard diagnostics systems (OBDs), sensors, and exhaust aftertreatment equipment that is standard original equipment manufacturer (OEM) equipment included with on-road vehicles or engines. Diesel-powered snowcoaches must also be equipped with applicable ceramic particulate filters and afterburners.

A diesel-fueled snowcoach with a GVWR of 8,500 pounds or more must comply with EPA model year 2010 ''engine configuration certified'' diesel air emission standards. However, if the diesel snowcoach has a GVWR between 8,500 and 10,000 pounds, there may be a configuration that meets the functional equivalent of 2010 (or newer) EPA Tier 2 Model Year technology standards for an on-road vehicle that achieves the best results from an emissions perspective. This particular type of configuration requires review and approval by the NPS.

The final rule requires that all gasoline-fueled snowcoaches greater than or equal to 10,000 GVWR meet the functional equivalent of 2008 (or newer) EPA Tier 2 Model Year engine emission control technology requirements. This includes items such as ECM computers, OBDs, sensors, and exhaust aftertreatment equipment that is standard OEM equipment included with on-road vehicles or engines. The final rule requires that all gasoline-fueled snowcoaches less than 10,000 GVWR meet the functional equivalent of 2007 (or newer) EPA Tier 2 Model Year engine emission control technology requirements.

The NPS recognizes that some existing snowcoaches will likely need to be replaced or retrofitted with new engines and emissions equipment to comply with these air emission requirements. The NPS believes that this can be accomplished through the typical turnover of snowcoach fleets. As a result, these requirements apply to all existing snowcoaches beginning in the 2016–2017 winter season, and to new snowcoaches put into service beginning in the 2014–2015 winter season. During Phase II of implementation (2014–2015 and 2015–2016 seasons), in order to use a snowcoach in lieu of a snowmobile transportation event, the snowcoach will need to meet the air and sound emission requirements that apply to all snowcoaches beginning in the 2016–2017 season. The NPS notes that the technology to meet the new air emission standards for snowcoaches is currently available in the commercial marketplace and is based upon the EPA's Tier 2 emission standard, and at least 18 of the 78 snowcoaches in the commercial fleet already meet the new air emission requirement.

To ensure compliance with EPA air emission standards, all emission-related exhaust components must be installed and functioning properly. Malfunctioning emissions-related components must be replaced with the OEM components where possible. If new or functional used OEM parts are not available, aftermarket parts may be used. Catalysts that have exceeded their useful life must be replaced unless the commercial tour operator can demonstrate that the catalyst is functioning properly. Operating a snowcoach that has its original pollution control equipment modified or disabled is prohibited.

A snowcoach may be subject to periodic and unannounced inspections to determine compliance with emission requirements. To the extent possible, the NPS will conduct snowcoach inspections when it is mutually convenient for the commercial tour operator and the NPS. This could include off-hours, on days when the snowcoach is not being used to support commercial tour operations, or during the snowcoach 'testing days' held annually in the park prior to the first day of the winter season.

The University of Denver (in 2005 and 2006) and North Carolina State University (in 2012) collected emissions data from various snowcoaches. Results indicated that snowcoaches could be modernized to reduce CO and HC emissions. These studies found that in general, newer snowcoaches are cleaner than older models and have emission controls that reduce tailpipe pollutants. By implementing air emission requirements for snowcoaches that call for newer engine and emission controls, the NPS expects continued improvements in the park's air quality.

Sound Emission Requirements

Snowmobiles

Through March 15, 2015, sound restrictions continue to require a snowmobile to operate at or below 73 decibels while at full throttle, as measured using the A scale (dB(A)) according to the 1985 version of the Society of Automotive Engineers (SAE) J192 test procedures. Beginning with the 2015–2016 winter season, the maximum decibel level allowed for snowmobiles is reduced to 67 dB(A) according to the applicable (as of November 1, 2013) version of SAE J1161 test procedures. The SAE J1161 test procedures allow for a tolerance of 2 dB(A) over the sound level limit to provide for variations in test sites, temperature gradients, wind velocity gradients, test equipment, and inherent differences in nominally

identical vehicles. To operate in the park after March 15, 2015, a population of measurements for a snowmobile model may not exceed a mean output of 67 dB(A), and a single measurement may not exceed 69 dB(A), using the J1161 test procedures.

The SAE J1161 test procedures measure the sound output of snowmobiles at cruising speed. In contrast, the SAE J192 test procedures are designed to measure the maximum sound output of a snowmobile. The NPS has decided to switch to the J1161 test procedures for several reasons. The J1161 test procedures are more representative of actual operating conditions in the park, where operating snowmobiles at full throttle (as measured by the J192 test procedures) is a rare event. Compliance with the J1161 test procedures is also easier to monitor because park personnel will be able to spot-check the sound output of snowmobiles as they travel through the park at cruising speed. Also, using the J1161 test procedures for snowmobiles makes it easier for the park to accurately compare the sound output of snowmobiles with the sound output of snowcoaches, which will also be measured using the J1161 test procedures.

Because the current NPS sound emission requirements were established using a slightly modified version of the 1985 J192 test procedures (as a result of information provided by industry and modeling), the NPS will initially continue to use the 1985 test procedures to demonstrate compliance with the existing sound emission requirement of 73 dB(A). The NPS will transition to the SAE J1161 test procedures for all snowmobiles seeking to demonstrate compliance with the new sound emission requirement of 67 dB(A). As a result, in the 2014–2015 winter season, the mean dB(A) output of a snowmobile must not exceed 67 dB(A) using the J1161 test procedures to demonstrate voluntary early compliance with the new sound emission requirements, but a snowmobile may still operate in the park if its mean dB(A) output does not exceed 73 dB(A) using the J192 test procedures. After March 15, 2015, all snowmobiles operating in the park must not exceed 67 dB(A) using the J1161 test procedures.

The SAE J1161 test procedures are modified from the current 15 mph steady throttle (cruising speed) to the typical cruising speed of snowmobiles in Yellowstone (approximately 35 mph), consistent with OSV noise emissions tests conducted by the John A. Volpe National Transportation Systems Center, U.S. Department of Transportation, in 2008 and 2009.

To provide certainty to the commercial tour operators and the park, the NPS identifies the version of the SAE J1161 test procedures in place on November 1, 2013 as the version that applies beginning in the 2015–2016 season. This gives the NPS and industry sufficient time to test snowmobiles that are in development and production well ahead of the 2015–2016 winter season. This rule allows the Superintendent to periodically update testing procedures based upon new information or updates to SAE J1161 standards and procedures. To provide certainty to commercial tour operators, the Superintendent may not require certification under a substantially updated version of J1161 test procedures that is adopted by SAE less than two years prior to the start of any winter season.

In past rules, the NPS has allowed an exception to the barometric pressure requirements of the SAE J192 procedures to determine if a snowmobile meets sound emission requirements. With the adoption of SAE J1161 test procedures for snowmobiles seeking to meet the new sound emission requirements, the NPS believes it will be an appropriate time to bring all aspects of testing into conformance with the SAE J1161 procedures.

Accordingly, for the first two winters of implementation of this rule (2013–2014 and 2014–2015), snowmobiles that do not voluntarily meet the new sound emission requirements may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected (as measured at or near the test site). This continues the exception to the 1985 SAE J192 test procedures, which require barometric pressure between 27.5 and 30.5 inches Hg. This exception maintains consistency with the testing conditions previously used to determine compliance with the sound emissions requirement. The reduced barometric pressure allowance was necessary since snowmobiles were tested at the high elevation of the park, where atmospheric pressure is lower than the SAE J192 requirements. Testing data indicate that snowmobiles test quieter at higher elevations, and therefore may be able to pass this test at higher elevations but fail when tests are conducted near sea level. In order to demonstrate compliance with the new sound emission standard of 67dB(A), which is voluntary prior to December 15, 2015, but mandatory thereafter, snowmobiles must comply with the requirements of the applicable (as of November 1, 2013) SAE J1161 test procedures with no barometric pressure (high altitude) exception. The SAE J1161 test procedures require barometric pressure between 27.5 and 30.5 inches Hg.

For sound emissions, snowmobile manufacturers may submit their existing Snowmobile Safety and Certification Committee (SSCC) sound level certification form. Under the SSCC machine safety standards program, snowmobile models are certified by an independent testing company as complying with all SSCC safety standards, including sound standards. In order to certify a snowmobile model for use in Yellowstone National Park, the SSCC form must certify that a population of measurements for that model does not exceed the maximum mean dB(A) values required by the final rule. The final rule does not require the SSCC form specifically, as there could be other acceptable documentation in the future. The NPS intends to work cooperatively with the snowmobile manufacturers on appropriate documentation. Other certification methods could be approved by the NPS on a case-by-case basis.

Because modifications made to an individual snowmobile may increase sound emissions beyond the emission restrictions, individual snowmobiles that have been modified will be denied entry to the park. It is the responsibility of the commercial tour operator and guide to ensure that a snowmobile complies with all applicable restrictions.

Snowmobiles being operated on the Cave Falls Road continue to be exempt from the sound emission requirements.

Snowcoaches

As of December 15, 2016, the final rule requires that the mean dB(A) output of snowcoaches in Yellowstone National Park not exceed 75 dB(A) when measured by operating the snowcoach at 25 mph, or its maximum cruising speed if less than 25 mph, for the test cycle following the SAE J1161 test procedures. Since there are no testing standards specific to the snowcoach industry, snowcoach measurements for sound are based on emissions testing conducted using SAE J1161 test procedures.

The NPS believes that commercial tour operators can meet the updated snowmobile and new snowcoach sound emission requirements in the final rule through the typical turnover of their fleets, as opposed to prematurely removing vehicles from service. The NPS notes that the technology to meet the new sound emission standards for snowcoaches is currently available in the commercial marketplace and that at least 17 of the 78 snowcoaches in the

commercial fleet already meet the new sound emission requirement.

NPS Will Continue To Certify Snowmobiles and Snowcoaches

An NPS-certified OSV is a vehicle that has been approved by the NPS for use in Yellowstone National Park after demonstrating that it meets the air and sound emission requirements in this final rule. The Superintendent will maintain and annually publish a list of approved snowmobiles by make, model, and year of manufacture that meet the NPS requirements. For the winter of 2012–2013, the NPS certified 77 different snowmobile models (from model years 2008–2013 and from various manufacturers) as meeting the requirements. When certifying a new snowmobile as meeting NPS requirements, the NPS will also publish how long the certification applies, which will be six consecutive winter seasons following its manufacture or until the snowmobile travels 6,000 miles, whichever occurs later. Based on NPS experience, six years or 6,000 miles represents the typical useful life of a snowmobile, and thus provides a purchaser with a reasonable length of time when operation may be allowed within the park.

The NPS will also maintain a list of approved snowcoaches that meet the air and sound emissions requirements. The NPS will test and certify snowcoaches for compliance with air and sound emission requirements at locations in the park. Once approved, a snowcoach may operate in the park through the winter season that begins no more than 10 years following its engine manufacture date. To continue to operate in the park during future winter seasons, a snowcoach must be retrofitted with a new engine and emissions equipment to meet existing EPA Tier 2 engine and emission requirements, and re-certified for air and sound emissions. The 10-year clause provides a mechanism to ensure that the least polluting snowcoaches are used in the park and reflects the concept that over time, the efficiency of engines and exhaust emission control systems degrades due to wear and tear. In consultations with the EPA, it was determined that after 10 years of use, snowcoach engines would emit more pollution than when they first entered service, such that they should be replaced. For example, a snowcoach with a model year 2010 engine could operate through the 2020–2021 winter season and will cease to be allowed to operate in the park as of March 15, 2021, if it is not retrofitted with a new engine and emission equipment and re-tested. A snowcoach with a model year 2007 engine could operate through the 2017–2018 winter season and will cease to be allowed to operate in the park as of March 15, 2018, if it is not retrofitted with a new engine and emission equipment and re-tested. A snowcoach with a model year 2005 or earlier engine manufacture date will need to be retrofitted with upgraded engine and emissions control equipment prior to the start of the 2016–2017 winter season. Because of the large investment in individual snowcoaches, the NPS believes that a 10-year certification period is appropriate.

In the future, the Superintendent may establish performance-based emission standards for snowcoaches that would enable compliant snowcoaches to be operated in the park after the expiration of the 10-year certification period. The Superintendent will provide public notice under one or more of the methods listed in 36 CFR 1.7 before any performance-based emission standard is implemented for snowcoaches.

Once the new air and sound emission requirements apply, all snowmobiles and snowcoaches are required to meet them in order to enter the park. This includes snowmobiles that meet current air and sound emission requirements but do not meet the new requirements, even if they were certified for periods that extend beyond the 2015–2016 season.

Use of Guides Is Required

To mitigate impacts to wildlife, air quality, natural soundscapes, and visitor and employee safety, the NPS continues to require that all OSVs operated by park visitors be accompanied by a guide, except for those operating on the segment of the Cave Falls Road that extends one mile into the park from the adjacent national forest. The NPS continues to prohibit unguided snowmobile access.

Since the winter of 2004–2005, all snowmobiles and snowcoaches have been led or operated by commercial guides. Commercial guides are employed by commercial tour operators, not by the NPS. Guides have proven effective at keeping groups under speed limits, staying on the groomed road surfaces, reducing conflicts with wildlife, and ensuring other behaviors that are appropriate for visitors to safely and responsibly visit the park. Since implementation of the 100% guiding requirement in December 2004, Yellowstone has observed a pronounced reduction in the number of accidents and law enforcement incidents associated with the use of OSVs, even when accounting for the reduced number of snowmobilers relative to pre-guided use levels.

Non-Commercial Guides Are Allowed

In a change from the provisions that have governed OSV use since December 2004, the final rule allows 4 snowmobile transportation events per day of not more than 5 snowmobiles each (including the non-commercial guide) to be led through the park by a non-commercial guide. Each entrance is allocated 1 non-commercially guided transportation event per day.

Non-commercial guides and the snowmobile operators taking part in non-commercially guided transportation events are required to comply with certification requirements under a Non-commercially Guided Snowmobile Access Program to be developed and implemented by the NPS. The certification process will emphasize park rules and regulations, park values and environmental education, required documentation (i.e., documentation of course completion, a special use permit, valid motor vehicle driver's license, and snowmobile registration and insurance), safety and proper procedures when encountering wildlife and other visitors, safety and emergency protocol, accident causes and mitigation techniques, road conditions, snowmobile operations, and mechanical repair. Educational components of the program will be reinforced during an onsite orientation session on the day of the trip.

To participate in this program, non-commercial guides must obtain and possess a special use permit authorizing a non-commercial snowmobile transportation event. These permits will be issued through the Non-commercially Guided Snowmobile Access Program, which will allow non-commercially guided groups to enter the park for a specific date range. The maximum length of a non-commercially guided snowmobile trip is three days and two nights. These permits will be awarded through an annual lottery system. Persons interested in becoming a non-commercial guide will be required to join the lottery by submitting basic information on recreation.gov (name, email, mailing address). Successful lottery applicants will be notified by email that they are pre-approved for a special use permit. Successful lottery applicants will then complete the special use permit application that requires additional information (e.g. driver's license numbers, names of group participants, number and type of snowmobiles, insurance information, area or route of trip). In order to enter the park, non-commercial guides must demonstrate to

park officials at the gate that the necessary paperwork is complete and that they and their group members have complied with all other requirements of the Non-commercially Guided Snowmobile Access Program, including educational components. To the extent practicable, the NPS intends to recover the costs of administering this special use permit program pursuant to 16 U.S.C. 3a.

Non-commercial snowmobile guides are directly responsible for the actions of their group. Each non-commercial guide may lead no more than two trips per winter season, and must be at least 18 years of age by the first day of the trip. Non-commercial guides must have working knowledge of snowmobile safety, general first aid, snowmobile repair, and navigational techniques. It is preferable that the non-commercial guide, or another member of the trip, be familiar with Yellowstone National Park. Non-commercial snowmobile guides may not advertise their ''service'' or accept a fee or any type of compensation for organizing or leading a trip. Collecting a fee (monetary compensation) or compensation of any kind payable to an individual, group, or organization for conducting, leading, or guiding a non-commercially guided snowmobile trip is prohibited (see 36 CFR 5.3). Violating the compensation or advertising restriction may result in administrative revocation of a non-commercial guiding permit or privilege.

These requirements ensure that the Non-commercially Guided Snowmobile Access Program results in impacts to park resources and management that are comparable to those resulting from the use of commercial guides.

Further details about the Non-commercially Guided Snowmobile Access Program can be found in Appendix C to the Plan/SEIS, available online at *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS,'' and then clicking on the link entitled ''Document List.'' Consistent with adaptive management principles, the Superintendent may adjust or terminate this program based upon impacts to park resources, utilization rates, visitor experiences, or other factors after providing notice in accordance with one or more methods listed in 36 CFR 1.7.

For both commercially and non-commercially guided groups, an individual snowmobile may not be operated separately from a group within the park. Except in emergency situations, guided parties must travel together and all snowmobiles must remain within one-third of a mile of the first snowmobile in the transportation event. This ensures that groups of snowmobiles do not become separated. Past experience has demonstrated that one-third of a mile allows for sufficient and safe spacing between individual snowmobiles within the group, and allows the guide to maintain control over the group and minimize impacts.

Designated Routes Remain on Roads Only

Yellowstone's oversnow routes remain entirely on roads used by motor vehicles during other seasons and thus are consistent with the requirements in 36 CFR 2.18(c). OSV use continues to be allowed only on designated routes. All main road segments will generally remain open for OSV use, but certain side roads will be reserved for ski and snowshoe use only. Certain main road segments may be closed to all OSV travel during parts of the winter, including early season closure for plowing at the North Entrance, and seasonal closures of the East Entrance from December 15–21 and March 2–15. The final rule allows the Superintendent to open or close oversnow routes after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, resource protection, park operations, use patterns, or other factors.

What are transportation events?

Size of Transportation Events

The final rule manages OSV use by transportation events. A transportation event consists of a group of no more than 10 snowmobiles (including the guide's snowmobile) or 1 snowcoach. The NPS will implement OSV management by transportation events starting with the 2014–2015 winter season (Phase II). In the 2014–2015 season, the average size of a commercially guided snowmobile transportation event may not exceed 7 snowmobiles (including the guide's snowmobile), averaged daily. However, if commercial tour operators voluntarily upgrade their fleets to meet the new air and sound emission standards during the 2014–2015 winter season (before these standards become mandatory in the 2015–2016 season), their group sizes will be more flexible. For commercial snowmobile tour operators who upgrade at least 10 snowmobiles in their fleets to the New Best Available Technology standards for snowmobiles, vehicle numbers will be averaged seasonally for transportation events that consist entirely of upgraded snowmobiles. This would allow commercial tour operators to have days with up to 10 snowmobiles per transportation event, provided their seasonal transportation event size averages 7 or less. As discussed below, this average may increase to 8 if voluntary enhanced emission standards are met. Each group still could not exceed the maximum group size of 10 snowmobiles.

Beginning with the 2015–2016 winter season, the average size of a commercially guided snowmobile transportation event may not exceed 7 snowmobiles (including the guide), averaged over the course of a winter season. As discussed below, this average may increase to 8 if voluntary enhanced emission standards are met. Authorizing up to 10 snowmobiles per transportation event with a seasonal average of 7 or 8 snowmobiles per transportation event allows commercial tour operators to respond to fluctuating visitor demand for access. For example, commercial tour operators may choose to maximize group sizes during busy times, such as holidays, with groups of 10. If this is done, group sizes will need to be smaller later in the season to ensure that the average group size over the course of each season is no more than 7 (or 8 if the voluntary enhanced emission standards are met).

In order for the NPS to monitor compliance with this rule, each commercial tour operator is responsible for keeping track of its daily use on an NPS form, including group size and other variables of interest to the NPS, and reporting these numbers to the NPS on a monthly basis. The NPS may require reports to be submitted more frequently than monthly if it becomes necessary to more closely monitor activities to protect natural or cultural resources in the park. For each transportation event, commercial tour operators are required to report the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination, and whether the transportation event allocation was from another commercial tour operator. Operators are also required to report their transportation event size averages for the previous month and for the season to date. Commercial tour operators that exceed the allowed average size of snowmobile transportation events will receive an unsatisfactory rating, with potential to temporarily or permanently suspend the commercial tour operator's concession contract or commercial use authorization. In addition to the reporting requirements in the final rule,

commercial tour operators are also subject to reporting requirements contained in their concession contracts or commercial use authorizations. The NPS will use the information in the report described above to track the average and actual use of each commercial tour operator throughout the season in order to ensure maximum daily limits and seasonal average limits are not exceeded, and to help ensure that commercial tour operators do not receive unsatisfactory ratings or suspension of their contracts. By closely monitoring this information the NPS can also ensure that commercial tour operators do not run out of authorizations before the end of the season and create a gap when prospective visitors cannot be accommodated.

The NPS does not consider it necessary to require a minimum size per transportation event because the use of any number of snowmobiles, no matter how small, constitutes 1 snowmobile transportation event. Since the 2004–2005 winter season (managed use era), snowmobile group size has averaged 6.6 snowmobiles per group.

Voluntary Enhanced Emission Standards for Snowcoaches and Snowmobiles

For commercial tour operators who meet voluntary enhanced emission standards, the size of a snowcoach transportation event and the average size of a snowmobile transportation event may increase above the sizes described in the prior section. The NPS believes the enhanced emission standards are attainable, and that the potential for increased revenues from larger transportation events provides a strong incentive for commercial tour operators to meet these voluntary standards. These incentives reward commercial tour operators that demonstrate a commitment to lowering the impacts of OSVs by increasing business opportunities and park visitation, while lessening impacts to park resources.

A commercial tour operator may include 2 snowcoaches rather than 1 per transportation event if both snowcoaches emit no more than 71 dB(A) as measured using the SAE J1161 test procedures. This is 4 dB(A) less than the maximum allowed under the sound emission requirements. To be considered 1 transportation event, the 2 snowcoaches must travel closely together while keeping a safe distance between them. If this enhanced sound emission standard is met by all snowcoaches, commercial tour operators could have an additional 60 snowcoaches in the park on a particular day (if all 50 snowmobile transportation events are used); however, they could not exceed an average of 1.5 snowcoaches per event over the course of a winter season.

Starting in the 2014–2015 season, the average size of a commercial tour operator's snowmobile transportation events over the course of a winter season may increase from 7 to 8 if all snowmobiles in a group emit no more than 65 dB(A) measured using the SAE J1161 test procedures, and no more than 60 g/Kw-hr CO. This is 2 dB(A) less and 30 g/Kw-hr less than the maximum allowed under sound and air emission requirements to be implemented beginning in the 2015–2016 season. Evidence from the SAE Clean Snowmobile Challenge, held annually in Houghton, Michigan, has shown that production snowmobiles fitted with catalytic converters and other pollution minimization devices are able to reduce CO and HC plus oxides of nitrogen (HC + NO_X) tailpipe emissions by up to 98% to an average specific mass of 12.04 and 0.17 g/kW-hr, respectively. If these enhanced emission standards are met by all commercially guided snowmobiles, commercial tour operators could lead up to 46 additional snowmobiles through the park each day.

Commercial tour operators must demonstrate to the park that their snowcoaches or snowmobiles meet these enhanced emission standards prior to the start of a winter season so that the park can accurately measure that operator's compliance with all of the requirements.

Number of Transportation Events Allowed in the Park

Up to 110 transportation events are allowed in the park on any given day during the winter season. Four transportation events are reserved for non-commercially guided tours of no more than 5 snowmobiles, and up to 106 transportation events are distributed to commercial tour operators via concessions contracts or commercial use authorizations. Commercial tour operators may decide to use their allocation of transportation events for snowmobiles or snowcoaches, but no more than 46 transportation events may consist of commercially guided snowmobile groups per day. If a commercial or non-commercial guide runs an overnight trip into the park, each day of the trip is considered a separate transportation event.

Consistent with adaptive management principles, the Superintendent may decrease the maximum number of transportation events allowed in the park each day, adjust or terminate the Non-commercially Guided Snowmobile Access Program, redistribute non-commercially guided transportation events, or make limited changes to the transportation events allocated to each entrance, based upon impacts to park resources, utilization rates, visitor experiences, or other factors after providing public notice in accordance with one or more methods listed in 36 CFR 1.7. Before taking any of these actions, the NPS will determine if any additional environmental compliance is required.

Allocation and Maximum Number of Snowmobiles Allowed in the Park

The actual number of snowmobiles and snowcoaches each day in the park will depend upon visitor demand and how commercial tour operators use their transportation events, subject to the maximum limit of 110 transportation events per day. If more than 60 snowcoach transportation events are used, the result will be fewer snowmobiles allowed in the park. If the maximum number of snowmobile transportation events is used, the result will be only 60 snowcoaches allowed in the park, or 120 snowcoaches that meet the voluntary, enhanced sound emission standards.

The final rule allocates transportation events to Old Faithful, since a commercial tour operator provides snowmobile rentals and commercial guiding services originating there. For example, some visitors choose to enter the park on a snowcoach tour, spend two or more nights at the Old Faithful Snow Lodge, and depart for a commercially guided snowmobile tour of the park from the lodge.

Table 1 below shows the daily allocations and entrance distributions for snowmobile transportation events.

TABLE 1

Park entrance/location	Daily number of transportation events for commercially guided snowmobiles	Daily number of transportation events for non-commercially guided snowmobiles
West Entrance	23	1
South Entrance	17	1
East Entrance	2	1
North Entrance	2	1
Old Faithful	2	0
Total	46	4

At the highest potential level of use, if all 50 snowmobile transportation events are used in a single day, there could be a maximum of 480 snowmobiles in the park (46 commercially guided groups of 10 snowmobiles each, plus 4 non-commercially guided groups of 5 snowmobiles each). Although this is the maximum number of snowmobiles that could be permitted into the park on a single day, this level of use could not occur every day because commercially guided snowmobile transportation event sizes may not exceed an average of 7 snowmobiles over the course of the season. The average number per day would be no higher than 342 snowmobiles (46 commercially guided groups of 7 snowmobiles each, plus 4 non-commercially guided groups of 5 snowmobiles each). If all snowmobiles meet the voluntary enhanced emission standards described above, then the maximum average size of snowmobile transportation events over the course of a winter season could increase from 7 to 8 snowmobiles, resulting in an average no higher than 388 snowmobiles per day (46 commercially guided groups of 8 snowmobiles each, plus 4 non-commercially guided groups of 5 snowmobiles each).

Table 2 below shows these potential daily maximum numbers of snowmobiles in the park if all snowmobile transportation events are used.

TABLE 2

	46 Transportation events from commercially guided groups	4 Transportation events from non-commercially guided groups	Total snowmobiles in the park
Peak Day (10 snowmobiles per commercially guided group; 5 per non-commercially guided group)	460	20	480
Average Day (7 snowmobiles per commercially guided group; 5 per non-commercially guided group)	322	20	342
Average Day if all Snowmobiles meet Enhanced Standards (8 snowmobiles per commercially guided group; 5 per non-commercially guided group)	368	20	388

Allocation and Maximum Number of Snowcoaches Allowed in the Park

At the highest potential level of use, if all 106 transportation events are used by snowcoaches in a single day, there will be 106 snowcoaches in the park. If the maximum allocation of snowmobile transportation events is used in a single day, there could be a maximum of 60 snowcoaches in the park. At some point in the future, if all snowcoaches meet the voluntary enhanced sound emission standards described above, the maximum number of snowcoaches in the park on a particular day could range from 212 snowcoaches (if no snowmobile allocations are used) to 120 snowcoaches (if all snowmobile allocations are used). Although this is the maximum number of snowcoaches that could be permitted into the park on a single day, this level of use could not occur every day because snowcoach transportation events consisting of snowcoaches that meet the voluntary enhanced emission standards may not exceed an average of 1.5 snowcoaches over the course of the season. These scenarios represent the extreme allocation potentials, and it is likely that actual use will end up somewhere in between these scenarios.

Table 3 below shows the daily allocations and entrance distributions for snowcoach transportation events.

TABLE 3

Park entrance/location	Daily number of snowcoach transportation events if all 50 snowmobile transportation events are used	Daily number of snowcoach transportation events if zero commercially guided snowmobile transportation events are used *
West Entrance	26	49
South Entrance	8	25
East Entrance	1	3

TABLE 3—Continued

Park entrance/location	Daily number of snowcoach transportation events if all 50 snowmobile transportation events are used	Daily number of snowcoach transportation events if zero commercially guided snowmobile transportation events are used *
North Entrance	13	15
Old Faithful	12	14
Total	60	106

* The remaining 4 transportation events are reserved for non-commercially guided snowmobiles.

Flexible Allocations at Each Entrance

Commercial tour operators may cooperatively exchange allocations of snowmobile and snowcoach transportation events within an entrance, but transportation event allocations may not be exchanged among different entrances. For example, a commercial tour operator at the West Entrance who has additional transportation event allocations available may trade those allocations to another commercial tour operator at the West Entrance, but an allocation at the West Entrance could not be traded to a commercial tour operator at the South Entrance. These exchanges provide additional flexibility to commercial tour operators and allow them to respond to visitor demand, while ensuring that the number of transportation events at any particular entrance does not exceed the total number authorized for that day. The NPS envisions that a system for exchanging allocations will be created and controlled by those commercial tour operators who receive transportation event entrance allocations under this plan. Commercial tour operators must notify the NPS when transportation event allocations are exchanged.

Avalanche Management—Sylvan Pass

The final rule designates the East Entrance Road as an OSV route. As with other OSV routes, the Superintendent has the ability to close this route, or portions of it, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, park operations, use patterns, or other factors. This authority will be used to manage Sylvan Pass in the manner described in the preferred alternative in the Plan/SEIS.

Summary of and Responses to Public Comments

The NPS published the proposed rule at 78 FR 22470 (April 16, 2013). We accepted comments through the mail, hand delivery, and through the Federal eRulemaking Portal at *http://www.regulations.gov*. Comments were accepted through May 16, 2013, and we received over 6,000 comments. A summary of comments and NPS responses is provided below, followed by a table that sets out changes we have made from the proposed rule in this final rule based on the analysis of the comments and other considerations.

Non-Motorized and Non-OSV Access to the Park

1. Comment: Some comments stated that the NPS should provide additional opportunities for non-motorized access, including additional groomed trails and a temporary hut system.

NPS Response: The final rule generally permits non-motorized travel. Approximately 35 miles of road would continue to be groomed for cross-country skiing and other non-motorized use in the park. In the future, the NPS may explore additional opportunities for non-motorized winter recreation, including the potential for a temporary hut system, which probably would not require further rulemaking.

2. Comment: Several comments urged the NPS to allow snow bikes in the final regulation, while one comment urged the NPS not to allow snow bikes because they would present a safety hazard.

NPS Response: The final rule continues to prohibit snow bikes in the park. The NPS believes that the use of snow bikes could create safety hazards along routes on which substantial numbers of snowmobiles and snowcoaches operate, such as the groomed roads in the park. Snow bikes may create conflicts with visitors and would have unknown impacts to park wildlife. Opportunities for snow bike use exist in the area, outside of the park. The NPS may reconsider the use of snow bikes through a separate planning process in the future.

3. Comment: Some comments suggested allowing alternative ways to access the park, such as electric snowmobiles, trains, buses, or horse-drawn carriages.

NPS Response: In the Plan/SEIS, the NPS considered but dismissed the use of mass transit systems such as a train or monorail, as well as plowing park roads and allowing buses to bring visitors into the park. Reasons for dismissal can be found in Chapter 2 of the Plan/SEIS. At this time, there are no electric snowmobiles on the market, and therefore such technology could not be evaluated. The NPS believes that due to the harsh weather conditions and a number of other factors, it is not feasible to implement a horse-drawn carriage transportation system.

Numbers of OSVs Allowed in the Park

4. Comment: One comment urged the NPS to be more flexible with the daily and monthly quotas in order to allow commercial tour operators to take advantage of peak demand periods.

NPS Response: The NPS believes the final rule provides an appropriate amount of flexibility to commercial tour operators. The final rule authorizes up to 10 snowmobiles per transportation event while maintaining a seasonal average of 7 snowmobiles per transportation event or less (the eight-year historic average is 6.6 snowmobiles per event). Furthermore, commercial tour operators who run transportation events consisting entirely of snowmobiles that meet voluntary, enhanced emission standards are allowed to average 8 vehicles per event over the season. Similarly, transportation events that consist of snowcoaches that meet voluntary, enhanced emission standards could have up to 2 snowcoaches per transportation event, as long as the commercial tour operators running those events average no more than 1.5 snowcoaches per event over the season.

The final rule does not impose any monthly limits or quotas on OSV use.

5. Comment: Some comments stated that the number of snowmobiles allowed under the proposed rule is too high. Other comments opposed increasing snowmobile use over levels authorized under the interim regulations, and some urged the NPS to extend the interim regulation and implement it on a permanent basis.

NPS Response: The NPS acknowledges that this rule would allow more snowmobiles in the park per day than have been allowed since the 2008–2009 season. However, the impact analysis in the Plan/SEIS demonstrates that by managing OSV use by transportation events and by imposing new air and sound emission requirements for both snowmobiles and snowcoaches, this higher number of vehicles would result in less overall impact to park resources while allowing more visitors to access the park than have been allowed in recent years. In the past, the NPS and interested parties have focused on the total number of vehicles authorized to access the park. However, this emphasis is misleading because impacts to wildlife and soundscapes stem primarily from groups of vehicles, not individual vehicles, and can be mitigated through vehicle management. By packaging traffic into transportation events and capping the total daily and seasonal number of transportation events, the park proactively reduces the amount of time vehicles are audible, therefore reducing impacts to natural soundscapes. By limiting the number of daily transportation events in the park, wildlife would be disrupted fewer times. These steps, in combination with continued 100% guiding requirements, will limit impacts on the park's flora, fauna, soundscape, and air quality into the future.

6. Comment: Some comments opposed the use of snowmobiles at any level in the park, urging the NPS to reduce or eliminate snowmobile use and rely instead on snowcoaches only.

NPS Response: The Plan/SEIS considered an alternative (#3) that would have phased out snowmobile use in favor of snowcoaches that meet air and sound emission requirements. This alternative was not selected because it would limit visitors' choices regarding how to access and experience the park, it would not allow as many visitors to experience the park as the final rule does, and it would have greater overall adverse impacts to park resources than the final rule. The impact analysis in the Plan/SEIS demonstrates that with implementation of New Best Available Technology standards and transportation event management, the impacts of snowmobile use will be comparable to the impacts of snowcoach use.

7. Comment: Some comments urged the NPS to allow greater numbers of OSVs than are allowed in the proposed rule.

NPS Response: In the Final 2011 EIS and the Plan/SEIS, the NPS considered several alternatives that would have allowed greater numbers of OSVs than are allowed in the final rule. The NPS dismissed these alternatives for a number of reasons, including that higher OSV use numbers would have too great of an environmental impact on park resources.

8. Comment: Some comments advocated closing the park to visitors completely during the winter.

NPS Response: The NPS believes that visitors should be afforded the opportunity to experience the unique resources and values of Yellowstone during the winter. Some form of OSV travel is necessary to allow visitors to access areas of the park that cannot reasonably be reached using non-motorized means of transportation.

9. Comment: Some comments suggested that transportation events that are allocated to a specific entrance that are not bid on by commercial tour operators should be reallocated to a different entrance.

NPS Response: The final rule allows the Superintendent to make minor changes to the number of transportation events allocated to each entrance for a number of reasons, including utilization rates.

Air and Sound Emission Requirements

10. Comment: In response to a question posed in the proposed rule, a number of comments opposed implementing the new air and sound emission requirements for snowmobiles before the 2017–2018 season, stating that it will take time for manufacturers to develop snowmobiles that can meet the New Best Available Technology standards and that the typical time it takes to phase in new technology is three years. Other comments supported the implementation schedule in the proposed rule, stating that imposing the new air and sound emission requirements in the 2017–2018 season will give commercial tour operators enough time to turn over their OSV fleets, as opposed to forcing them to purchase new machines before they are financially capable of doing so. Other comments stated that even if one snowmobile manufacturer can meet the New Best Available Technology standards earlier than the 2017–2018 season, the NPS should allow enough time for all of the companies that currently produce compliant snowmobiles to develop New Best Available Technology snowmobiles and asked the NPS to consider the long-standing relationship between snowmobile manufacturers and commercial tour operators. One comment stated that due to the New Best Available Technology standards, there will likely be fewer snowmobile models certified for use in the park, and that snowmobiles meeting the voluntary, enhanced emission standards are not likely to be produced in the near future.

NPS Response: The NPS acknowledges the concerns about whether all manufacturers can produce snowmobiles that meet New Best Available Technology standards prior to the 2017–2018 season, and recognizes that there are concerns about impacts to commercial tour operators that would result from accelerating the New Best Available Technology implementation dates. The NPS notes, however, that one manufacturer has already certified to the NPS that it produces a model that meets the new air and sound emission requirements that will be mandatory beginning in the 2015–2016 season: the Bombardier Ski Doo GSX LE 900 ACE produces 90 g/kW-hr of CO, 8 g/kW-hr of HC (both FEL), and 69 dB(A) as measured via SAE J192 (forecasted to produce ~67 dB(A) as measured via SAE J1161). In addition, accelerating implementation of New Best Available Technology standards for snowmobiles to December 2015 will not impact snowmobile commercial tour operators who turn their fleets over biennially because model year 2014 snowmobiles purchased for use in 2013–2014 and 2014–2015 will be resold on the secondary market prior to implementation of New Best Available Technology in December 2015. Further, the NPS has conducted additional economic analyses that show the effect on concessioners for advancing New Best Available Technology two years (from December 2017 to December 2015) would be +$220,956 at the 3% discount rate (+$197,091 at 7% discount rate). Lastly, the NPS will be better able to protect its resources and minimize adverse impacts related to OSV use sooner by advancing the implementation date for New Best Available Technology for snowmobiles to December 2015.

11. Comment: In response to a question posed in the proposed rule, many comments urged the NPS to require snowmobiles to meet the New

Best Available Technology requirements in the 2015–2016 season instead of the 2017–2018 season, stating that snowmobiles that meet the New Best Available Technology standards already exist and therefore there is no reason to wait until the 2017–2018 season to require these machines. Comments also supported requiring that all existing snowcoaches meet air and sound emission requirements in the 2016–2017 season instead of the 2017–2018 season.

NPS Response: The NPS agrees that snowmobiles and snowcoaches that meet the new air and sound emission standards are currently available. As a result, the final rule requires New Best Available Technology standards for snowmobiles be implemented in the 2015–2016 season, and air and sound emission standards for snowcoaches be implemented in the 2016–2017 season.

12. Comment: In response to a question posed in the proposed rule, many commenters stated the NPS should not abandon the proposal to reduce CO emissions as part of the New Best Available Technology standards.

NPS Response: The NPS agrees that the mandated reductions to CO emissions are necessary in order to minimize impacts to park resources, and that the New Best Available Technology standards can be met with existing technology. The NPS notes that 36 different snowmobile models already meet the new air emission standards that will be mandatory beginning in the 2015–2016 season. Accordingly, the CO emission reductions remain part of the New Best Available Technology standards for snowmobiles in the final rule.

13. Comment: In response to a question posed in the proposed rule, many comments urged the NPS not to abandon the New Best Available Technology requirements included in the proposed rule. Some comments urged the NPS to adopt even more stringent Best Available Technology requirements than were included in the proposed rule. Several comments urged the NPS to continue to evolve air and sound emission standards over time.

NPS Response: The New Best Available Technology requirements for snowmobiles and the air and sound emission requirements for snowcoaches that are included in the final rule are stricter than those that have been in place since the 2004–2005 season. The NPS believes that the air and sound emissions standards in the final rule will better protect park resources and values than has been the case in the past, and can be met by OSV manufacturers. In addition to the new air and sound emission standards for snowmobiles and snowcoaches, the final rule includes voluntary, enhanced standards that would reward innovations in OSV technology and would further reduce impacts to air and soundscapes. The NPS will continue to evaluate the impacts of OSV use through the Adaptive Management Program, and if necessary, make changes to the air and sound emission standards. For instance, the final rule allows the Superintendent to establish performance-based standards for snowcoaches that would enable compliant snowcoaches to be operated in the park after the expiration of the 10-year certification period. The NPS recognizes that any other changes to air and sound emission standards, such as the implementation of requirements for nitrogen oxide emissions, would require changes to the rule, and could also require additional National Environmental Policy Act (NEPA) review prior to implementation.

14. Comment: One comment urged the NPS to investigate the feasibility of limiting nitrogen oxide emissions from oversnow vehicles.

NPS Response: The NPS has begun collecting data on nitrogen oxide emissions from OSVs in the past few years, and has begun monitoring for nitrogen oxides over the past two winter seasons. The NPS expects to conduct additional research regarding nitrogen oxides in the future, and where possible, will correlate new data to individual vehicle types in order to better understand the issues and impacts related to emission of nitrogen oxide from OSVs. If necessary, the NPS could limit nitrogen oxide emissions in the future, through the Adaptive Management Program.

15. Comment: One comment urged the NPS to test snowmobiles under the same conditions and in the same manner that they are used in the park.

NPS Response: Under the final rule, snowmobiles will be tested for noise emissions at their typical cruising speed of 35 mph in accordance with the SAE J1161 test procedures. This is a deviation from past snowmobile noise emission measurements which were conducted following SAE J192 procedures, a full-throttle maximum sound output test. Snowmobiles will continue to be tested for air emissions by individual manufacturers following the procedures detailed in 40 CFR 1051.505. The NPS has determined that it would cause undue hardship and expense to require testing in conditions that are encountered in the park outside of a laboratory environment.

16. Comment: One comment urged the NPS not to adopt new methods for testing snowmobile noise emissions.

NPS Response: The NPS believes that adopting the J1161 test procedures will more accurately measure noise emissions in a manner that reflects how snowmobiles are used in the park. Additionally, while the new method requires testing and certifying snowmobiles at their typical cruising speed of 35 mph, the NPS is able to correlate the new testing procedures with the previous, full-throttle tests.

17. Comment: In response to a question posed in the proposed rule, many comments stated that snowmobiles used for non-commercially guided trips should be required to meet New Best Available Technology standards.

NPS Response: The NPS agrees that New Best Available Technology standards are needed to protect park resources and values and that exempting snowmobiles used in non-commercially guided groups would unnecessarily allow greater impacts to park resources than the use of vehicles compliant with New Best Available Technology standards. This would also create a double-standard for snowmobiles used in the park. Under the final rule, all snowmobiles entering the park, including those used in non-commercially guided groups, are required to meet New Best Available Technology standards.

18. Comment: One comment stated that only snowmobiles with four-stroke engines and fuel injection should be allowed in the park.

NPS Response: The final rule contains performance-based sound and air emission standards for snowmobiles. As long as a snowmobile can meet those standards, that snowmobile can have a two-stroke or a four-stroke engine.

19. Comment: One comment urged the NPS to adopt a performance-based standard for historic Bombardier snowcoaches and urged the NPS to allow engines in historic Bombardier snowcoaches to be used for more than ten years. Several comments further urged the NPS to develop performance-based emissions requirements for all snowcoaches, not just Bombardiers, rather than requiring design specifications (technology-based standards). Other commenters stated that if performance-based standards are developed, they would need to be subjected to additional review under NEPA.

NPS Response: The 10-year requirement ensures that the least polluting snowcoaches are used in the park and reflects the concept that over

time, the efficiency of engines and exhaust emission control systems degrades due to wear and tear. In consultations with the EPA, it was determined that after 10 years of use, snowcoach engines would emit more pollution than when they first entered service, such that they should be replaced. The NPS acknowledges that the technology-based air and sound emission standards for snowcoaches could result in some vehicles entering the park emitting higher levels of air emissions than might be desirable. Because the majority of snowcoaches are typically converted from street vehicles designed to operate on roads, it is difficult to predict the actual emissions of each vehicle after it is converted to tracks and operated on snow at high elevations. Due to the limited amount of data on actual snowcoach emissions, a performance-based standard could not be implemented at this time. The NPS will continue to collect data on snowcoach emissions and, if necessary, will investigate the possibility of implementing a performance-based or quasi-technology/performance-based standard through the Adaptive Management Program. The final rule allows the Superintendent to establish performance-based emission standards for snowcoaches that would enable compliant snowcoaches to be operated in the park after the expiration of the 10-year certification period. The NPS recognizes that any other changes to air and sound emission standards, such as the implementation of requirements for nitrogen oxide emissions, would require changes to the rule, and could also require additional NEPA review prior to implementation.

20. Comment: One comment stated that the impacts of increased OSV use during Phase II of implementation are not evaluated in the Plan/SEIS.

NPS Response: During Phase II of implementation (2014–2015 and 2015–2016 seasons), depending on how commercial tour operators use their transportation events, the impacts of OSV use would fall generally within the impacts predicted for Alternatives 2A and 4A–D in the Plan/SEIS. For example, if zero commercial tour operators voluntarily upgrade their OSVs to meet the new air and sound emission standards during Phase II, before these requirements become mandatory, impacts to resources would be similar to those forecasted for Alternative 2A in the Plan/SEIS. This is because the additional air and noise impacts created by an increase of 24 snowmobiles (from 318 to 342 snowmobiles) would largely be offset by a reduction of 18 snowcoaches (from 78 to 60 snowcoaches). If, however, all commercial tour operators voluntarily upgrade their OSVs to meet the new air and sound emission standards during Phase II, impacts would be identical to those forecasted in the Plan/SEIS for Alternatives 4A–D (depending on how commercial tour operators choose to allocate their snowmobile and snowcoach transportation events). In addition, as a mechanism to help ensure the impacts of OSV use do not exceed the forecasted level of impacts disclosed in the Plan/SEIS, the NPS made a change to the final rule clarifying that in order to use a snowcoach in lieu of a snowmobile transportation event during Phase II, the snowcoach will need to meet the air and sound emission requirements that apply to all snowcoaches beginning in the 2016–2017 season.

Non-Commercially Guided Groups

21. Comment: Some comments opposed allowing non-commercially guided use, stating that the requirement in recent regulations that all snowmobiles be accompanied by a professional guide has been instrumental in reducing impacts to park resources. Other comments supported non-commercially guided access, claiming that it is an essential aspect of the proposed rule.

NPS Response: Best available data demonstrates that unguided use could have greater adverse impacts to park resources than guided use, but this data does not distinguish between commercial and non-commercial guides. The NPS believes that with appropriate training and enforcement, there will be no difference in impacts from similarly sized commercially guided groups versus non-commercially guided groups. The NPS will develop a Non-commercially Guided Snowmobile Access Program and will monitor non-commercially guided groups through the Adaptive Management Program. If non-commercially guided groups are determined to have a relatively greater impact to park resources and values than commercially guided groups, non-commercially guided use may be reduced or discontinued.

22. Comment: Some comments urged the NPS to allow more than 4 transportation events each day for non-commercially guided groups. Other comments suggested that an increase to the number of non-commercially guided transportation events be allowed through the adaptive management process.

NPS Response: The NPS notes that non-commercially guided access has not been allowed in the park before and believes the level of non-commercially guided access in the final rule is appropriate. The NPS further notes that the number of snowmobile transportation events is capped at 50 (46 for commercial tour operators and 4 for non-commercially guided trips) and any increases to the number of non-commercially guided transportation events through the adaptive management process would come at the expense of transportation events allocated to commercial tour operators.

23. Comment: Some comments offered suggestions regarding the Non-commercially Guided Snowmobile Access Program. Several commenters offered to participate in the development of the Non-commercially Guided Snowmobile Access Program, or identified persons or organizations that they believe should assist with development of the program.

NPS Response: The NPS is committed to developing a Non-commercially Guided Snowmobile Access Program with input from the public and stakeholders. The NPS will notify the public regarding this effort when it begins, and will consider the comments submitted on the proposed rule relating to this program at that time.

24. Comment: Some commenters urged the NPS to require non-commercially guided tour operators to carry the same insurance as commercial tour operators.

NPS Response: Under the final rule, each non-commercial guide may lead no more than two trips per winter season and may not charge a fee or accept any compensation for guiding services. As a result, the NPS does not believe it is appropriate to require non-commercial guides to carry the same insurance as commercial tour operators.

25. Comment: Several comments stated concerns that non-commercially guided access may adversely affect the number of transportation events available for commercial tour operators, and stated there should be a separate allocation for non-commercially guided transportation events.

NPS Response: Under the final rule, 50 of the 110 total transportation events allowed in the park per day are reserved for snowmobiles. Of these 50 snowmobile transportation events, 46 will be allocated to commercial tour operators and 4 will be reserved for non-commercially guided groups.

26. Comment: One comment urged the NPS to consider allowing non-commercially guided groups to stay in the park for longer than two days and one night at a time.

NPS Response: The NPS recognizes that some visitors who enter the park as part of a non-commercially guided group may wish to stay for several days. The preamble of the final rule has been changed to state that the maximum length of a non-commercially guided snowmobile trip is three days and two nights.

Management of Sylvan Pass

27. Comment: Some comments opposed keeping Sylvan Pass open, stating that avalanche control activities are unsafe, that the area contains lynx and wolverine habitat, and that the costs of keeping it open are too high. Other comments supported keeping access to the park open through the East Entrance, citing the importance of access to the park for Northwest Wyoming and its visitors.

NPS Response: The NPS conducted Operational Risk Management Assessments (ORMAs) in 2007 and 2010 focused on issues relating to keeping Sylvan Pass open in the winter. The results of these ORMAs indicated that appropriate procedures are in place to operate the Pass safely. Best available data indicates that the Pass is not frequently used by lynx or wolverines, and the potential for impacts on these species is minimal. Furthermore, avalanche mitigation in Sylvan Pass affects less than 0.1% of wolverine habitat within Yellowstone. The NPS completed an informal consultation with the U.S. Fish and Wildlife Service, which concurred with the NPS determination that impacts from OSV use may affect, but are not likely to adversely affect, Canada lynx, designated critical habitat for lynx, and wolverines. Additional details regarding the impacts of avalanche mitigation on Sylvan Pass can be found in Chapter 4 of the Plan/SEIS. The NPS understands that the public is concerned with the cost of Sylvan Pass operations and the cost of winter operations as a whole. However, the NPS must balance cost with other factors, including visitor access and enjoyment of the park, when determining a long-term winter use plan.

Snowcoach Requirements

28. Comment: One comment suggested that there should be size and weight restrictions on snowcoaches to reduce rutting.

NPS Response: Neither maximum vehicle weight, gross vehicle weight rating, nor width for snowcoaches is included in the final rule. In the past, the NPS proposed specifying a maximum size and pounds per square inch weight limit for snowcoaches in order to address issues related to rutting. Without detailed study that evaluates variables, including pounds per square inch, snow conditions and environmental considerations such as density, snow-water equivalency, hardness, aspect, and other factors such as grooming practices and equipment, and snowcoach track design and configuration, it is difficult to determine what specific requirements would lessen the potential for rutting of snow roads. The NPS acknowledges that some snowcoaches leave ruts on the roads and that these ruts negatively affect the visitor experience and present a potential safety hazard to other users. To address this concern, the NPS is currently studying this issue and is working to develop mitigation strategies once the determinants of rutting are positively identified. After further study, should any size, weight, or weight displacement restrictions for snowcoaches be necessary, these restrictions will be incorporated in commercial tour operators' annual operating plans.

29. Comment: One comment urged the NPS to allow snowcoaches to be equipped with tires in addition to tracks.

NPS Response: The NPS recognizes that there may be snowcoaches developed in the future that use tires specifically designed for operation in oversnow conditions instead of tracks. While the impact analysis in the Plan/SEIS only includes analysis of snowcoaches with tracks, the NPS wishes to retain flexibility to allow wheeled snowcoaches in the future. Therefore, the definition of a snowcoach has been changed in the final rule to allow the possibility for wheeled snowcoach use. The NPS could examine wheeled snowcoach use through the adaptive management and monitoring process.

Adaptive Management

30. Comment: Some comments asked for the adaptive management program to be more clearly defined and incorporated into the final rule.

NPS Response: As stated in the Plan/SEIS, in order to be most effective adaptive management processes must include stakeholder input. The NPS has committed to an Adaptive Management Program that will provide for this stakeholder involvement, but due to the time it takes to fully develop an adaptive management plan, this could not be completed prior to the promulgation of the final rule.

Impacts to Park Resources

31. Comment: Some comments urged the NPS to keep impacts under the final rule similar to impacts seen during the past four years under the interim rule. Other comments urged the NPS to ensure the park is cleaner and quieter than has been the case over the past four years under the interim rule.

NPS Response: The NPS notes that the level of average use seen over the past four seasons under the interim rule represents less than 60% of the use levels authorized during that time. In the Plan/SEIS, the NPS considered but dismissed from detailed analysis an alternative that would have allowed a maximum of 191 snowmobiles and 36 snowcoaches per day, which are the average use levels seen during the 2009–2010 through 2011–2012 seasons. While there are a number of factors that resulted in less than 100% of the authorized use being seen over the past few seasons, for its impact analysis in the Plan/SEIS, the NPS assumed that 100% of the allowable OSV use will take place under each alternative analyzed. Under this assumption, the impacts of OSV use under the final rule would have less adverse impact to park resources than the level of use authorized under the interim rule. The NPS notes, however, that even at the same levels as the average use seen under the interim rule, OSV use under the final rule would result in less impact to park resources than have been seen over the past four seasons, due to the new air and sound emission requirements and management of OSVs by transportation events.

Snowmobile Speed Limits

32. Comment: One comment opposed lowering the speed limit for snowmobiles to 35 mph, stating that this will limit the time visitors will be able to spend enjoying park resources because it will take more time to enter and exit the park.

NPS Response: 35 mph represents the typical cruising speed for snowmobiles in the park. Therefore, the NPS believes that visitors will have a similar amount of time to experience park resources as they had under previous winter use rules. The NPS believes this speed limit is appropriate to protect visitor safety and to limit impacts to park resources from OSV use, including minimization of OSV-caused noise.

Changes From the Proposed Rule

After taking the public comments into consideration and after additional review, the NPS made the following changes in the final rule:

§ 7.13(l)(2)	In the definition of ''snowcoach,'' removed the requirement that snowcoaches be driven by a track or tracks and steered by skis or tracks.
§ 7.13(l)(4)(i)	Clarified that the Superintendent may establish additional operating conditions, including performance-based emission standards for snowcoaches, after providing public notice.
§ 7.13(l)(4)(ii)	Changed the dates that air and sound emission requirements apply to new and existing snowcoaches.
§ 7.13(l)(4)(iv)	Clarified that snowcoach sound emissions are measured when operating the snowcoach at 25 mph or its maximum cruising speed if less than 25 mph. Testing at these speeds is representative of how snowcoaches are operated in the park and allows the NPS to better understand impacts to resources.
§ 7.13(l)(4)(vii)	Clarified that the NPS will test and certify snowcoaches for air and sound emissions in the park. Testing in the park allows the NPS to measure impacts under reasonable operating conditions.
§ 7.13(l)(6)(i)	Changed the dates that new air and sound emission requirements apply to snowmobiles.
§ 7.13(l)(8)(i)	Provided more detail about routes where snowcoaches may be operated in the park.
§ 7.13(l)(9)(v)	Added a requirement that snowmobiles operated by non-commercial guides be clearly marked. Concession contracts require commercial guides to be marked so this change imposes the same requirement on non-commercial guides. Marking assists the NPS with enforcement of the rules.
§ 7.13(l)(9)(vi)	Clarified that non-commercial guides must obtain a special use permit from the NPS prior to entering the park with a non-commercially guided group.
§ 7.13(l)(10)(xii)	Adjusted the chart of daily transportation event entry limits by park entrance/location to be consistent with modeling conducted as part of the Plan/SEIS.
§ 7.13(l)(11)(iii)	Clarified that commercial tour operator reports may be required more than once per month if it becomes necessary to more closely monitor activities to protect natural or cultural resources in the park. This would allow the NPS to better measure compliance with the season average limits on transportation events and give commercial tour operators better information to make informed business decisions.
§ 7.13(l)(12)(i)	Clarified that the Superintendent may determine the start and end dates of a winter season, and decide to close all or certain areas of the park to OSV use after considering appropriate factors.
§ 7.13(l)(13)(i)(l)	Added a 25 mph speed limit for snowcoaches. This ensures that snowcoach use will be consistent with environmental impact models in the Plan/SEIS. This limit is consistent with the performance capabilities of snowcoaches.
§ 7.13(l)(13)(ii)(D)	Added a requirement that snowmobiles be registered in the U.S. State or Canadian Province of principal use.

Section-by-Section Analysis

Section 7.13(l)(1) What is the scope of this regulation?

The regulations apply to the use of snowcoaches and snowmobiles by guides and park visitors. Except where indicated, the regulations do not apply to non-administrative OSV use by NPS employees, contractors, concessioner employees, their families and guests, or other users authorized by the Superintendent.

Section 7.13(l)(2) What terms do I need to know?

The NPS has included definitions for a variety of terms, including commercial guide, commercial tour operator, non-commercially guided group, oversnow vehicle, oversnow route, and transportation event.

For snowmobiles, the NPS is continuing to use the definition found at 36 CFR 1.4. The final rule also includes language that makes it clear that all-terrain vehicles and utility-type vehicles are not snowmobiles or snowcoaches, even if they have been adapted for use on snow with track and ski systems.

Earlier regulations governing winter use at the park referred only to snowmobiles or snowcoaches. Since there is a strong likelihood that new forms of oversnow motorized vehicles will be developed in the future, a definition for ''oversnow vehicle'' was developed to ensure that any such new technology is subject to this regulation. When a particular requirement or restriction only applies to a certain type of OSV, the specific vehicle is stated and the restriction only applies to that type of vehicle, not all OSVs. However, OSVs that do not meet the strict definition of a snowcoach (i.e., both weight and passenger capacity) are subject to the same requirements as snowmobiles. These definitions may be clarified in future rulemakings based on changes in technology.

In earlier regulations, the NPS specified a size and weight limit for snowcoaches. As the number of larger and heavier snowcoaches has increased, the NPS has observed serious rutting of the groomed road surface caused by heavier snowcoaches. Rutting creates safety issues for other snowcoaches and snowmobiles using oversnow routes. The NPS is evaluating a suite of management actions to address rutting, which may include placing vehicle weight and size limits in the concession agreements and commercial use authorizations that govern the use of snowcoaches in the park.

Section 7.13(l)(3) When may I operate a snowmobile in Yellowstone National Park?

The final rule continues to authorize operation of a snowmobile within the park each winter season subject to use limits, guiding requirements, operating hours, equipment requirements, emission requirements, and operating conditions. Snowmobile and snowcoach use between Flagg Ranch and the South Entrance of Yellowstone occurs in the John D. Rockefeller, Jr. Memorial Parkway, and is addressed in regulations pertaining to that unit of the National Park System at 36 CFR 7.21(a). Any OSV that enters Yellowstone is subject to the terms and conditions of this final rule.

Section 7.13(l)(4) When may I operate a snowcoach in Yellowstone National Park?

The final rule continues to authorize operation of snowcoaches in the park each winter season, subject to the conditions in this final rule. Snowcoaches must be operated under a concessions contract or commercial use authorization and meet the applicable air, weight, and sound emission requirements. Snowcoaches must not exceed 75 dB(A) when measured by operating the snowcoach at 25 mph, or its maximum cruising speed if less than 25 mph, using the SAE J1161 test procedures. Existing snowcoaches must meet these requirements beginning in the 2016–2017 winter season, while new snowcoaches must meet these requirements upon being put into service beginning in the 2014–2015 winter season.

Section 7.13(l)(5) Must I operate a certain model of snowmobile?

Except for some exemptions that apply to the Cave Falls Road and use by persons affiliated with the park, the final rule continues to require that only snowmobiles that meet NPS air and sound emissions requirements may be operated in the park.

Section 7.13(l)(6) What standards will the Superintendent use to approve snowmobile makes, models, and year of manufacture for use in the park?

Snowmobiles must continue to meet the existing air and sound emission requirements through the 2014–2015 winter season. As of December 15, 2015, snowmobiles must operate at or below 67 dB(A) as measured at cruising speed and must be certified under 40 CFR part 1051 to a FEL no greater than a total of 15 g/kW-hr for HC and a FEL of no greater than 90 g/kW-hr for CO.

Section 7.13 (l)(7) Where may I operate a snowmobile in Yellowstone National Park?

Specific routes are listed where snowmobiles may be operated, but the final rule also provides latitude for the Superintendent to close and reopen routes when necessary. When determining what routes are available for use, the Superintendent will consider weather and snow conditions, public safety, protection of park resources, park operations, use patterns, and other factors.

Section 7.13(l)(8) What routes are designated for snowcoach use?

Snowcoaches may be operated on the specific routes open to snowmobile use. In addition, rubber-tracked snowcoaches may be operated from the park entrance at Gardiner, MT, to the parking lot of Upper Terrace Drive and in the Mammoth Hot Springs developed area. This final rule also provides latitude for the Superintendent to close and reopen routes when necessary. When determining what routes are available for use, the Superintendent will consider weather and snow conditions, public safety, protection of park resources, park operations, use patterns, and other factors.

Section 7.13(l)(9) Must I travel with a guide while snowmobiling in Yellowstone and what other guiding requirements apply?

The final rule retains the requirement that, except on the Cave Falls Road, all visitors operating snowmobiles in the park must be accompanied by a guide. In addition to commercially guided trips, the final rule allows 4 groups of up to 5 snowmobiles to be led into the park by non-commercial guides who have been certified under the Non-commercially Guided Snowmobile Access Program. The final rule requires that guided parties must travel together and not be separated by more than one-third of a mile from the first snowmobile in the group to ensure groups stay together for safety considerations.

Section 7.13(l)(10) Are there limits established for the numbers of snowmobiles and snowcoaches permitted to operate in the park each day?

As described above, the NPS will manage OSV use by limiting the size and number of snowmobile and snowcoach transportation events on any given day. No more than 110 transportation events are allowed in the park on any day. Four transportation events are reserved for non-commercially guided groups, and up to 106 transportation events are allocated to commercial tour operators via concession contracts or commercial use authorizations. Commercial tour operators may use their transportation events for snowmobiles or snowcoaches, provided that no more than 46 commercially guided transportation events may consist of snowmobiles. The maximum size of a commercially guided snowmobile transportation event is 10 snowmobiles, with a maximum average size of 7 over the course of a winter season. The maximum average size of a snowmobile transportation event may increase from 7 to 8 if all of the snowmobiles in a group meet voluntary, enhanced emission standards. The maximum size of a snowcoach transportation event will initially be 1 snowcoach, but may increase to 2 snowcoaches, not to exceed a seasonal average of 1.5 snowcoaches per transportation event, if the vehicles meet voluntary, enhanced emission standards.

Section 7.13(l)(11) How will the NPS monitor compliance with the required average and maximum size of transportation events?

In order for the NPS to monitor compliance with this rule, each commercial tour operator is responsible for keeping track of its daily use on an NPS form, including group size and other variables of interest to the NPS, and reporting these numbers to the NPS on a monthly basis. The NPS may require reports to be submitted more frequently than monthly if it becomes necessary to more closely monitor activities to protect natural or cultural resources in the park. For each transportation event, commercial tour operators are required to report the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination, and whether the transportation event allocation was from another commercial tour operator. Operators are required to report their transportation event size averages for the previous month and for the season to-date. In addition to the reporting requirements in the final rule, commercial tour operators are also subject to reporting requirements contained in their concession contracts or commercial use authorizations.

Section 7.13(l)(12) How will I know when I can operate a snowmobile or snowcoach in the park?

The Superintendent will determine the start and end dates of each winter season, which will begin no earlier than December 15 and end no later than March 15 each winter season. The Superintendent will consider appropriate factors when determining the length of the winter season, including adequate snow cover, the location of wintering wildlife, public safety, resource protection, park operations, and use patterns. Based upon these factors, the Superintendent may determine that there will be no winter season for oversnow vehicles or that certain areas of the park may be closed to public OSV use. The final rule does not change the methods the Superintendent will use to determine operating hours. In the past, the Superintendent has set the opening and closing hours at 7:00 a.m. and 9:00 p.m., respectively. Early and late entries were granted on a case-by-case basis. The final rule allows the Superintendent to manage operating hours, dates, and use levels with public notice provided through one or more methods listed in 36 CFR 1.7. These methods could include signs, maps, public notices, or other publications. Except for emergency situations, any changes to operating hours, dates, or use levels will be made on an annual basis. Initially, the Superintendent intends to set the operating hours as 7:00 a.m. to 9:00 p.m. with no early entries or late exits allowed except for administrative travel, non-administrative travel by affiliated persons, and emergencies.

Section 7.13 (l)(13) What other conditions apply to the operation of OSVs?

The final rule maintains requirements regarding the operation of OSVs in the park, such as driver's license and registration requirements, operating procedures, requirements for headlights, brakes, and other safety equipment, length of idling time (which has been reduced from five to three minutes), maximum speed limit (35 mph for snowmobiles and 25 mph for

snowcoaches), towing of sleds, and other requirements related to safety and impacts to resources. Towing people is a potential safety hazard and health risk due to road conditions, traffic volumes, and direct exposure to snowmobile emissions. This rule does not affect supply sleds attached by a rigid device or hitch pulled directly behind snowmobiles or other OSVs as long as no person or animal is hauled on them.

Section 7.13 (l)(14) What conditions apply to alcohol use while operating an OSV?

The final rule does not change the conditions applicable to the use of alcohol while operating OSVs. Although the regulations in 36 CFR 4.23, concerning the operation of motor vehicles in units of the National Park System while under the influence of alcohol or drugs, apply to snowmobiles under 36 CFR 2.18(a), the final rule maintains the additional regulations that address under-age drinking while operating a snowmobile, and operation under the influence by snowcoach or snowmobile guides while performing services for others. Many states have adopted similar alcohol standards for under-age and commercial operators, and the NPS believes it is necessary to specifically include these regulations to help mitigate potential safety concerns.

The alcohol level for anyone under the age of 21 is set at .02 Blood Alcohol Content (BAC). Although the NPS endorses ''zero tolerance,'' a very low BAC is established to avoid a chance of a false reading. Mothers Against Drunk Driving and many other organizations have endorsed such a general enforcement posture and the NPS agrees that under-age drinking and driving should not be allowed.

In the case of snowcoach or snowmobile guides, a low BAC limit is also necessary. Persons operating a snowcoach are likely to be carrying eight or more passengers in a vehicle. Vehicles on tracks or skis are more challenging to operate than wheeled vehicles, and travel on oversnow routes can present significant hazards, especially if the driver has impaired judgment. Similarly, persons guiding others on a snowmobile have put themselves in a position of responsibility for the safety of other visitors and for minimizing impacts to park wildlife and other resources. If the guide's judgment is impaired, hazards such as wildlife on the road or snow-obscured features could endanger all members of the group in an unforgiving climate. For these reasons, the final rule continues to require that all guides be held to a stricter than normal standard for alcohol consumption. Therefore, the final rule continues a BAC limit of .04 for snowcoach and snowmobile guides. This limit applies for both commercial guides and non-commercial guides. This is consistent with other federal and state rules pertaining to BAC thresholds for someone with a commercial driver's license.

Section 7.13 (l)(15) Do other NPS regulations apply to the use of OSVs?

The final rule does not change the applicability of other NPS regulations concerning OSV use. Relevant portions of 36 CFR 2.18, including § 2.18(c), have been incorporated into this final rule. Some portions of 36 CFR 2.18 and 2.19 are superseded by the final rule, which governs maximum operating decibels, operating hours, and operator age in this park only. In addition, 36 CFR 2.18(b), which adopts non-conflicting state snowmobile laws, does not apply in Yellowstone. The final rule also supersedes 36 CFR 2.19(b). Other provisions of 36 CFR Chapter I continue to apply to the operation of OSVs unless specifically superseded by the final rule.

Section 7.13 (l)(16) What forms of non-motorized oversnow transportation are allowed in the park?

Non-motorized travel consisting of skiing, skating, snowshoeing, and walking is generally permitted. The park has specifically prohibited dog sledding, bicycle use, and ski-joring (the practice of a skier being pulled by dogs, a horse, or a vehicle) to prevent disturbance or harassment to wildlife and for visitor safety. These restrictions have been in place for several years and are reaffirmed by this rule.

Section 7.13 (l)(17) May I operate a snowplane in Yellowstone National Park?

Snowplanes may not be used in Yellowstone National Park.

Section 7.13 (l)(18) Is violating a provision of this section prohibited?

Violating a term, condition, or requirement of paragraphs (l)(1) through (l)(17) of § 7.13 is prohibited.

Compliance With Other Laws, Executive Orders, and Department Policies

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.).* This certification is based on the cost-benefit and regulatory flexibility analysis found in the report entitled ''Economic Analysis of Winter Use Regulations in Yellowstone National Park (March 2013)'' which can be viewed on the park's planning Web site, *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS,'' and then clicking on the link entitled ''Document List.''

From the analysis of costs and benefits using Baseline 1, the NPS concludes that the action alternatives will mitigate the impacts on most small businesses relative to the impacts under Baseline 1. In cases where the action alternatives cause reduced revenues for a few specific firms compared to Baseline 1, the NPS expects that the declines will be very small. From the analysis using Baseline 2, the NPS concludes the following points:

Relative to Baseline 2, Alternatives 3 and 4 are estimated to result in increased revenues for the snowmobile rental and snowcoach sectors.

Alternative 1 has the potential to generate significant losses for small businesses.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or

local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rulemaking has no effect on methods of manufacturing or production and specifically affects the Greater Yellowstone Area, not national or U.S.-based enterprises.

These conclusions are based upon the cost-benefit and regulatory flexibility analysis found in the report entitled ''Economic Analysis of Winter Use Regulations in Yellowstone National Park (March 2013)'' which can be viewed on the park's planning Web site, *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS,'' and then clicking on the link entitled ''Document List.''

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. Access to private property located adjacent to the park will be afforded the same access during winter as before this rule. No other private property is affected. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. Numerous tribes in the area were consulted in the development of the previous winter use planning documents.

Paperwork Reduction Act (PRA)

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 Office of Management and Budget (OMB) control number. OMB has previously approved the information collection requirements associated with NPS special park use permits and assigned OMB Control Number 1024–0026, which expires August 31, 2016. When requirements for the Non-commercially Guided Snowmobile Access Program are developed, we will seek OMB approval, if necessary, for any new information collection requirements. OMB has reviewed and approved the following new reporting and recordkeeping requirements contained in this rule, and assigned OMB Control Number 1024–0266:

(1) To ensure that snowcoaches and snowmobiles meet NPS emission and sound standards, before the start of each winter season:

(a) Snowcoach manufacturers or commercial tour operators must demonstrate, by means acceptable to the Superintendent, that their snowcoaches meet the standards.

(b) Snowmobile manufacturers must demonstrate, by means acceptable to the Superintendent, that their snowmobiles meet the standards.

(2) So that we can monitor compliance with the required average and maximum size of transportation events, as of December 15, 2014, each commercial tour operator must:

(a) Maintain accurate and complete records of the number of snowmobile and snowcoach transportation events he or she brings into the park on a daily basis. These records must be made available for inspection by the park upon request.

(b) Submit a monthly report to the park that includes the information below about snowmobile and snowcoach use. We may require the report to be submitted more frequently than monthly if it becomes necessary to more closely monitor activities to protect natural or cultural resources in the park.

- Average group size for allocated transportation events during the previous month and for the winter season to date. Any transportation events that have been exchanged among commercial tour operators must be noted and the receiving party must include these transportation events in his or her reports.
- For each transportation event, the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the route and primary destination(s), and if the transportation event allocation was from another commercial tour operator.

(3) To qualify for the increased average size of snowmobile transportation events or increased maximum size of snowcoach transportation events, each commercial tour operator must:

- Before the start of the winter season, demonstrate to the park superintendent that his or her snowmobiles or snowcoaches meet the enhanced emission standards.
- Maintain separate records for snowmobiles and snowcoaches that meet enhanced emission standards and those that do not.

During the proposed rule stage, we solicited comments on the above information collection requirements. We did not receive any comments pertaining to the information collection. We have discussed other comments received in the preamble above.

Title: Reporting and Recordkeeping for Snowcoaches and Snowmobiles, Yellowstone National Park, 36 CFR 7.13(l).

OMB Control Number: 1024–0266.

Service Form Number: None.

Description of Respondents: Commercial businesses operating OSVs

in Yellowstone National Park, and OSV manufacturers.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Monthly for reports; ongoing for recordkeeping; annually to demonstrate that OSVs meet or exceed emission standards.

Estimated number of respondents: 17 (15 commercial tour operators and 2 manufacturers).

Activity	Estimated number of annual nresponses	Completion time per response (hours)	Estimated total annual burden hours *
Meet Emission/Sound Standards—Snowcoaches (7.13(l)(4)(vii))	12	.5	6
Meet Emission/Sound Standards—Snowmobiles (7.13(l)(5))	2	.5	1
Report and Recordkeeping (7.13(l)(11)(i)–(iii))	45	2	90
Meet Enhanced Emission Standards (7.13(l)(11)(iv))	5	.5	3
Total	64		100

* rounded.

You may send comments on any aspect of this information collection to the Information Collection Clearance Officer, National Park Service, 1849 C Street NW. (2601), Washington, DC 20240.

National Environmental Policy Act

This rule constitutes a major Federal action with the potential to significantly affect the quality of the human environment. We have prepared the Plan/SEIS under the National Environmental Policy Act of 1969. The Plan/SEIS is available by contacting the Yellowstone National Park Management Assistant's Office and online at *http://parkplanning.nps.gov/yell,* by clicking on the link entitled ''2012/2013 Supplemental Winter Use Plan EIS,'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Drafting Information

The primary authors of this regulation are: Jay P. Calhoun, Regulations Program Specialist; Russel J. Wilson, Chief, Regulations and Special Park Uses, National Park Service, Washington Office; David Jacob, Environmental Protection Specialist, National Park Service, Environmental Quality Division; and Wade M. Vagias, Management Assistant, Yellowstone National Park.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR Part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201.07 (2001).

■ 2. In § 7.13 revise paragraph (l) to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(l)(1) *What is the scope of this regulation?* The regulations contained in paragraphs (l)(2) through (l)(15) and (l)(18) of this section apply to the use of snowcoaches and snowmobiles by guides and park visitors. Except where indicated, paragraphs (l)(2) through (l)(15) do not apply to non-administrative oversnow vehicle use by affiliated persons.

(2) *What terms do I need to know?* The definitions in this paragraph (l)(2) also apply to non-administrative oversnow vehicle use by affiliated persons.

Affiliated persons means persons other than guides or park visitors. Affiliated persons include NPS employees, contractors, concessioner employees, their families and guests, or other persons designated by the Superintendent.

Commercial guide means a person who operates as a snowmobile or snowcoach guide for a monetary fee or other compensation and is authorized to operate in the park under a concession contract or a commercial use authorization.

Commercial tour operator means a person authorized to operate oversnow vehicle tours in the park under a concession contract or a commercial use authorization.

Enhanced emission standards means for snowmobiles, a maximum of 65 dB(A) as measured at cruising speed (approximately 35 mph) in accordance with the Society of Automotive Engineers (SAE) J1161 test procedures and certified under 40 CFR part 1051 to a Family Emission Limit no greater than 60 g/kW-hr for carbon monoxide; and for snowcoaches, a maximum of 71 dB(A) when measured by operating the snowcoach at cruising speed for the test cycle in accordance with the SAE J1161 test procedures.

Guide means a commercial guide or a non-commercial guide.

Non-commercial guide means a person who has successfully completed training and certification requirements established by the Superintendent that demonstrate the requisite knowledge and skills to operate a snowmobile in Yellowstone National Park. In order to be certified and receive a special use permit, a non-commercial guide must be at least 18 years of age by the day of the trip and possess a valid state-issued motor vehicle driver's license.

Non-commercially guided group means a group of no more than five snowmobiles, including a non-commercial guide, permitted to enter the park under the Non-commercially Guided Snowmobile Access Program.

Non-commercially Guided Snowmobile Access Program means a program that permits authorized parties to enter Yellowstone National Park without a commercial guide.

Oversnow route means that portion of the unplowed roadway located between the road shoulders and designated by snow poles or other poles, ropes, fencing, or signs erected to regulate oversnow activity. Oversnow routes include pullouts or parking areas that are groomed or marked similarly to roadways and are adjacent to designated oversnow routes. An oversnow route may also be distinguished by the interior boundaries of the berm created by the packing and grooming of the unplowed roadway.

Oversnow vehicle means a snowmobile, snowcoach, or other

motorized vehicle that is intended for travel primarily on snow and has been authorized by the Superintendent to operate in the park. All-terrain vehicles and utility-type vehicles are not oversnow vehicles, even if they have been modified for use on snow with track or ski systems

Snowcoach means a self-propelled mass transit vehicle intended for travel on snow, having a curb weight of over 1,000 pounds (450 kilograms), having a capacity of at least eight passengers and no more than 32 passengers, plus a driver.

Snowcoach transportation event means one snowcoach that does not meet enhanced emission standards traveling in Yellowstone National Park on any given day, or two snowcoaches that both meet enhanced emission standards traveling together in Yellowstone National Park on any given day.

Snowmobile means a self-propelled vehicle intended for travel solely on snow, with a maximum curb weight of 1,000 pounds (450 kilograms), driven by a track or tracks in contact with the snow, and which may be steered by a ski or skis in contact with the snow.

Snowmobile transportation event means a group of 10 or fewer commercially guided snowmobiles traveling together in Yellowstone National Park on any given day or a non-commercially guided group, which is defined separately. Snowmobiles entering Cave Falls Road are not considered snowmobile transportation events.

Snowplane means a self-propelled vehicle intended for oversnow travel and driven by an air-displacing propeller.

Transportation event means a snowmobile transportation event or a snowcoach transportation event.

(3) *When may I operate a snowmobile in Yellowstone National Park?* You may operate a snowmobile in Yellowstone National Park each winter season only in compliance with use limits, guiding requirements, operating hours, equipment, and operating conditions established under this section. The operation of snowmobiles under a concessions contract or commercial use authorization is subject to the conditions stated in the concessions contract or commercial use authorization. The Superintendent may establish additional operating conditions after providing notice of those conditions in accordance with one or more methods listed in 36 CFR 1.7.

(4) *When may I operate a snowcoach in Yellowstone National Park?* (i) A snowcoach may be operated in Yellowstone National Park only under a concessions contract or commercial use authorization each winter season. Snowcoach operation is subject to the conditions stated in the concessions contract or commercial use authorization and all other conditions identified in this section. The Superintendent may establish additional operating conditions, including performance-based emission standards for snowcoaches, after providing notice of those conditions in accordance with one or more methods listed in 36 CFR 1.7.

(ii) The requirements in paragraphs (l)(4)(iii) through (iv) of this section apply to:

(A) new snowcoaches put into service on or after December 15, 2014;

(B) snowcoaches used in lieu of snowmobile transportation events during the 2014–2015 and 2015–2016 winter seasons; and

(C) all existing snowcoaches as of December 15, 2016.

(iii) The following air emission requirements apply to snowcoaches:

A snowcoach that is a . . .	must meet the following standard . . .
(A) Diesel-fueled snowcoach with a gross vehicle weight rating (GVWR) less than 8,500 pounds.	The functional equivalent of 2010 (or newer) EPA Tier 2 model year engine and emission control technology requirements.
(B) Diesel-fueled snowcoach with a GVWR greater than or equal to 8,500 pounds.	The EPA model year 2010 ''engine configuration certified'' diesel air emission requirements. Alternately, a snowcoach in this category may be certified under the functional equivalent of 2010 (or newer) EPA Tier 2 model year engine and emission control technology requirements if the snowcoach: (*1*) Has a GVWR between 8,500 and 10,000 pounds; and (*2*) Would achieve better emission results with a configuration that meets the Tier 2 requirements.
(C) Gasoline-fueled snowcoach greater than or equal to 10,000 GVWR.	The functional equivalent of 2008 (or newer) EPA Tier 2 model year engine and emission control technology requirements.
(D) Gasoline-fueled snowcoach less than 10,000 GVWR.	The functional equivalent of 2007 (or newer) EPA Tier 2 model year engine and emission control technology requirements.

(iv) A snowcoach may not exceed a sound level of 75 dB(A) when measured by operating the snowcoach at 25 mph, or at its maximum cruising speed if that is less than 25 mph, for the test cycle in accordance with the SAE J1161 test procedures.

(v) All emission-related exhaust components (as listed in the applicable portion of 40 CFR 86.004–25) must function properly. These emission-related components must be replaced with the original equipment manufacturer (OEM) component, if practicable. If OEM parts are not available, aftermarket parts may be used.

(vi) Operating a snowcoach with the original pollution control equipment disabled or modified is prohibited.

(vii) Before the start of a winter season, a snowcoach manufacturer or a commercial tour operator must demonstrate, by means acceptable to the Superintendent, that a snowcoach meets the air and sound emission standards. The NPS will test and certify snowcoaches for compliance with air and sound emission requirements at locations in the park. A snowcoach meeting the requirements for air and sound emissions may be operated in the park through the winter season that begins no more than 10 years from the engine manufacture date, or longer if the snowcoach is certified to meet performance-based emission standards established by the Superintendent under paragraph (l)(4)(i) of this section.

(viii) Snowcoaches are subject to periodic and unannounced inspections to determine compliance with the requirements of paragraph (l)(4) of this section.

(ix) This paragraph (l)(4) also applies to non-administrative oversnow vehicle use by affiliated persons.

(5) *Must I operate a certain model of snowmobile?* Only snowmobiles that meet NPS air and sound emissions requirements in this section may be operated in the park. Before the start of a winter season, a snowmobile

manufacturer must demonstrate, by means acceptable to the Superintendent, that a snowmobile meets the air and sound emission standards. The Superintendent will approve snowmobile makes, models, and years of manufacture that meet those requirements. Any snowmobile model not approved by the Superintendent may not be operated in the park.

(6) *What standards will the Superintendent use to approve snowmobile makes, models, and years of manufacture for use in the park?* (i) Snowmobiles must meet the following air emission requirements:

(A) Through March 15, 2015, all snowmobiles must be certified under 40 CFR part 1051 to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission Limit no greater than 120 g/kW-hr for carbon monoxide.

(B) As of December 15, 2015, all snowmobiles must be certified under 40 CFR part 1051 to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission Limit no greater than 90 g/kW-hr for carbon monoxide.

(ii) Snowmobiles must meet the following sound emission requirements:

(A) Through March 15, 2015, snowmobiles must operate at or below 73 dB(A) as measured at full throttle according to SAE J192 test procedures (revised 1985). During this period, snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(B) As of December 15, 2015, snowmobiles must operate at or below 67 dB(A) as measured at cruising speed (approximately 35mph) in accordance with SAE J1161 test procedures. Sound emissions tests must be accomplished within the barometric pressure limits of the test procedure; there will be no allowance for elevation. A population of measurements for a snowmobile model may not exceed a mean output of 67 dB(A), and a single measurement may not exceed 69 dB(A). The Superintendent may revise these testing procedures based on new information or updates to the SAE J1161 testing procedures.

(iii) A snowmobile meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding six years from the manufacturing date, or after the snowmobile has travelled 6,000 miles, whichever occurs later.

(iv) Operating a snowmobile that has been modified in a manner that may adversely affect air or sound emissions is prohibited.

(v) These air and sound emissions requirements do not apply to snowmobiles operated on the Cave Falls Road in the park.

(vi) Snowmobiles are subject to periodic and unannounced inspections to determine compliance with the requirements of paragraph (l)(6) of this section.

(vii) This paragraph (l)(6) also applies to non-administrative oversnow vehicle use by affiliated persons.

(7) *Where may I operate a snowmobile in Yellowstone National Park?* (i) You may operate an authorized snowmobile only upon designated oversnow routes established within the park in accordance with 36 CFR 2.18(c). The following oversnow routes are so designated:

(A) Entrance roads: from the parking lot at Upper Terrace Drive south of Mammoth Hot Springs to Norris Junction, from the park boundary at West Yellowstone to Madison Junction, from the South Entrance to West Thumb, and from the East Entrance to junction with the Grand Loop Road.

(B) Grand Loop Road segments: from Norris Junction to Madison Junction, from Madison Junction to West Thumb, from West Thumb to the junction with the East Entrance Road, from Norris Junction to Canyon Junction, and from Canyon Junction to the junction with the East Entrance Road.

(C) Side roads: South Canyon Rim Drive, Lake Butte Road, Firehole Canyon Drive, North Canyon Rim Drive, and Riverside Drive.

(D) Developed area roads in the areas of Madison Junction, Old Faithful, Grant Village, West Thumb, Lake, East Entrance, Fishing Bridge, Canyon, Indian Creek, and Norris.

(ii) The Superintendent may open or close these oversnow routes, or portions thereof, for snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, resource protection, park operations, use patterns, and other factors. The Superintendent will provide public notice of any opening or closing by one or more of the methods listed in 36 CFR 1.7.

(iii) This paragraph (l)(7) also applies to non-administrative oversnow vehicle use by affiliated persons.

(iv) Maps detailing the designated oversnow routes are available at Park Headquarters.

(8) *What routes are designated for snowcoach use?* (i) Authorized snowcoaches may be operated on the routes designated for snowmobile use in paragraph (l)(7)(i) of this section. Snowcoaches may be operated on the Grand Loop Road from Canyon Junction to the Washburn Hot Springs Overlook. In addition, rubber-tracked snowcoaches may be operated from the park entrance at Gardiner, MT, to the parking lot of Upper Terrace Drive and in the Mammoth Hot Springs developed area.

(ii) The Superintendent may open or close these oversnow routes, or portions thereof, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, resource protection, park operations, use patterns, and other factors. The Superintendent will provide public notice of any opening or closing by one of more of the methods listed in 36 CFR 1.7.

(iii) This paragraph (l)(8) also applies to non-administrative snowcoach use by affiliated persons.

(9) *Must I travel with a guide while snowmobiling in Yellowstone and what other guiding requirements apply?* (i) All visitors operating snowmobiles in the park must be accompanied by a guide.

(ii) Unguided snowmobile access is prohibited.

(iii) The Superintendent will establish the requirements, including training and certification requirements for commercial guides and non-commercial guides and accompanying snowmobile operators.

(iv) Guided parties must travel together within one-third of a mile of the first snowmobile in the group.

(v) Snowmobiles operated by non-commercial guides must be clearly marked so that park personnel can easily ascertain which snowmobiles in the park are part of a non-commercially guided group.

(vi) Non-commercial guides must obtain a special use permit from the Non-commercially Guided Snowmobile Access Program prior to entering the park with a non-commercially guided group.

(vii) The guiding requirements described in this paragraph (l)(9) do not apply to Cave Falls Road.

(10) *Are there limits upon the number of snowmobiles and snowcoaches permitted to operate in the park each day?* As of December 15, 2014, the number of snowmobiles and snowcoaches permitted to operate in the park each day will be managed by transportation events, as follows:

(i) A transportation event consists of a group of no more than 10 snowmobiles (including the snowmobile operated by the guide) or 1 snowcoach (unless enhanced emission standards allow for 2).

(ii) No more than 110 transportation events may occur in Yellowstone National Park on any given day.

(iii) No more than 50 of the 110 transportation events allowed each day may be snowmobile transportation events.

(iv) Four of the 50 snowmobile transportation events allowed each day are reserved for non-commercially guided groups, with one such group allowed per entrance per day. The Superintendent may adjust or terminate the Non-commercially Guided Snowmobile Access Program, or redistribute non-commercially guided transportation events, based upon impacts to park resources, park operations, utilization rates, visitor experiences, or other factors, after providing public notice in accordance with one or more methods listed in 36 CFR 1.7.

(v) Transportation events allocated to commercial tour operators may be exchanged among commercial tour operators, but only for the same entrance or location.

(vi) Commercial tour operators may decide whether to use their daily allocations of transportation events for snowmobiles or snowcoaches, subject to the limits in this section.

(vii) Transportation events may not exceed the maximum number of oversnow vehicles allowed for each transportation event.

(viii) Snowmobile transportation events conducted by a commercial tour operator may not exceed an average of 7 snowmobiles, averaged over the winter season. However, snowmobile transportation events conducted by a commercial tour operator that consist entirely of snowmobiles meeting enhanced emission standards may not exceed an average of 8 snowmobiles, averaged over the winter season. For the 2014–2015 winter season only, snowmobile transportation events conducted by a commercial tour operator that consist of any snowmobile that does not meet the air emission requirements in paragraph (l)(6)(i)(B) of this section or the sound emission requirements in paragraph (l)(6)(ii)(B) of this section may not exceed an average of 7 snowmobiles, averaged daily.

(ix) Snowcoach transportation events that consist entirely of snowcoaches meeting enhanced emission standards may not exceed an average of 1.5 snowcoaches, averaged over the winter season.

(x) A commercial tour operator that is allocated a transportation event, but does not use it or exchange it can count that event as ''0'' against that commercial tour operator's daily and seasonal averages. A commercial tour operator that receives a transportation event from another concessioner, but does not use it, may also count that event as ''0'' against its daily and seasonal averages.

(xi) Up to 50 snowmobiles may enter Cave Falls Road each day.

(xii) Daily allocations and entrance distributions for transportation events are listed in the following table:

DAILY TRANSPORTATION EVENT ENTRY LIMITS BY PARK ENTRANCE/LOCATION

Park entrance/location	Commercially guided snowmobile transportation events	Non-commercially guided snowmobile transportation events	Snowcoach transportation events if all 50 snowmobile transportation events are used	Snowcoach transportation events if zero commercially guided snowmobile transportation events are used*
West Entrance	23	1	26	49
South Entrance	17	1	8	25
East Entrance	2	1	1	3
North Entrance	2	1	13	15
Old Faithful	2	0	12	14
Total	46	4	60	106

* The remaining 4 transportation events are reserved for non-commercially guided snowmobiles.

(xiii) The Superintendent may decrease the maximum number of transportation events allowed in the park each day, or make limited changes to the transportation events allocated to each entrance, after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, park operations, utilization rates, visitor experiences, or other factors. The Superintendent will provide public notice of changes by one or more of the methods listed in 36 CFR 1.7.

(xiv) For the 2013–2014 winter season only, the number of snowmobiles and snowcoaches allowed to operate in the park each day is limited to a certain number per entrance or location as set forth in the following table. During this period, all snowmobiles operated by park visitors must be accompanied by a commercial guide. Snowmobile parties must travel in a group of no more than 11 snowmobiles, including the guide.

NUMBER OF SNOWMOBILES AND SNOWCOACHES ALLOWED IN THE PARK ON ANY DAY BY PARK ENTRANCE/LOCATION FOR THE 2013–2014 WINTER SEASON

Park entrance/location	Commercially guided snowmobiles	Commercially guided snowcoaches
West Entrance	160	34
South Entrance	114	13
East Entrance	20	2
North Entrance*	12	13

NUMBER OF SNOWMOBILES AND SNOWCOACHES ALLOWED IN THE PARK ON ANY DAY BY PARK ENTRANCE/LOCATION FOR THE 2013–2014 WINTER SEASON—Continued

Park entrance/location	Commercially guided snowmobiles	Commercially guided snowcoaches
Old Faithful *	12	16

* Commercially guided snowmobile tours originating at the North Entrance and Old Faithful are currently provided solely by one concessioner. Because this concessioner is the sole provider at both of these areas, this regulation allows reallocation of snowmobiles between the North Entrance and Old Faithful as necessary, so long as the total daily number of snowmobiles originating from the two locations does not exceed 24. For example, the concessioner could operate 6 snowmobiles at Old Faithful and 18 at the North Entrance if visitor demand warranted it. This will allow the concessioner to respond to changing visitor demand for commercially guided snowmobile tours, thus enhancing the availability of visitor services in Yellowstone.

(xv) Paragraph (l)(10)(xiv) remains in effect until March 15, 2014.

(11) *How will the park monitor compliance with the required average and maximum size of transportation events?* As of December 15, 2014:

(i) Each commercial tour operator must maintain accurate and complete records of the number of transportation events it has brought into the park on a daily basis.

(ii) The records kept by commercial tour operators under paragraph (l)(11)(i) of this section must be made available for inspection by the park upon request.

(iii) Each commercial tour operator must submit a monthly report to the park that includes the information below about snowmobile and snowcoach use. We may require the report to be submitted more frequently than monthly if it becomes necessary to more closely monitor activities to protect natural or cultural resources in the park.

(A) Average group size for allocated transportation events during the previous month and for the winter season to date. Any transportation events that have been exchanged among commercial tour operators must be noted and the receiving party must include these transportation events in its reports.

(B) For each transportation event; the departure date, the duration of the trip (in days), the event type (snowmobile or snowcoach), the number of snowmobiles or snowcoaches, the number of visitors and guides, the entrance used, route, and primary destinations, and if the transportation event allocation was from another commercial tour operator.

(iv) To qualify for the increased average size of snowmobile transportation events or increased maximum size of snowcoach transportation events, a commercial tour operator must:

(A) Demonstrate before the start of a winter season, by means acceptable to the Superintendent, that his or her snowmobiles or snowcoaches meet the enhanced emission standards; and

(B) Maintain separate records for snowmobiles and snowcoaches that meet enhanced emission standards and those that do not to allow the park to measure compliance with required average and maximum sizes of transportation events.

(12) *How will I know when I can operate a snowmobile or snowcoach in the park?* The Superintendent will:

(i) Determine the start and end dates of the winter season, which will begin no earlier than December 15 and end no later than March 15 each year. The Superintendent will consider appropriate factors when determining the length of the winter season, including adequate snow cover, the location of wintering wildlife, public safety, resource protection, park operations, and use patterns. Based upon these factors, the Superintendent may determine that there will be no winter season for oversnow vehicles or that certain areas of the park may be closed to public OSV use.

(ii) Determine operating hours, dates, and use levels.

(iii) Notify the public of the start and end dates of the winter season, operating hours, dates, use levels, and any applicable changes through one or more of the methods listed in § 1.7 of this chapter.

(iv) Except for emergency situations, announce annually any changes to the operating hours, dates, and use levels.

(13) *What other conditions apply to the operation of oversnow vehicles?* (i) The following are prohibited:

(A) Idling an oversnow vehicle for more than three minutes at any one time.

(B) Driving an oversnow vehicle while the driver's motor vehicle license or privilege is suspended or revoked.

(C) Allowing or permitting an unlicensed driver to operate an oversnow vehicle.

(D) Driving an oversnow vehicle with disregard for the safety of persons, property, or park resources, or otherwise in a reckless manner.

(E) Operating an oversnow vehicle without a lighted white headlamp and red taillight.

(F) Operating an oversnow vehicle that does not have brakes in good working order.

(G) The towing of persons on skis, sleds, or other sliding devices by oversnow vehicles, except for emergency situations.

(H) Racing snowmobiles, or operating a snowmobile in excess of 35 mph, or operating a snowmobile in excess of any lower speed limit in effect under § 4.21(a)(1) or (2) of this chapter or that has been otherwise designated.

(I) Operating a snowcoach in excess of 25 mph, or operating a snowcoach in excess of any lower speed limit in effect under § 4.21(a)(1) or (2) of this chapter or that has been otherwise designated.

(ii) The following are required:

(A) All oversnow vehicles that stop on designated routes must pull over to the far right and next to the snow berm. Pullouts must be used where available and accessible. Oversnow vehicles may not be stopped in a hazardous location or where the view might be obscured. Oversnow vehicles may not be operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess and carry at all times a valid government-issued motor vehicle driver's license. A learner's permit does not satisfy this requirement.

(C) Equipment sleds towed by a snowmobile must be pulled behind the snowmobile and fastened to the snowmobile with a rigid hitching mechanism.

(D) Snowmobiles must be properly registered in the U.S. State or Canadian Province of principal use and must display a valid registration.

(E) The only motor vehicles permitted on oversnow routes are oversnow vehicles.

(F) An oversnow vehicle that does not meet the definition of a snowcoach must

comply with all requirements applicable to snowmobiles.

(iii) The Superintendent may impose other terms and conditions as necessary to protect park resources, visitors, or employees. The Superintendent will notify the public of any changes through one or more methods listed in § 1.7 of this chapter.

(iv) This paragraph (l)(13) also applies to non-administrative oversnow vehicle use by affiliated persons.

(14) *What conditions apply to alcohol use while operating an oversnow vehicle?* In addition to 36 CFR 4.23, the following conditions apply:

(i) Operating or being in actual physical control of an oversnow vehicle is prohibited when the operator is under 21 years of age and the alcohol concentration in the operator's blood or breath is 0.02 grams or more of alcohol per 100 milliliters of blood, or 0.02 grams or more of alcohol per 210 liters of breath.

(ii) Operating or being in actual physical control of an oversnow vehicle is prohibited when the operator is a guide and the alcohol concentration in the operator's blood or breath is 0.04 grams or more of alcohol per 100 milliliters of blood or 0.04 grams or more of alcohol per 210 liters of breath.

(iii) This paragraph (1)(14) also applies to non-administrative oversnow vehicle use by affiliated persons.

(15) *Do other NPS regulations apply to the use of oversnow vehicles?* (i) The use of oversnow vehicles in Yellowstone National Park is subject to §§ 2.18(a) and (c), but not subject to §§ 2.18(b), (d), (e), and 2.19(b) of this chapter.

(ii) This paragraph (l)(15) also applies to non-administrative oversnow vehicle use by affiliated persons.

(16) *What forms of non-motorized oversnow transportation are allowed in the park?*

(i) Non-motorized travel consisting of skiing, skating, snowshoeing, or walking is permitted unless otherwise restricted under this section or other NPS regulations.

(ii) The Superintendent may designate areas of the park as closed, reopen previously closed areas, or establish terms and conditions for non-motorized travel within the park in order to protect visitors, employees, or park resources. The Superintendent will notify the public in accordance with § 1.7 of this chapter.

(iii) Dog sledding and ski-joring (a skier being pulled by a dog, horse, or vehicle) are prohibited. Bicycles, including bicycles modified for oversnow travel, are prohibited on oversnow routes in Yellowstone National Park.

(17) *May I operate a snowplane in Yellowstone National Park?* The operation of a snowplane in Yellowstone National Park is prohibited.

(18) *Is violating a provision of this section prohibited?* (i) Violating a term, condition, or requirement of paragraph (l) of this section is prohibited.

(ii) Violation of a term, condition, or requirement of paragraph (l) of this section by a guide may also result in the administrative revocation of guiding privileges.

(19) *Have the information collection requirements been approved?* The Office of Management and Budget has reviewed and approved the information collection requirements in paragraph (l) and assigned OMB Control No. 1024–0266. We will use this information to monitor compliance with the required average and maximum size of transportation events. The obligation to respond is required in order to obtain or retain a benefit.

* * * * *

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–24238 Filed 10–22–13; 8:45 am]

BILLING CODE 4312–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0828; FRL–9901–53–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 19, 2011, Indiana submitted changes to its monitoring rules to EPA as a revision to its state implementation plan (SIP). The monitoring rules will be used to determine whether various source categories are in compliance with the applicable emission limits. On September 6, 2013, Indiana made a supplemental submission of a related definition. For the reasons discussed below, EPA is approving these revisions to the monitoring rules in the Indiana SIP.

DATES: This rule is effective December 23, 2013, unless EPA receives adverse comments by November 22, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0828, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2011–0828. 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 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?

Indiana requested a revision to its SIP in a submission to EPA dated September 19, 2011. In this submission, Indiana requested approval of revisions to 21 sections of 326 Indiana Administration Code (IAC) Article 3 concerning compliance monitoring, and one section of 326 IAC Article 7 concerning sulfur dioxide compliance monitoring requirements. On September 6, 2013, Indiana supplemented its request to submit a section of 326 IAC Article 1 that provides a definition of a term used in 326 IAC Article 3.

The submitted rules will revise and amend the existing monitoring and sulfur dioxide control requirements in Indiana SIP. In addition to 326 IAC 1–2–23.5, the State submitted specific sections of 326 IAC Article 3: 3–4–1, 3–4–2, 3–4–3, 3–5–1, 3–5–2, 3–5–3, 3–5–4, 3–5–5, 3–5–6, 3–5–7, 3–5–8, 3–6–1, 3–6–2, 3–6–3, 3–6–4, 3–6–5, 3–7–1, 3–7–2, 3–7–3, 3–7–4, and 3–7–5; and 326 IAC 7–2–1.

II. What is EPA's analysis?

EPA's analysis of the September 19, 2011, submission as supplemented on September 6, 2013, is as follows:

Article 1—General Provisions

Rule 2—Definitions

326 IAC 1–2–23.5 ''Emissions Unit'' Defined

This section provides the definition of an emissions unit to include ''any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant under the Clean Air Act.'' Indiana's definition is consistent with EPA's emissions unit definition found in 40 CFR part 70. Thus, EPA is approving this section into the Indiana SIP.

Rule 4—General Provisions

326 IAC 3–4–1 Definitions

This section contains definitions used throughout 326 IAC 3. EPA is approving this section into the Indiana SIP as the definitions are consistent with the definitions used by EPA.

326 IAC 3–4–2 Certification

This section requires that each report submitted under 326 IAC 3 contain a certification of truth, accuracy, and completeness. EPA is approving this section into the Indiana SIP because it promotes more accurate and complete monitoring reports.

326 IAC 3–4–3 Conversion Factors

This section provides the owner and operator of subject emissions unit with procedures for converting monitoring data to units of a standard, as needed. The conversion factors follow EPA's equations as found in the appendices to 40 CFR part 60, and 326 IAC 3–4–3 cites 40 CFR part 60 for the factors for certain units. Indiana may approve alternate procedures for computing emission averages that do not require data integration. It may also approve alternate methods of converting pollutant concentration measurements into units of the standard. Authority for state approval of these alternate emission averaging procedures and alternate conversion methods is provided in 40 CFR part 51, appendix P. EPA is approving the addition of this section into the Indiana SIP.

Rule 5—Continuous Monitoring of Emissions

326 IAC 3–5–1 Applicability; Continuous Monitoring Requirements for Applicable Pollutants

This section establishes methods the owner or operator of certain sources or emissions units are to use to determine compliance with an emission limitation or standard. This section also establishes procedures by which an owner or operator may request an alternative monitoring requirement. Any request for a alternative monitoring requirement must be approved by Indiana and submitted to EPA for approval. EPA is approving this section as a revision to the Indiana SIP.

326 IAC 3–5–2 Minimum Performance and Operating Specifications

This section provides the performance specifications and operating requirements the owner or operator of monitoring equipment installed must follow. The requirements are consistent with the Federal requirements found at 40 CFR part 75. Thus, EPA is approving this section as a revision to the Indiana SIP.

326 IAC 3–5–3 Monitor System Certification

This section provides the monitor system certification requirements the owner or operator of subject source or emissions unit must put in place when determining compliance. These requirements mirror Federal requirements in 40 CFR 60. EPA is approving this section as a revision to the Indiana SIP.

326 IAC 3–5–4 Standard Operating Procedures

This section provides for the development of written continuous monitoring standard operating procedures once the owner or operator of subject source or emissions unit has installed the required monitoring equipment. The standard operating procedure contains the systematic description of the monitor operation. Section 3–5–4 details all information that is required. EPA views the requirement for a written standard operating procedure as providing useful information similar to the requirement for a monitoring plan in 40 CFR 75.53. Thus, EPA is approving this section as a revision to the Indiana SIP.

326 IAC 3–5–5 Quality Assurance Requirements

This section provides quality assurance requirements for subject emission units that monitor for carbon

dioxide, carbon monoxide, hydrogen sulfide, nitrogen oxide, oxygen, sulfur dioxide, total hydrocarbons, total reduced sulfur, volatile organic compounds, and particulate matter (PM–10 or $PM_{2.5}$). The rules contain the applicable criteria on test frequency, audit criteria, and reporting requirements. The requirements follow 40 CFR parts 60 and 75. EPA is approving this section as a revision to the Indiana SIP.

326 IAC 3–5–6 Recordkeeping Requirements

This section provides recordkeeping and record retention requirements for the owner or operator of a subject source or emissions unit. The owner or operator of a subject source or emissions unit must provide the records to Indiana or EPA upon request. In 40 CFR part 75, subpart F, EPA requires similar recordkeeping requirements for sources operating continuous monitors. EPA is approving this section into the Indiana SIP.

326 IAC 3–5–7 Reporting Requirements

This section provides the requirements the owner or operator of subject source or emissions unit must follow when submitting a monitoring report. A source must provide information about its excess emissions and downtime during a reporting period. EPA is approving this section as an addition to the SIP as it satisfies Federal reporting requirements.

326 IAC 3–5–8 Operation and Maintenance of Continuous Emissions Monitoring and Continuous Opacity Monitoring Systems

This section provides instruction to the owner or operator on the operation and maintenance of a continuous emissions monitoring system (CEMS) and a continuous opacity monitoring system (COMS). Indiana requires all subject sources to install, calibrate, maintain, operate, and certify its CEMS or COMS. Exceptions are provided for periods when the emission source is not operating or does not require continuous monitoring, the CEMS or COMS is malfunctioning, and during quality assurance checks are being performed on the CEMS or COMS. Under the definition of an emissions unit in 326 IAC 1–2–23.5, a unit is not operating when it has no potential to emit any Clean Air Act (CAA) regulated pollutants. The remaining exemptions in 326 IAC 3–5–8 are consistent with 40 CFR 60.13. Therefore, EPA is approving this section into the Indiana SIP.

Rule 6—Source Sampling Procedures

326 IAC 3–6–1 Applicability; Test Procedures

This section provides the test procedures the owner or operator of a subject emissions unit must follow to determine compliance with an applicable emission limitation. Specifically, it requires the owner or operator of a subject emissions unit to follow applicable procedures and analysis methods specified in 40 CFR parts 51, 60, 61, 63, 75 or another EPA-approved method. EPA is approving this section into the Indiana SIP.

326 IAC 3–6–2 Source Sampling Protocols

This section requires the owner or operator of a subject emissions unit to provide its emissions test protocol (i.e., protocol by which facility plans to conduct the emissions test) to Indiana prior to the intended test date. The section allows for modifications to the sampling protocol, upon approval by Indiana. Indiana may modify portions of the sampling protocol such as the conditions under which the testing is performed. This section is consistent with the requirements of 40 CFR 64.6, and is being approved into the Indiana SIP.

326 IAC 3–6–3 Emission Testing

This section establishes procedures on how to perform emissions tests, quality assurance, and quality control activities. Indiana requires emission units be tested under the applicable Federal regulations, either 40 CFR part 60, 61, or 63. EPA is approving this section into the Indiana SIP.

326 IAC 3–6–4 Reporting

This section details what information an owner or operator of a subject source or emissions unit should include in an emission test report. Sources are required to submit a report no later than 45 days following the emission test. The requirements follow the compliance assurance monitoring reporting obligations given in 40 CFR 64.9. EPA is approving this section into the Indiana SIP.

326 IAC 3–6–5 Specific Testing Procedures; Particulate Matter; PM_{10}; $PM_{2.5}$; Sulfur Dioxide; Nitrogen Oxides; Volatile Organic Compounds

This section provides the specific emission tests required by subject sources of the title pollutants. The emission test requirements are consistent with 40 CFR parts 51, 60, and 63, and must be approved by Indiana and EPA. The exception is Richmond Power and Light's Whitewater Generating Station, whose source-specific test method was approved by EPA on April 9, 1996 (61 FR 15704). Thus, all emission test methods required by this section are identical to the EPA methods or have been previously approved. EPA is approving this section into the Indiana SIP.

Rule 7—Fuel Sampling and Analysis Procedures

326 IAC 3–7–1 Applicability

This section applies to fuel sampling and analysis that is performed to determine compliance with the emission limitations specified in 326 IAC Article 7. EPA is approving this section into the Indiana SIP.

326 IAC 3–7–2 Coal Sampling and Analysis Methods

This section provides the owner or operator of a subject source with requirements for coal sampling and analysis, and the determination of sulfur and heat content for sources with total coal-fired capacity between 100 and 1,500 million British Thermal Units (BTUs) and for sources with capacity greater than 1,500 million BTUs. The coal sampling and analysis protocols in this section are already Federally approved in 326 IAC 7–2–1 (September 26, 2005; 70 FR 56129). EPA is approving this section into the Indiana SIP.

326 IAC 3–7–3 Alternative Coal Sampling and Analysis Methods

This section establishes procedures by which an owner or operator of a subject source may obtain an alternative coal sampling and analysis to that provided in 326 IAC 3–7–2. The owner or operator of a subject source must receive prior approval from Indiana and EPA before an alternate protocol can be used. EPA is approving this section into the Indiana SIP.

326 IAC 3–7–4 Fuel Oil Sampling; Analysis Methods

This section specifies the test protocol the owner or operator of a subject source or an emissions unit should follow when analyzing fuel oil. The section provides the specific ASTM procedure to be used for each analysis for a variety of fuel oil samples. Approval of the sampling or analysis procedure requires written permission from both Indiana and EPA. EPA is approving this section into the Indiana SIP.

326 IAC 3–7–5 Recordkeeping Requirements; Standard Operating Procedures

This section provides the owner or operator of a subject source or an emissions unit a protocol to use to develop a standard operating procedure for records. The requirement to keep such records is consistent with the recordkeeping requirement of 40 CFR 64.9. EPA is approving this section into the Indiana SIP.

Article 7—Sulfur Dioxide Rules

Rule 2—Compliance

326 IAC 7–2–1 Reporting Requirements; Methods To Determine Compliance

Indiana has modified this section to provide the owner or operator of a subject source or emissions unit a method to determine compliance or noncompliance with its sulfur dioxide emissions limitation. Indiana added that an alternate compliance test method that has been approved by Indiana and EPA may be used by sources in place of the standard test methods, CEMS, or the fuel sampling and analysis methods already authorized. EPA is approving the revised 326 IAC 7–2–1 into the Indiana SIP.

III. What action is EPA taking?

EPA is approving compliance monitoring rules into the Indiana SIP. EPA is approving two revised sections and 21 additional sections. EPA is approving the revisions to 326 IAC 3–5–1 and 326 IAC 7–2–1 into the Indiana SIP. EPA is adding 326 IAC 1–2–23.5, 326 IAC 3–4–1, 326 IAC 3–4–2, 326 IAC 3–4–3, 326 IAC 3–5–2, 326 IAC 3–5–3, 326 IAC 3–5–4, 326 IAC 3–5–5, 326 IAC 3–5–6, 326 IAC 3–5–7, 326 IAC 3–5–8, 326 IAC 3–6–1, 326 IAC 3–6–2, 326 IAC 3–6–3, 326 IAC 3–6–4, 326 IAC 3–6–5, 326 IAC 3–7–1, 326 IAC 3–7–2, 326 IAC 3–7–3, 326 IAC 3–7–4, and 326 IAC 3–7–5 to the SIP.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 23, 2013 without further notice unless we receive relevant adverse written comments by November 22, 2013. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 23, 2013.

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 CAA criteria. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen

oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 18, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.770 the table in paragraph (c) is amended by:

■ i. Adding a new entry in ''Article 1. General Provisions'' under ''Rule 2. Definitions'' for ''1–2–23.5'' in numerical order.

■ ii. Revising the entries for ''Article 3. Monitoring Requirements''.

■ iii. Revising the entry for ''Rule 2. Compliance'' under the subheading entitled ''Article 7. Sulfur Dioxide Rules''. The added and revised text reads as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
Article 1. General Provisions				
*	*	*	*	*
Rule 2. Definitions				
*	*	*	*	*
1–2–23.5	''Emissions unit'' defined	12/25/1998	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
*	*	*	*	*
Article 3. Monitoring Requirements				
Rule 1. Continuous Monitoring of Emissions				
3–1–1	Applicability		9/4/1981, 46 FR 44448	
Rule 2.1. Source Sampling Procedures				
3–2.1–5	Specific Testing Procedures	7/15/1995	4/9/1996, 61 FR 15704	
Rule 4. General Provisions				
3–4–1	Definitions	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–4–2	Certification	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–4–3	Conversion factors	9/10/2011		
Rule 5. Continuous Monitoring of Emissions				
3–5–1	Applicability; continuous monitoring requirements for applicable pollutants.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–2	Minimum performance and operating specifications.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–3	Monitor system certification	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–4	Standard operating procedures.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–5	Quality assurance requirements.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–6	Recordkeeping requirements	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–5–7	Reporting requirements	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
3–5–8	Operation and maintenance of continuous emission monitoring and continuous opacity monitoring systems.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
Rule 6. Source Sampling Procedures				
3–6–1	Applicability; test procedures	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–6–2	Source sampling protocols	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–6–3	Emission testing	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–6–4	Reporting	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–6–5	Specific testing procedures; particulate matter; PM_{10}; $PM_{2.5}$; sulfur dioxide; nitrogen oxides; volatile organic compounds.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
Rule 7. Fuel Sampling and Analysis Procedures				
3–7–1	Applicability	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–7–2	Coal sampling and analysis methods.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–7–3	Alternate coal sampling and analysis methods.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–7–4	Fuel oil sampling; analysis methods.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
3–7–5	Recordkeeping requirements; standard operating procedures.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
*	*	*	*	*	*	*
Article 7. Sulfur Dioxide Rules				
*	*	*	*	*	*	*
Rule 2. Compliance				
7–2–1	Reporting requirements; methods to determine compliance.	9/10/2011	10/23/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
*	*	*	*	*	*	*

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[FR Doc. 2013–24118 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9901–75–Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hooker (Hyde Park) Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 announces the deletion of the Hooker (Hyde Park) Superfund Site (Site) located in Niagara Falls, New York, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of New York, through the Department of Environmental Conservation, have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This action is effective October 23, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1983–0002. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information 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 through *http://www.regulations.gov* or in hard copy at the site information repositories. Locations, contacts, phone numbers, and viewing hours are:

U.S. Environmental Protection Agency, Region 2, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866, *Telephone:* (212) 637–4308. *Hours:* Monday to Friday from 9:00 a.m. to 5:00 p.m.

U.S. EPA Western New York Public Information Office, 86 Exchange Place, Buffalo, NY 14204–2026. *Telephone:* (716) 551–4410. *Hours:* Monday to Friday from 8:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gloria M. Sosa, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007–1866, telephone: (212) 637–4283, email: *sosa.gloria@epa.gov.*

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is the Hooker (Hyde Park) Superfund Site, located in Niagara Falls, New York. A Notice of Intent to Delete for this Site was published in the **Federal Register** on August 20, 2012 (77 FR 50038–50044).

The closing date for comments on the Notice of Intent to Delete was September 19, 2012. During the comment period, EPA received correspondence offering critical comments. The comments reflected concern that the Site is a continuing source of contaminants to the Niagara River and the deletion of the Site was premature. As a result of the critical comments, EPA published a Notice of Withdrawal of Direct Final Deletion of the Site in the **Federal Register** on September 27, 2012 (77 FR 59338), withdrawing the direct final deletion for the Site and announcing it would evaluate and respond to the significant comments and, if appropriate, proceed with the traditional two-step deletion process.

After careful consideration of the comments received, EPA concluded that the deletion of the Site is still appropriate. Following various lines of evidence, EPA has concluded that the performance objectives of the remedy selected for the Site in 1984 continue to be met and that the remedy selected for the Site is protective of human health and the environment. All response activities selected in the remedy have been implemented, and operation and maintenance activities are ongoing. EPA has the authority to respond appropriately if a problem or situation arises at a site after it is deleted. EPA will continue to provide oversight, review monitoring reports, and routinely communicate with the responsible party performing work at the Site. Operation and maintenance of the remedy will continue at the Site and monitoring will continue to be performed to confirm the effectiveness of response actions performed at the Site, including the maintenance of hydraulic capture.

A responsiveness summary was prepared which addresses all comments received on the deletion and provides rationale that the deletion is considered appropriate. The responsiveness summary and all comments on the deletion action may be viewed in both the docket, EPA–HQ–SFUND–1983–0002, on *www.regulations.gov,* and in the local repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 26, 2013.

Judith A. Enck,

Regional Administrator, EPA, Region 2.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry under ''NY'' for Hooker (Hyde Park), Niagara Falls.

[FR Doc. 2013–24689 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA–1997–2349]

RIN 2126–AA22

Unified Registration System; Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; correction.

SUMMARY: FMCSA makes corrections to its August 23, 2013, final rule regarding the Unified Registration System. This document makes four minor revisions to the URS final rule to be consistent with the Agency's ''General Technical, Organizational and Conforming Amendments to the Federal Motor Carrier Safety Regulations'' final rule published on September 24, 2013.

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey S. Loftus, (202) 385–2363; or by email at *jeff.loftus@dot.gov.* Business hours are from 8 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: In FR Doc. 2013–20446, beginning on page 78 FR 52608 in the **Federal Register** of Friday, August 23, 2013, the following corrections are made:

§ 390.3 [Corrected]

■ 1. In Part 390—Federal Motor Carrier Safety Regulations; General, § 390.3 General applicability is corrected as follows:

■ a. On page 52652, in the second column, in paragraph (f)(1), ''All school bus operations as defined in § 390.5 except for the provisions of §§ 391.15(e) and 392.80;'' is corrected to read ''All school bus operations as defined in § 390.5 except for the provisions of §§ 391.15(e) and (f), 392.80, and 392.82 of this chapter;''.

■ b. On page 52652, in the third column, in paragraph (f)(6), line 7, ''except for the texting provisions of §§ 391.15(e) and 392.80, and except that motor carriers operating such vehicles are required to comply with §§ 390.15, 390.21(a) and (b)(2), 390.201 and 390.205.'' is corrected to read ''except for the provisions of §§ 391.15(e) and (f), 392.80, and 392.82, and except that motor carriers operating such vehicles are required to comply with §§ 390.15, 390.21(a) and (b)(2), 390.201, and 390.205.''

■ c. On page 52653, in the first column, in paragraph (k), ''The rules in subpart C of this part,'' is corrected to read ''The rules in subpart E of this part,''.

§ 390.19 [Corrected]

■ 2. On page 52653, at the top of the second column, under amendment number 55, in § 390.19, the section heading ''Motor carrier, hazardous material shipper, and intermodal equipment provider identification reports.'' is corrected to read ''Motor carrier, hazardous materials safety permit applicant/holder, and intermodal equipment provider identification reports.''

Dated: October 16, 2013.

Larry Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24728 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0082; 4500030114]

RIN 1018–AY20

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Comal Springs Dryopid Beetle, Comal Springs Riffle Beetle, and Peck's Cave Amphipod

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), revise the critical habitat for the Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), and Peck's cave amphipod (*Stygobromus pecki*), under the Endangered Species Act of 1973, as amended. In total, we are designating approximately 169 acres (68 hectares) as revised critical habitat. The revised critical habitat consists of four units in Comal and Hays Counties, Texas.

DATES: This rule is effective on November 22, 2013.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/southwest/es/austintexas/.* Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758; telephone 512–490–0057; facsimile 512–490–0974.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this revised critical habitat designation and are available at *http://www.fws.gov/southwest/es/austintexas/,* at *http://www.regulations.*gov at Docket No. FWS–R2–ES–2012–0082, and at the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and field office set out above, and may also appear at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758; telephone at 512–490–0057, extension 248; or facsimile at 512–490–0974. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. This is a final rule to designate revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. Under the Endangered Species Act of 1973, as amended (Act), any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

The areas we are designating as revised critical habitat in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. Here, we are designating:

• Comal Springs dryopid beetle: 39.4 acres (ac) (15.56 hectares (ha)) of surface and 139 ac (56 ha) of subsurface critical habitat. The original designation was

surface critical habitat of 39.5 ac (16.0 ha) without subsurface.

• Comal Springs riffle beetle: 54 ac (22 ha) of surface critical habitat only. The original designation was surface critical habitat of 30.3 ac (12.3 ha).

• Peck's cave amphipod: 38.4 ac (15.16 ha) surface and 138 ac (56 ha) of subsurface critical habitat. The original designation was surface critical habitat of 38.5 ac (15.6 ha) without subsurface.

We have prepared an economic analysis of the designation of critical habitat. In order to consider economic impacts, we have prepared an analysis of the economic impacts of the revised critical habitat designations and related factors. We announced the availability of the draft economic analysis (DEA) in the **Federal Register** on May 2, 2013 (78 FR 25679), allowing the public to provide comments on our analysis. We have incorporated the comments and have completed the final economic analysis (FEA) concurrently with this final determination.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We obtained opinions from two knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and to determine whether or not we had used the best available information. These peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated in this final revised designation. We also considered all comments and information we received from the public during the comment periods.

Previous Federal Actions

We listed the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod as endangered species on December 18, 1997 (62 FR 66295). We designated critical habitat for these three species on July 17, 2007 (72 FR 39248). On October 19, 2012 (77 FR 64272), we proposed to revise critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

All other previous Federal actions are described in the October 19, 2012, proposed rule (77 FR 64272) to revise critical habitat for Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed revision of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod during two comment periods. The first comment period, associated with the publication of the proposed rule (77 FR 64272), opened on October 19, 2012, and closed on December 18, 2012. We also requested comments on the proposed revised critical habitat designations and associated draft economic analysis during a comment period that opened May 2, 2013, and closed on June 3, 2013 (78 FR 25679). We did receive one request for a public hearing. We held a public hearing on May 17, 2013, in San Marcos, Texas. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during these comment periods.

During the first comment period, we received five comment letters, two from peer reviewers, one from a State agency, and two from the public, directly addressing the proposed revised critical habitat designations. During the second comment period, we received two comment letters addressing the proposed critical habitat designations or the draft economic analysis. During the May 17, 2013, public hearing, three individuals made comments on the designation of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. All substantive information provided during comment periods has either been incorporated directly into this final designation or is addressed below. Comments we received are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from eight knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from two of the peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. The peer reviewers provided additional information, clarifications, and suggestions to improve this final critical habitat rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer and several commenters suggested that we extend the size of surface and subsurface critical habitat units to incorporate recharge features, subterranean habitats, drainage basins, flow routes, springsheds, and the extent of the aquifer.

Our Response: We have reviewed the available information and have determined that there is not enough information to support a modification to our designation of the area within 50 feet (ft) (15 meters (m)) of spring outlets as surface critical habitat for all three species, and within 360 ft (110 m) of spring outlets as subsurface critical habitat for the Peck's cave amphipod and Comal Springs dryopid beetle. Based on the definition of critical habitat in the Act (16 U.S.C. 1531 *et seq.*), we may designate critical habitat in those areas within the geographical area occupied by the species at the time it was listed if the areas contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. In addition, we may designate critical habitat in areas that were not occupied at the time of listing if they are essential to the conservation of the species. We used a distance of 50 ft (15 m) for surface critical habitat because this distance has been found to contain food sources where plant roots interface with water flows of the spring systems. We used 360 ft (110 m) to define subsurface critical habitat for the Peck's cave amphipod and Comal Springs dryopid beetle because this is the greatest distance from spring outlets that these species have been collected. We have no information upon which to base a larger or different extent of critical habitat for these species because our designation includes the known historical range of the species. While other areas outside the designation (such as recharge features, subterranean habitats, drainage basins, flow routes, springsheds, and the entire aquifer) may be important because they support the physical or features needed by these species, these areas do not constitute the actual habitat for the species. These areas outside of the designated critical habitat would still be subject to section 7 consultations, if a proposed Federal

action in these areas may affect the listed species or its critical habitat. In this way, these important areas receive some protections to allow for their conservation and support of the physical and biological features of the designated critical habitat. Therefore, as required by section 4(b)(2) of the Act, we used the best scientific data available to designate critical habitat and limit the designation to the actual areas meeting the definitions under section 3(5)(A) of the Act.

Comments From Texas State Agencies

(2) *Comment:* The 360-ft (110-m) buffer for subsurface critical habitat likely does not fit the actual area of subterranean habitats, aquifer extent, and known conduits between significant groundwater resources important for these species' survival. In addition, the 50-ft (15-m) buffer for surface habitat should more accurately delineate the contribution of upstream areas (springshed) to surface habitat quality.

Our Response: Please see our response to Comment (1) above.

(3) *Comment:* The Panther Canyon Well is a known locality for two federally listed species and should be treated the same as other occupied sites. Specifically, surface and subsurface critical habitat buffers should include the area surrounding this site. Information gathered from future dye trace studies may elucidate the approximate location of groundwater flow intersecting this well and guide delineation of a more defensible area of subterranean habitat than currently proposed.

Our Response: We agree that additional future dye trace studies could assist us in delineating subterranean habitat within the vicinity of Panther Canyon Well. However, we designate critical habitat in those areas known to be occupied by the species at the time of listing or that were not occupied at the time of listing if they are essential to the conservation of the species. In our review of the best available scientific data, we did not find any information to support a conclusion that any of the species occur outside the areas we are designating as revised critical habitat. In other words, we did not have any information that indicated that the species would be in areas farther from the spring source beyond Panther Canyon Well; therefore, we limited the designation to this extent. In addition, as we explained in the response to Comment (1) above, we found no additional areas outside of those occupied at the time of listing to be essential to the conservation of the species.

(4) *Comment:* The dye trace studies indicate that groundwater supplying Hueco Springs flows west to east. The subsurface critical habitat buffer should take this into account, minimally, by shifting the proposed critical habitat area westward to meet the eastern boundary of surface critical habitat.

Our Response: Although dye trace studies may indicate that the general direction of groundwater flow in the vicinity of Hueco Springs is from west to east, we are unaware of any scientific data that suggest that the movement of Peck's cave amphipods within subsurface habitat is limited by the direction of flow. Therefore, we did not change the critical habitat boundaries from what we proposed.

(5) *Comment:* The use of the ''incremental'' approach does not assess the total economic impacts of the proposed designation. The economic analysis describes impacts that could occur ''without critical habitat,'' but it does not monetize these impacts. To fully evaluate the cost of the critical habitat designation, the Service must consider the full economic impact of the listing.

Our Response: The Office of Management and Budget's (OMB) guidelines for best practices concerning the conduct of economic analysis of Federal regulations direct agencies to measure the costs of a regulatory action against a baseline, which it defines as the ''best assessment of the way the world would look absent the proposed action'' (OMB, ''Circular A–4,'' September 17, 2003). The baseline utilized in the economic analysis is the existing state of regulation, prior to the designation of critical habitat, which provides protection to the species under the Act, as well as under other Federal, State, and local laws and guidelines. As such, the analysis focuses on the incremental impacts of critical habitat designation over and above the expected baseline (i.e., endangered species status under the Act). Section 1.3 of the economic analysis qualitatively describes baseline conservation efforts for the three invertebrate species that are currently implemented across the designation in order to provide context for the incremental analysis. In addition, Appendix A of the report provides a more detailed description of the methodological approach to the analysis.

(6) *Comment:* The economic analysis evaluates the costs and benefits of proposed critical habitat designations by comparing qualitative benefits to quantitative costs. To produce an accurate analysis, the costs and benefits must be in the same unit of measurement.

Our Response: Section A.3.3 of the economic analysis states that, ''In its guidance for implementing Executive Order 12866, OMB acknowledges that it may not be feasible to monetize, or even quantify, the benefits of environmental regulations due to either an absence of defensible, relevant studies or a lack of resources on the implementing agency's part to conduct new research. Rather than rely on economic measures, we conclude that the direct benefits of the proposed rule are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking.''

Furthermore, as described in section 2.3 of the economic analysis, we do not anticipate that the designation of revised critical habitat for the three invertebrate species will result in project modifications or additional conservation measures for the species. Absent changes in land or water management, no incremental economic benefits are forecast to result from this designation of revised critical habitat. However, the Service does anticipate that this rule will result in educational benefits to the public associated with increased awareness of habitat locations.

(7) *Comment:* The economic analysis is inconsistent with regard to the incremental impacts to other activities in the Hueco Springs and Fern Bank Springs Units. According to the economic analysis, no costs are attributed to future actions in these units. However, Exhibit 2–2 indicates costs attributed to other activities.

Our Response: Although no specific actions likely requiring consultation are expected in the Hueco Springs and Fern Bank Springs Units, minor costs associated with area-wide habitat conservation plans are attributed to those units. Section 2.2.2 of the economic analysis states, ''re-initiation of several incidental take permits for HCPs in the region may occur as a result of critical habitat designation for the three invertebrate species. . . . The costs of re-initiated consultations are assumed to be distributed equally across the four proposed critical habitat units.''

Public Comments

(8) *Comment:* The boundary of proposed critical habitat unit 2 for the Comal Springs dryopid beetle at Fern Bank Springs is based on a 360-ft (110-m) radius circle around the spring outlet. However, the cave from which the spring issues is known to extend at least 377 feet (115 m) to the southeast from the spring. The critical habitat unit

should be extended at least 360 ft (110 m) beyond the point where the cave stream is known to extend.

Our Response: We designate critical habitat in those areas known to be occupied by the species at the time of listing or in areas that were not occupied at the time of listing if they are essential to the conservation of the species. All of the collections of Comal Springs dryopid beetle at Fern Bank Springs have occurred at spring outlets and orifices along the bluff adjacent to the main spring outlet. In our review of the best available scientific data, we did not find any evidence that the Comal Springs dryopid beetle occurs within the cave or cave stream at this location. We also did not find that the cave or cave stream is essential to the conservation of the species because these areas do not constitute the actual habitat for the species. Therefore, we limited our designation to 360 ft (110 m) from the where the species has been confirmed to occur.

(9) *Comment:* There is no justification for any critical habitat on the north side of the Blanco River at Fern Bank Springs, since the river has downcut considerably below the level of the spring. The area of importance to this spring is the recharge area, which likely consists of an extensive area to the southeast of the spring outlet

Our Response: We disagree that there is no justification for the designation of critical habitat on the north side of the Blanco River at Fern Bank Springs. The area of critical habitat that extends to the north side of the Blanco River is entirely subsurface. The best available data indicate that the Comal Springs dryopid beetle occurs within the aquifer at distances of 360 ft (110 m) from spring outlets. We are not aware of any information to support a conclusion that this species is limited in its ability to move through the aquifer in a particular direction. We agree that the recharge area is important for this spring; however, we have no data to indicate that the Comal Springs dryopid beetle population at this site occurs outside of the area we are designating as revised critical habitat. In addition, we found that areas outside the historic range, though important, do not constitute habitat for the species (see response to Comment (1) above).

Summary of Changes From Proposed Rule

After reviewing all of the comments we received, we made no substantive changes to this final rule compared to the proposed rule. In response to comments, we made some editorial corrections and clarifying revisions to this final rule.

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical and biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are the specific elements of physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria,

establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions of section 9 of the Act if actions occurring in these areas may affect the species. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographic, and ecological distributions of a species.

We derive the specific physical or biological features essential for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod from studies of this species' habitat, ecology, and life history as described below. Additional information can be found in the final listing rule published in the **Federal Register** on December 18, 1997 (62 FR 66295), the previous critical habitat designation (72 FR 39248, July 17, 2007), the San Marcos and Comal Springs and Associated Aquatic Ecosystems (Revised) Recovery Plan (Service 1996), the Edwards Aquifer Recovery Implementation Program Habitat Conservation Plan (HCP) (RECON Environmental, Inc. *et al.* 2012), and the proposed revision of critical habitat designation (77 FR 64272, October 19, 2012). We have determined that the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod require the following physical or biological features:

Space for Individual and Population Growth and for Normal Behavior

Very little is known regarding the space needed by the three invertebrate species for individual and population growth and for normal behavior. The Peck's cave amphipod and Comal Springs dryopid beetle are most commonly found in subterranean areas where plant roots are inundated or otherwise influenced by aquifer water. Gibson *et al.* (2008, p. 77) found Peck's cave amphipod in gravel, rocks, and organic debris (leaves, roots, wood) immediately inside of or adjacent to springs, seeps, and upwellings of Comal Springs and their impoundment, Landa Lake. The species were not observed in nearby surface habitats. Gibson *et al.* (2008, p. 76) collected Peck's cave amphipods in drift nets (a net that floats freely on surface water) that were placed over spring openings at Hueco and Comal Springs. At Panther Canyon Well, specimens were collected 59 ft (18 m) below the surface in a baited bottle trap, which is located about 360 ft (110 m) from Comal Spring Run No. 1 (Gibson *et al.* 2008, p. 76; R. Gibson 2012b, pers. comm.). Gibson *et al.* (2008, p. 77) also found Comal Springs riffle beetles in drift nets at Comal Springs that were placed in or over spring openings. Therefore, based on the information above, we identify springs, associated streams, and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings to be primary components of the physical or biological features essential to the conservation of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Food. Although specific food requirements of the three invertebrate species are unknown, potential food sources for all three invertebrate species include detritus (decomposed plant materials), leaf litter, and decaying roots. It is possible that the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod all feed on microorganisms such as bacteria and fungi associated with decaying riparian vegetation. Both beetle species likely are detritivores (detritus-feeding animals) that consume detrital materials from spring-influenced riparian (associated with rivers, creeks, or other water bodies) zones (Brown 1987, p. 262; Gibson *et al.* 2008, p. 77). Riparian vegetation is likely important for these species, as they are typically found on roots where they feed on fungus and bacteria (Gibson *et al.* 2008, p. 77; Gibson 2012c, pers. comm.). The terrestrial larvae of the Comal Springs dryopid beetle, found in association with roots, debris, and soil lining the ceilings of subterranean cavities, are also presumed to feed on bacteria and fungi (Barr and Spangler 1992, p. 41). Available evidence suggests Peck's cave amphipod is likely an omnivore (consumes everything available including both animal and plant matter). It can feed as a scavenger or predator within the aquifer and as a

detrivore where plant roots are exposed, providing a medium for microbial growth as well as a food source to potential prey (Gibson 2012a, pers. comm.). Among other things, trees and shrubs in riparian areas adjacent to the spring system provide plant growth necessary to maintain food sources such as decaying material for these invertebrates. Roots from trees and shrubs in proximity to spring outlets are most likely to penetrate underground down to the water pools, where these roots can serve as habitat for the amphipod and dryopid beetle.

Therefore, based on the information above, we identify sources of detritus (decomposed plant materials), leaf litter, and decaying roots of riparian vegetation to be primary components of the physical or biological features essential to the conservation of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

Water. The Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod are all spring-adapted, aquatic species dependent on high-quality, unpolluted groundwater that has low levels of salinity and turbidity. The two beetle species are generally associated with water that has adequate levels of dissolved oxygen for respiration (Brown 1987, p. 260; Arsuffi 1993, p. 18). High-quality discharge water from springs and adjacent subterranean areas help sustain habitat components essential to these three aquatic invertebrate species.

The temperature of spring water emerging from the Edwards Aquifer at Comal and San Marcos Springs ordinarily occurs within a narrow range of approximately 72 to 75 degrees Fahrenheit (°F) (22 to 24 degrees Celsius (°C)) (Fahlquist and Slattery 1997, pp. 3–4; Groeger *et al.* 1997, pp. 282–283). Hueco Springs and Fern Bank Springs have temperature records of 68 to 71 °F (20 to 22 °C) (George 1952, p. 52; Brune 1975, p. 94; Texas Water Development Board 2006, p. 1). The three listed invertebrate species complete their life-cycle functions within these relatively narrow temperature ranges.

Landa Lake, Spring Lake, Hueco Springs, and Fern Bank Springs typically provide adequate resources to sustain life-cycle functions for resident populations of the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod. However, a primary threat to the three invertebrate species is the potential failure of spring flow due to drought or groundwater pumping, which could result in loss of aquatic habitat for the species.

Barr (1993, p. 55) found Comal Springs dryopid beetles in spring flows with low- and high-volume discharge and suggested that presence of the species was not necessarily dependent on high spring flow. However, Barr (1993, p. 61) noted that effects on both subterranean species (dryopid beetle and amphipod) from extended loss of spring flow and low aquifer levels could not be predicted because details of their life cycles and their subterranean distributions are unknown.

Riffle beetles are most commonly associated with flowing water that has shallow riffles or rapids (Brown 1987, p. 253). Riffle beetles are restricted to waters with high dissolved oxygen due to their reliance on a plastron (thin sheet of air held by water-repellent hairs of some aquatic insects) that is held next to the surface of the body by a mass of water-repellent hairs. The mass of water-repellent hairs functions as a physical gill by allowing oxygen to passively diffuse from water into the plastron in order to replace oxygen absorbed during respiration (Brown 1987, p. 260). However, slow-moving insects like riffle beetles are limited to habitats with high oxygen levels because oxygen will diffuse away from the beetle if concentrations are higher in the plastron than in the surrounding water (Resh *et al.* 2008, pp. 44–45).

Bowles *et al.* (2003, p. 379) pointed out that the mechanism by which the Comal Springs riffle beetle survived the 1950s drought and the extent to which its population was negatively impacted are unknown. Bowles *et al.* (2003, p. 379) speculated that the riffle beetle may be able to retreat back into spring openings or burrow down to the hyporheos (groundwater zone) below the stream channel. In reference to the Comal Springs population of the riffle beetle, Bowles *et al.* (2003, p. 380) stated that ''Reductions in water levels in the Edwards Aquifer to the extent that spring-flows cease likely would have devastating effects on . . . [this] population of this species and could result in its extinction.''

Therefore, based on the information above, we identify unpolluted, high-quality water with stable temperatures flowing through subterranean habitat and exiting at spring openings to be primary components of the physical or biological features essential to the conservation of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

Habitats Protected From Disturbance or Representative of the Historical, Geographic, and Ecological Distributions of the Species

These freshwater invertebrates rely on spring water that follows established hydrological flow paths within a limestone aquifer before emerging. Water inside limestone aquifers flows through fractures, pores, cave stream channels, and conduits (open channels) that have been hollowed out within the limestone by dissolution processes (White 1988, pp. 119–148, 150–151). Alteration of subsurface water flows through destruction of geologic features (for example, excavation) or creation of impediments to flow (for example, concrete filling) in proximity to spring outlets could negatively alter the hydraulic connectivity necessary to sustain these species. Areas of subsurface habitat must remain intact to provide adequate space for feeding, breeding, and sheltering of the two subterranean species (amphipod and dryopid beetle). In addition, subsurface habitat must remain intact with sufficient hydraulic connectivity of flow paths and conduits to ensure that other constituent elements (water quality, water quantity, and food supply) for the revised critical habitat remain adequate for all three listed invertebrates.

Comal Springs riffle beetles occur in conjunction with a variety of bottom substrates that underlay these flow paths. Bowles *et al.* (2003, p. 372) found that these beetles mainly occurred in areas with gravel and cobble ranging between 0.3 to 5.0 in (inches) (8 to 128 millimeters (mm)) in diameter and did not occur in areas dominated by silt, sand, and small gravel. Collection efforts in areas of high sedimentation generally do not yield riffle beetles (Bowles *et al.* 2003, p. 376; Gibson, 2012d, pers. comm.).

Therefore, based on the information above, we identify spring water that follows established hydrological flow paths within a limestone aquifer to be a primary component of the physical or biological features essential to the conservation of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod.

Primary Constituent Elements for the Comal Springs Dryopid Beetle, Comal Springs Riffle Beetle, and Peck's Cave Amphipod

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of the three invertebrates in areas occupied at the time of listing, focusing on the features'

primary constituent elements. We consider primary constituent elements to be the elements of physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod are:

(1) Springs, associated streams, and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that include:

(a) High-quality water with no or minimal pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semivolatile compounds such as industrial cleaning agents; and

(b) Hydrologic regimes similar to the historical pattern of the specific sites, with continuous surface flow from the spring sites and in the subterranean aquifer.

(2) Spring system water temperatures that range from 68 to 75 °F (20 to 24 °C).

(3) Food supply that includes, but is not limited to, detritus (decomposed materials), leaf litter, living plant material, algae, fungi, bacteria, other microorganisms, and decaying roots.

With this designation of revised critical habitat, we intend to identify the physical or biological features essential to the conservation of the species, through the identification of the features' primary constituent elements sufficient to support the life-history processes of the species. All revised critical habitat units are currently occupied by one or more of the three invertebrates and contain the primary constituent elements sufficient to support the life-history needs of the species.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographic area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection.

For the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod, threats to adequate water quantity and quality (PCEs 1 and 2) include alterations to the natural flow regimes affecting the aquifer recharge system and its associated springs, streams, and riparian areas. Threats to water quantity and quality include water withdrawals, impoundment, and diversions; hazardous material spills; stormwater drainage pollutants including soaps, detergents, pharmaceuticals, heavy metals, fertilizer nutrients, petroleum hydrocarbons, and semivolatile compounds such as industrial cleaning agents; pesticides and herbicides associated with pathogenic organisms or invasive species; invasive species altering the surface habitat; excavation and construction surrounding the springs and in the watershed; and climate change. All of these threats are known to be ongoing at various levels in and around the Edwards Aquifer ecosystem. Examples of special management actions that would ameliorate these threats include: (1) Maintenance of sustainable groundwater use and subsurface flows; (2) use of adequate buffers for water quality protection; (3) selection of appropriate pesticides and herbicides; and (4) implementation of integrated pest management plans to manage existing invasive species as well as prevent the introduction of additional invasive species.

Climate change could potentially affect water quantity and spring flow as well as the food supply (PCEs 1, 2, and 3) for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's Cave amphipod. According to the Intergovernmental Panel on Climate Change (IPCC 2007, p. 1), ''warming of the climate system is unequivocal, as is now evident from observations of increases in global averages of air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.'' Regional projections suggest the southwestern United States may experience the greatest temperature increase of any area in the lower 48 States (IPCC 2007, p. 8), with warming increases in southwestern States greatest in the summer. The IPCC also predicts hot extremes, heat waves, and heavy precipitation will increase in frequency (IPCC 2007, p. 8).

The degree to which climate change will affect habitats of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's Cave amphipod is uncertain. Climate change will be a particular challenge for biodiversity in general because the interaction of additional stressors associated with climate change and current stressors may push species beyond their ability to survive (Lovejoy 2005, pp. 325–326). The synergistic implications of climate change and habitat fragmentation are the most threatening facets of climate change for biodiversity (Hannah and Lovejoy 2005, p. 4). Current climate change predictions for terrestrial areas in the Northern Hemisphere indicate warmer air temperatures, more intense precipitation events, and increased summer continental drying (Field *et al.* 1999, pp. 1–3; Hayhoe *et al.* 2004, p. 12422; Cayan *et al.* 2005, p. 6; IPCC 2007, p. 1181). Climate change may lead to increased frequency and duration of severe storms and droughts (McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015; Golladay *et al.* 2004, p. 504).

An increased risk of drought could occur if evaporation exceeds precipitation levels in a particular region due to increased CO_2 in the atmosphere (Mace and Wade 2008, p. 658). The Edwards Aquifer is also predicted to experience additional stress from climate change that could lead to decreased recharge and low or ceased spring flows given increasing pumping demands (Loáiciga *et al.* 2000, pp. 192–193). Mace and Wade (2008, p. 662) modeled the possible effects of climate change on the San Antonio segment of the Edwards Aquifer by scaling monthly recharge from 70 to 130 percent of the historical value. The model estimated that Comal Springs would go dry for about 2 years assuming historical recharge, less than a year assuming 130 percent of historical recharge, and 3 years assuming 70 percent of historical recharge. The droughts of 2008–2009 and 2010–2011 were two of the worst short-term droughts in central Texas history, with the period from October 2010 through September 2011 being the driest 12-month period in Texas since rainfall records began (Lower Colorado River Authority (LCRA) 2011, p. 1). As a result, the effects of climate change could compound the threat of decreased water quantity due to drought.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b) we review available information pertaining to the habitat requirements of the species. In accordance with the Act and its implementing regulations at 50 CFR 424.12(e), we consider whether designating additional areas—outside those currently occupied as well as those occupied at the time of listing—is necessary to ensure the conservation of the species. We are designating revised critical habitat in areas within

the geographical area occupied by the species at the time of listing in 1997.

During our preparation for proposing revised critical habitat for these three endangered invertebrate species, we reviewed the best available scientific information including: (1) Historical and current occurrence records, (2) information pertaining to habitat features for these species, and (3) scientific information on the biology and ecology of each species. We have also reviewed a number of studies and surveys of the three listed invertebrates, including: Holsinger (1967), Bosse *et al.* (1988), Barr and Spangler (1992), Arsuffi (1993), Barr (1993), Bio-West (2001), Bio-West (2002a), Bio-West (2002b), Bio-West (2003), Bowles *et al.* (2003), Bio-West (2004), Fries *et al.* (2004), and Gibson *et al.* (2008).

Based on this review, the revised critical habitat areas described below constitute our best assessment at this time of areas that: (1) Are within the geographical range occupied by at least one of the three invertebrate species, and (2) contain features essential to the conservation of these species, which may require special management considerations or protections. All areas we are designating as revised critical habitat are occupied by at least one of the three invertebrates and contain sufficient primary constituent elements to support the life functions of the resident species. We defined the boundaries of each species based on the below criteria.

Comal Springs Dryopid Beetle

We identified both surface and subsurface components of revised critical habitat for this species, which has been found in Comal Springs and Fern Bank Springs in Comal and Hays Counties, Texas. Collections made from 2003 to 2009 further extended the known range of the beetle within the Comal Springs system to all major spring runs, seeps along the western shoreline of Landa Lake (the impounded portion of the Comal Springs system), and Landa Lake upwellings in the Spring Island area (Bio-West, Inc. 2003, p. 34; Bio-West 2004, pp. 5–6; Bio-West 2005, pp. 5–6; Bio-West 2006, p. 37; Bio-West 2009, pp. 40–43; Gibson 2012e, pers. comm.).

In addition, this species has also been collected from below the surface in Panther Canyon Well, which is located about 360 ft (110 m) away from the spring outlet of Spring Run No. 1 (Gibson *et al.* 2008, p. 76; Gibson 2012e, pers. comm.). As a result, we know that this species occurs to some extent within the Edwards Aquifer, likely within some distance from the spring outlets where it is are most commonly found. To determine the extent of the subsurface area to include as revised critical habitat we used the 360-ft (110-m) distance as a guide for the boundaries of subsurface critical habitat around spring openings known to be occupied by the species. While the species may occur in additional areas of the aquifer, we have no supporting information to determine the extent of its occurrence. However, this information from Panther Canyon Well is our best available, and it demonstrates that the Comal Springs dryopid beetle can occur within the aquifer at least up to a distance of 360 ft (110 m) away from a spring outlet; therefore, we used this distance from spring outlets to identify the subsurface area of revised critical habitat for this species. We applied this distance to all the known occupied spring outlets to guide the boundaries of the subsurface critical habitat designation.

To determine surface area to include as revised critical habitat, we used an area within 50 ft (15 m) from spring outlets. We used this area because this distance has been found to contain food sources where plant roots interface with water flows of the spring systems. This 50-ft (15-m) distance defines the lateral extent of surface critical habitat that contains elements necessary to provide for life functions of this species with respect to roots that can penetrate into the aquifer. The 50-ft (15-m) distance was calculated from evaluations of aerial photographs and is based on tree and shrub canopies occurring in proximity to spring outlets. Extent of canopy cover reflects the approximate distances where plant root systems interface with water flows of the two spring systems.

Comal Springs Riffle Beetle

For the Comal Springs riffle beetle, we only identified surface areas as revised critical habitat because this species' habitat is primarily restricted to surface water (rather than subsurface areas, which are designated for the other two species). This habitat is located in two impounded spring systems in Comal and Hays Counties, Texas. In Comal County, this aquatic beetle is found in various spring outlets of Comal Springs that occur within Landa Lake over a linear distance of approximately 0.9 mi (1.4 km). The species has also been found in outlets of San Marcos Springs in the upstream portion of Spring Lake in Hays County. However, populations of Comal Springs riffle beetles may exist elsewhere in Spring Lake (excluding a slough portion that lacks spring outlets), but sampling for riffle beetles at spring outlets within the lake has only been done on a limited basis. Excluding the slough portion that lacks spring outlets, the approximate linear distance of Spring Lake at its greatest length is 0.2 mi (0.3 km). Critical habitat unit boundaries for surface area were delineated using the same criteria as described above for the Comal Springs dryopid beetle; in other words, we included areas within 50 ft (15 m) from occupied spring outlets.

Peck's Cave Amphipod

We identified both surface and subsurface components of revised critical habitat for this species, which has been found in Comal Springs and Hueco Springs, both located in Comal County, Texas. The extent to which this subterranean species exists below ground away from spring outlets is unknown; however, other species within the genus *Stygobromus* are widely distributed in groundwater and cave systems (Holsinger 1972, p. 65). Like the Comal Springs dryopid beetle, the Peck's cave amphipod has been collected from Panther Canyon Well, which is located about 360 ft (110 m) away from the spring outlet of Spring Run No. 1 in the Comal Springs complex (Barr and Spangler 1992, p. 42; Gibson *et al.* 2008, p. 76). To determine surface critical habitat, we used a 50-ft (15-m) distance from the shoreline of both Comal Springs and Hueco Springs (including several satellite springs that are located between the main outlet of Hueco Springs and the Guadalupe River) to include amphipod food sources in the root-water interfaces around spring outlets. Critical habitat unit boundaries were delineated using the same criteria as described above for the other two invertebrate species; in other words, we included areas within 50 ft (15 m) from occupied spring outlets as surface critical habitat, and we included subsurface areas within 360 ft (110 m) of occupied spring outlets.

Areas Outside the Occupied Areas

The definition of critical habitat under the Act includes areas outside the geographical area occupied by the species at the time of listing, if those areas are found to be essential to the conservation of the species. In the case of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod, the geographical area occupied by the species at the time of listing encompasses the known historic range of these species. As such, we have not found any areas outside the geographical areas occupied by these species at the time of their listing to be

essential to the conservation of these species, and, therefore, we are not designating any unoccupied areas as critical habitat.

Mapping

Critical habitat unit boundaries were delineated by creating approximate areas for the units by screen-digitizing polygons (map units) using ArcMap, version 10 (Environmental Systems Research Institute, Inc.) and 2011 aerial imagery. When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures on the surface that lack physical or biological features necessary for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. Subterranean critical habitat for the Comal Springs dryopid beetle and Peck's cave amphipod may extend under such structures and remains part of the critical habitat. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as revised critical habitat. Therefore, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

Summary

We are designating revised critical habitat for lands that we have determined are occupied at the time of listing and contain sufficient elements of physical or biological features to support life-history processes essential for the conservation of the species.

Units are designated based on sufficient elements of physical or biological features being present to support the life-history processes of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. All units contain all of the identified elements of physical or biological features and support multiple life-history processes.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the Regulation Promulgation section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0082, on our Internet site at *http://www.fws.gov/southwest/es/austintexas/*, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT,** above).

Summary of Changes From Previously Designated Critical Habitat

The areas identified in this final rule constitute a revision of the areas we designated as critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod on July 17, 2007 (72 FR 39248). The significant differences between the 2007 rule and this rule are:

(1) In the 2007 critical habitat rule for these species, we did not designate subsurface critical habitat. However, we are designating subsurface critical habitat for the Comal Springs dryopid beetle and the Peck's cave amphipod in this rule.

(2) The amount of critical habitat is increasing in this rule because: (a) We are including subsurface habitat for the Comal Springs dryopid beetle and Peck's Cave amphipod, and (b) we are including the surface area extending 50 ft (15 m) from the shoreline for the Comal Springs riffle beetle.

(3) The primary constituent elements have been modified to better incorporate and define subsurface attributes.

Final Critical Habitat Designation

We are designating four units as critical habitat for the three invertebrates. The critical habitat areas we describe below constitute our best assessment of areas that meet the definition of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. The four units are: (1) Comal Springs, (2) Hueco Springs, (3) Fern Bank Springs, and (4) San Marcos Springs. Table 1 shows the occupied units, and Tables 2, 3, and 4 provide the approximate size of each critical habitat unit for each species.

TABLE 1—OCCUPANCY OF COMAL SPRINGS DRYOPID BEETLE, COMAL SPRING RIFFLE BEETLE, AND PECK'S CAVE AMPHIPOD BY CRITICAL HABITAT UNITS

Unit	Occupied at time of listing?	Currently occupied?	Listed species in unit
1. Comal Springs	Yes	Yes	Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's Cave amphipod.
2. Hueco Springs	Yes	Yes	Peck's Cave amphipod.
3. Fern Bank Springs	Yes	Yes	Comal Springs dryopid beetle.
4. San Marcos Springs	Yes	Yes	Comal Springs riffle beetle.

TABLE 2—CRITICAL HABITAT UNITS FOR THE COMAL SPRINGS DRYOPID BEETLE. AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES

Critical habitat units for the Comal Springs Dryopid Beetle	Land ownership by type	Size of unit in acres (hectares) (subsurface critical habitat)	Size of unit in acres (hectares) (surface critical habitat)
1. Comal Springs	State, City, Private	124 (50)	38 (15)
2. Fern Bank Springs	Private	15 (6)	1.4 (0.56)
Total		139 (56)	39.4 (15.56)

Note: Area sizes may not sum due to rounding.

TABLE 3—CRITICAL HABITAT UNITS FOR THE COMAL SPRINGS RIFFLE BEETLE. AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES

Critical habitat units for the Comal Springs Riffle Beetle	Land ownership by type	Size of unit in acres (hectares) (surface critical habitat)
1. Comal Springs	State, City, Private	38 (15)
2. San Marcos Springs	State	16 (6)
Total		54 (22)

Note: Area sizes may not sum due to rounding.

TABLE 4—CRITICAL HABITAT UNITS FOR THE PECK'S CAVE AMPHIPOD. AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES

Critical habitat units for the Peck's Cave Amphipod	Land ownership by type	Size of unit in acres (hectares) (subsurface critical habitat)	Size of unit in acres (hectares) (surface habitat)
1. Comal Springs	State, City, Private	124 (50)	38 (15)
2. Hueco Springs	Private	14 (6)	0.4 (0.16)
Total		138 (56)	38.4 (15.16)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units and reasons why they meet the definition of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod, below.

Unit 1: Comal Springs Unit

The purpose of this unit is to independently support a population of Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod in a functioning spring system with associated streams and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that provide suitable water quality, supply, and detritus (decomposed plant material).

Unit 1 contains Comal Springs and consists of 124 ac (50 ha) of subsurface critical habitat for the Comal Springs dryopid beetle and the Peck's cave amphipod (Tables 2 and 4). Unit 1 also contains 38 ac (15 ha) of surface habitat for these two species and the Comal Springs riffle beetle (Table 3). This unit was occupied at the time of listing and is still occupied by the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod (Table 1).

Portions of the Comal Springs Unit are owned by the State of Texas, City of New Braunfels, and private landowners in southern Comal County, Texas. A large portion of the unit is operated as a city park (Landa Park) with private residences and landscaped yards along the edge of the lower part of the unit. The surface water and bottom of Landa Lake are State-owned. The City of New Braunfels owns approximately 40 percent of the land surface adjacent to the lake, and private landowners own approximately 60 percent. This nearly L-shaped lake is surrounded by the City of New Braunfels. The spring system primarily occurs as a series of spring outlets that lie along the west shore of Landa Lake and within the lake itself. Practically all of the spring outlets and spring runs associated with Comal Springs occur within the upper part of the lake above the confluence of Spring Run No. 1 to the lake.

This unit contains all of the essential physical and biological features for these species. The physical or biological features in this unit require special management or protection because of the potential for depletion of spring flow from water withdrawals, hazardous materials spills from a variety of sources in the watershed, pesticide use throughout the watershed, excavation and construction surrounding the springs and in the watershed, stormwater pollutants in the watershed, and invasive species impacts on the surface habitat.

Unit 2: Hueco Springs

The purpose of this unit is to independently support a population of Peck's cave amphipod in a functioning spring system with associated streams and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that provide suitable water quality, supply, and detritus (decomposed plant material).

Unit 2 contains Hueco Springs and consists of 14 ac (6 ha) of subsurface and 0.4 ac (0.16 ha) of surface critical habitat for the Peck's cave amphipod (Table 4). This unit was occupied at the time of listing and is still occupied by the Peck's cave amphipod (Table 1).

The Hueco Springs Unit is on private land in Comal County, Texas. The property is primarily undeveloped. The spring system has a main outlet that is located approximately 0.1 mi (0.2 km) south of the junction of Elm Creek with the Guadalupe River in Comal County. The main outlet itself lies approximately 500 ft (152 m) from the west bank of the Guadalupe River. Several satellite springs lie farther south between the main outlet and the river. The main outlet of Hueco Springs is located on undeveloped land, but the associated satellite springs occur within a privately owned campground for recreational vehicles. There is an access road to a field for parking, but no facilities or utilities.

This unit contains all of the essential physical and biological features for this species. The physical or biological features in this unit require special management because of the potential for depletion of spring flow from water withdrawals, pesticide use throughout the watershed, and excavation and construction surrounding the springs and in the watershed.

Unit 3: Fern Bank Springs

The purpose of this unit is to independently support a population of Comal Springs dryopid beetle in a functioning spring system with associated streams and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that provide suitable water quality, supply,

and detritus (decomposed plant material).

Unit 3 contains Fern Bank Springs and consists of 15 ac (6 ha) of subsurface and 1.4 ac (0.56 ha) of surface critical habitat for the Comal Springs dryopid beetle (Table 2). This unit was occupied at the time of listing and is still occupied by the Comal Springs dryopid beetle (Table 1).

The Fern Bank Springs Unit is on private land in Hays County, Texas, approximately 0.2 mi (0.4 km) east of the junction of Sycamore Creek with the Blanco River. The property and surrounding area are primarily undeveloped. However, there is one rural residential home, which is a small portion of this unit. The spring system consists of a main outlet and a number of seep springs that occur at the base of a high bluff along the Blanco River.

This unit contains all of the essential physical and biological features for this species. The physical or biological features in this unit require special management because of the potential for depletion of spring flow from water withdrawals, pesticide use throughout the watershed, and excavation and construction surrounding the springs and in the watershed.

Unit 4: San Marcos Springs

The purpose of this unit is to independently support a population of Comal Springs riffle beetle in a functioning spring system with associated streams that provide suitable water quality, supply, and detritus (decomposed plant material).

Unit 4 contains San Marcos Springs and consists of 16 ac (6 ha) of surface critical habitat for the Comal Springs riffle beetle (Table 3). This unit was occupied at the time of listing and is still occupied by the Comal Springs riffle beetle (Table 1).

This unit is located on State-owned lands in the City of San Marcos, Hays County, Texas.

This unit contains all of the essential physical and biological features for this species. The physical or biological features in this unit require special management or protection because of the potential for depletion of spring flow from water withdrawals, hazardous materials spills from a variety of sources in the watershed, pesticide use throughout the watershed, excavation and construction surrounding the springs and in the watershed, stormwater pollutants in the watershed, and invasive species impacts on the surface habitat.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species listed under the Act or result in the destruction or adverse modification of critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the

species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the three invertebrates. These activities include, but are not limited to:

(1) Actions that would change the existing flow regimes and would thereby significantly and detrimentally alter the primary constituent elements necessary for conservation of these species. Such activities could include, but are not limited to, water withdrawal, water impoundment, and water diversions. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of these species.

(2) Actions that would introduce, spread, or augment nonnative species could destroy or adversely modify the critical habitat of any listed invertebrate species. Such actions could include, but are not limited to, stocking or otherwise transporting nonnative species into critical habitat for any purpose.

(3) Actions that would alter current habitat conditions. Such actions include, but are not limited to, the release of chemical or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (nonpoint source). These activities could alter water conditions to a point that exceeds the tolerances of the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod, and results in direct or cumulative adverse effects to these individuals and their life cycles, or eliminates or reduces the habitat necessary for the growth, reproduction, and survival of these invertebrate species.

(4) Actions that would physically remove or alter the habitat used by the three invertebrates. These activities could lead to increased sedimentation and degradation in water quality to levels that exceed the tolerances of the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod. Such activities could include, but are not limited to, channelization, impoundment, road and bridge construction, deprivation of substrate source, destruction and alteration of riparian vegetation, excessive sedimentation from road construction, vegetation removal, recreational facility development, and other watershed disturbances.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is designation.'' There are no Department of Defense lands within or near the revised critical habitat designation, so no areas were exempted from the critical habitat designation under section 4(a)(3) of the Act.

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, we may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise her discretion to exclude the area only if such exclusion would not result in the extinction of the species.

Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis of the proposed critical habitat designation and related factors. The draft analysis, dated April 8, 2013, was made available for public review from May 2, 2013, through June 3, 2013 (78 FR 25679). Following the close of the comment period, a final analysis (dated June 19, 2013) of the potential economic effects of the designation was developed taking into consideration the public comments and any new information (Industrial Economics, Incorporated 2013b).

The intent of the final economic analysis (FEA) is to quantify the economic impacts of all potential conservation efforts for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod; some of these costs will likely be incurred regardless of whether we designate critical habitat (baseline). The economic impact of the final critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs; these are the costs we consider in the final designation of critical habitat. The analysis looks retrospectively at baseline impacts incurred since the

species was listed, and forecasts both baseline and incremental impacts likely to occur with the designation of critical habitat.

The FEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. The FEA measures lost economic efficiency associated with residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the FEA looks retrospectively at costs that have been incurred since the species' listing in 1997 (62 FR 66295; December 18, 1997), and considers those costs that may occur in the 20 years following the designation of critical habitat. Twenty years was determined to be the appropriate period for analysis because limited planning information was available for most activities to forecast activity levels for projects beyond a 20-year timeframe. The FEA quantifies economic impacts of Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod conservation efforts associated with the following categories of activity: (1) Water withdrawals, (2) construction or development projects, (3) water quality-related projects, and (4) other miscellaneous projects with the potential to affect the physical, biological, or hydrologic conditions of proposed critical habitat.

The present value of total incremental costs of critical habitat designation was estimated to be $71,000 over the next 20 years assuming a 7 percent discount rate, or $6,300 on an annualized basis. The total present value impacts are $80,000, or $5,200 on an annualized basis, assuming a 3 percent discount rate. As highlighted in the FEA, the Comal Springs Unit is likely to be subject to the greatest incremental impacts, but these are expected to be limited to $28,000 over the next 20 years. For all three species, the economic impacts associated with conservation efforts reflect increased administrative costs to participate in section 7 consultations (Industrial Economics, Incorporated 2013b, p. A–6).

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not exerting her discretion to exclude any areas from this designation of critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod based on economic impacts.

A copy of the FEA with supporting documents may be obtained by contacting the Austin Ecological Services Field Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov.*

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that the lands within the designation of revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod are not owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no HCPs or other management plans that specifically address all of the management needs for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod, and the final designation does not include any tribal lands or trust resources. In the proposed rule we considered the exclusion of the springs covered by the Edwards Aquifer Recovery Implementation Program (EARIP) HCP. During the public comment periods for our proposed rule, we received no public comments or requests for exclusions for the EARIP HCP. This HCP only covers water withdrawal and water management activities within the southern Edwards Aquifer. This HCP aims to maintain spring flows, however, it is not a land-based HCP and the permittees do not own or control land-based activities. Consequently, the Secretary is not exercising her discretion to exclude any areas from the final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C 801 *et seq.*), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to

require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. In this final rule, we are certifying that the critical habitat designation for the Comal springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

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

Importantly, the incremental impacts of a rule must be both significant and substantial to prevent certification of the rule under the RFA and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the critical habitat designation, but the per-entity economic impact is not significant, the Service may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the Service may also certify.

The Service's current understanding of recent case law is that Federal agencies are only required to evaluate the potential impacts of rulemaking on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species only has a regulatory effect where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated, such as small businesses. However, Executive Orders 12866 and 13563 direct Federal agencies to assess costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consequently, it is the current practice of the Service to assess to the extent practicable these potential impacts if sufficient data are available, whether or not this analysis is believed by the Service to be strictly required by the RFA. In other words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable.

In conclusion, we believe that, based on our interpretation of directly regulated entities under the RFA and relevant case law, this designation of critical habitat will only directly regulate Federal agencies, which are not by definition small business entities. As such, we certify that this designation of revised critical habitat will not have a significant economic impact on a substantial number of small business entities. Therefore, a final regulatory flexibility analysis is not required. However, although not necessarily required by the RFA, in our final economic analysis for this rule we considered and evaluated the potential effects to third parties that may be involved with consultations with Federal action agencies related to this action.

Designation of critical habitat only affects activities authorized, funded, or carried out by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they authorize, fund, or carry out that may affect the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see *Application of the ''Adverse Modification'' Standard* section).

In our final economic analysis of the critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod and the designation of critical habitat. The analysis is based on the estimated impacts associated with the rulemaking as described in Chapters 1 and 2 and Appendix B of the analysis, and evaluates the potential for economic impacts related to: (1) Water withdrawals, (2) construction or development projects, (3) water quality-related projects, and (4) other miscellaneous projects with the potential to affect the physical, biological, or hydrologic conditions of proposed critical habitat.

The FEA estimated incremental impacts that have the potential to be borne by small entities are limited to the administrative costs of section 7 consultation related to reinitiation of HCPs (six consultations), Department of Defense (DOD) operations (two consultations), as well as miscellaneous construction-related activities in the Comal Springs and San Marcos Springs units that may require a section 404 permit over the next 20 years (six consultations). It was estimated that up to five developers could be included as third parties participating in consultations associated with construction-related activities within the Comal Springs unit. The total cost of these five actions together is estimated to be $1,900 to $2,100 annually, including Federal costs. This is not a significant economic effect on a substantial number of small entities. The FEA determined that the following activities are not expected to affect small entities: (1) Consultations with DOD, (2) reinitiated consultations associated with existing HCPs, and (3) one consultation in San Marcos Springs involving the State of Texas (IEC 2013b, p. B–4).

In summary, we considered whether this designation would result in a significant economic effect on a substantial number of small entities.

Based on the above reasoning and currently available information, we conclude that this rule will not result in a significant economic impact on a substantial number of small entities. Therefore, we are certifying that the designation of revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria is relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with conservation activities for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because the designation of critical habitat imposes no obligations on State or local governments. By definition, Federal agencies are not considered small entities, although the activities they fund or permit may be proposed or carried out by small entities. Consequently, we do not believe that the critical habitat designation will significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The takings implications assessment concludes that this designation of revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this revised critical habitat designation with, appropriate State resource agencies in Texas. We received comments from Texas Parks and Wildlife Department and have addressed them in the Summary of Comments and Recommendations section of the rule. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more

clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating revised critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). Because Texas is not in the Tenth Circuit jurisdiction, we have not prepared an environmental assessment pursuant to NEPA.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by the Comal Springs dryopid beetle, Comal Springs riffle beetle, or Peck's cave amphipod that are essential for the conservation of the species. Therefore, we are not designating revised critical habitat for the Comal Springs dryopid beetle, Comal Springs riffle beetle, and Peck's cave amphipod on tribal lands.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Austin Ecological Services Field Office (see **ADDRESSES**).

Authors

The primary authors of this package are the staff members of the Austin Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.95 by:

■ a. In paragraph (h), revising the critical habitat entry for ''Peck's cave amphipod (*Stygobromus pecki*)''; and

■ b. In paragraph (i), revising the critical habitat entries for ''Comal Springs dryopid beetle (*Stygoparnus comalensis*)'' and ''Comal Springs riffle beetle (*Heterelmis comalensis*)'', to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(h) *Crustaceans.*

* * * * *

Peck's Cave Amphipod (*Stygobromus pecki*)

(1) Critical habitat units are depicted for this species in Comal County, Texas, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of Peck's cave amphipod consist of these components:

(i) Springs, associated streams, and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that include:

(A) High-quality water with no or minimal pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semivolatile compounds such as industrial cleaning agents; and

(B) Hydrologic regimes similar to the historical pattern of the specific sites, with continuous surface flow from the spring sites and in the subterranean aquifer;

(ii) Spring system water temperatures that range from approximately 68 to 75 °F (20 to 24 °C); and

(iii) Food supply that includes, but is not limited to, detritus (decomposed materials), leaf litter, living plant material, algae, fungi, bacteria, other microorganisms, and decaying roots.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing on the surface within the legal boundaries on November 22, 2013.

(4) *Critical habitat map units.* Data layers defining map units were created using geographic information systems (GIS), which included species locations, roads, property boundaries, 2011 aerial photography, and USGS 7.5′ quadrangles. Points were placed in the GIS. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/southwest/es/austintexas/*, at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0082, and at the field office responsible for this critical habitat designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The index map of the critical habitat units for the Peck's cave amphipod follows:

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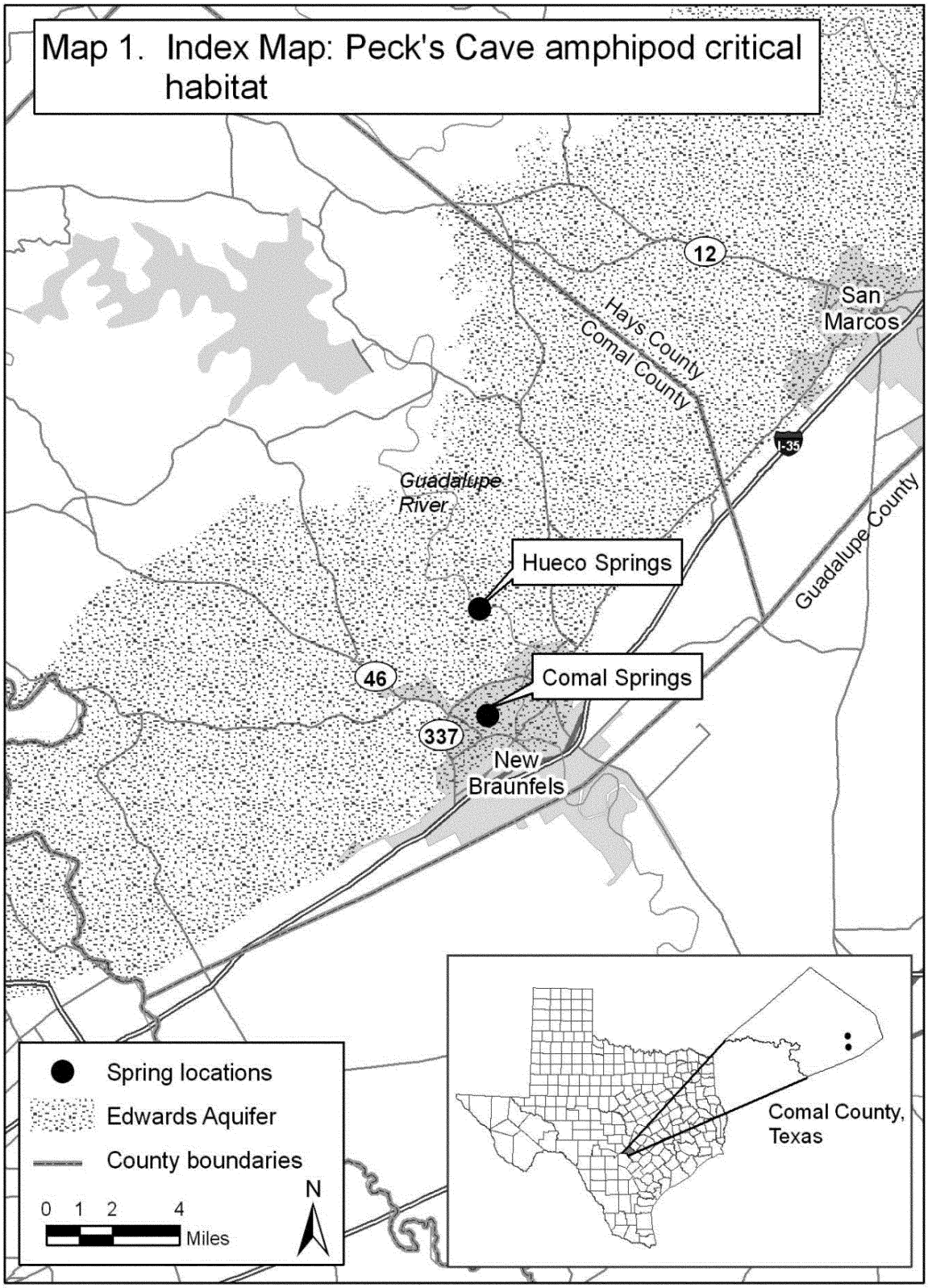
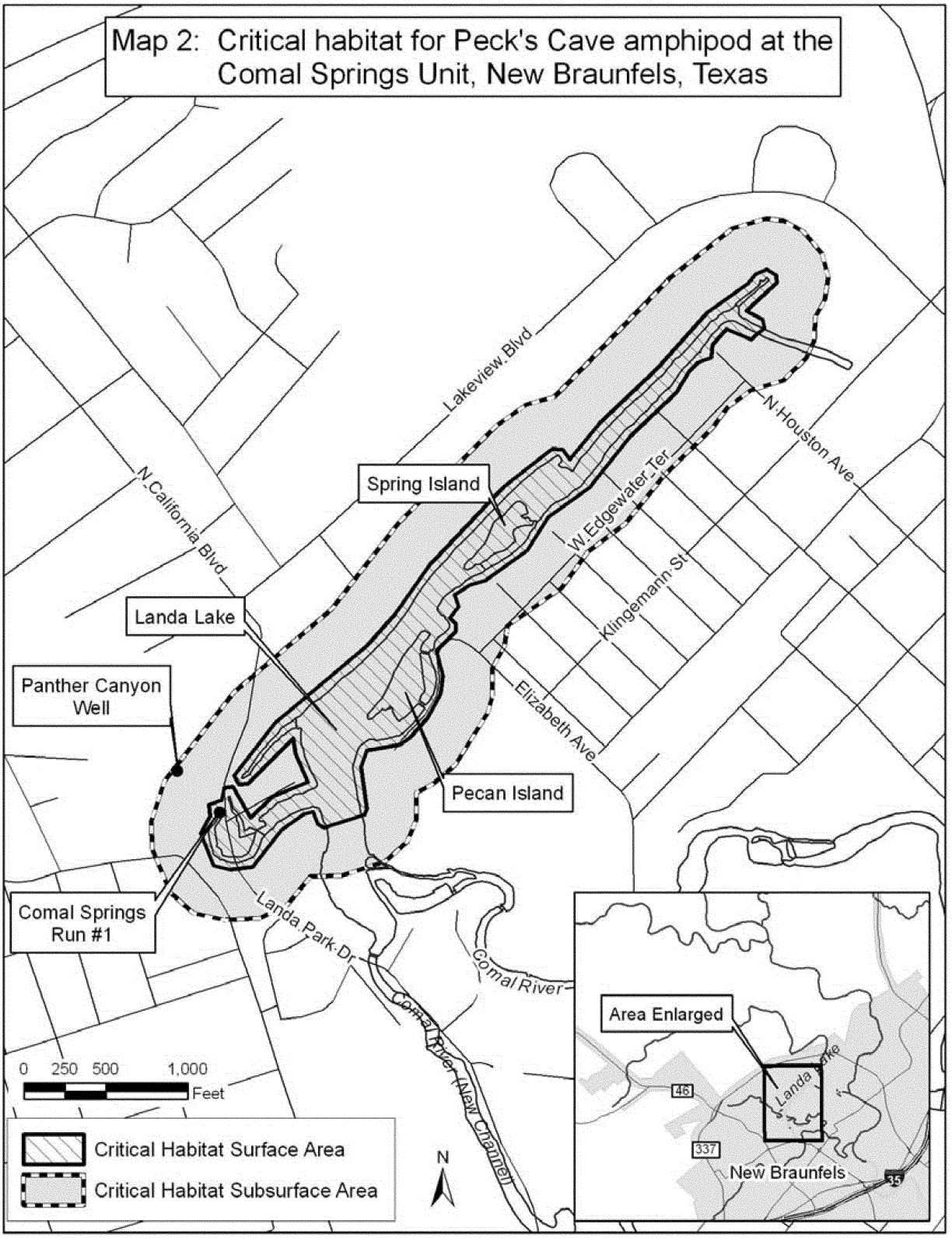
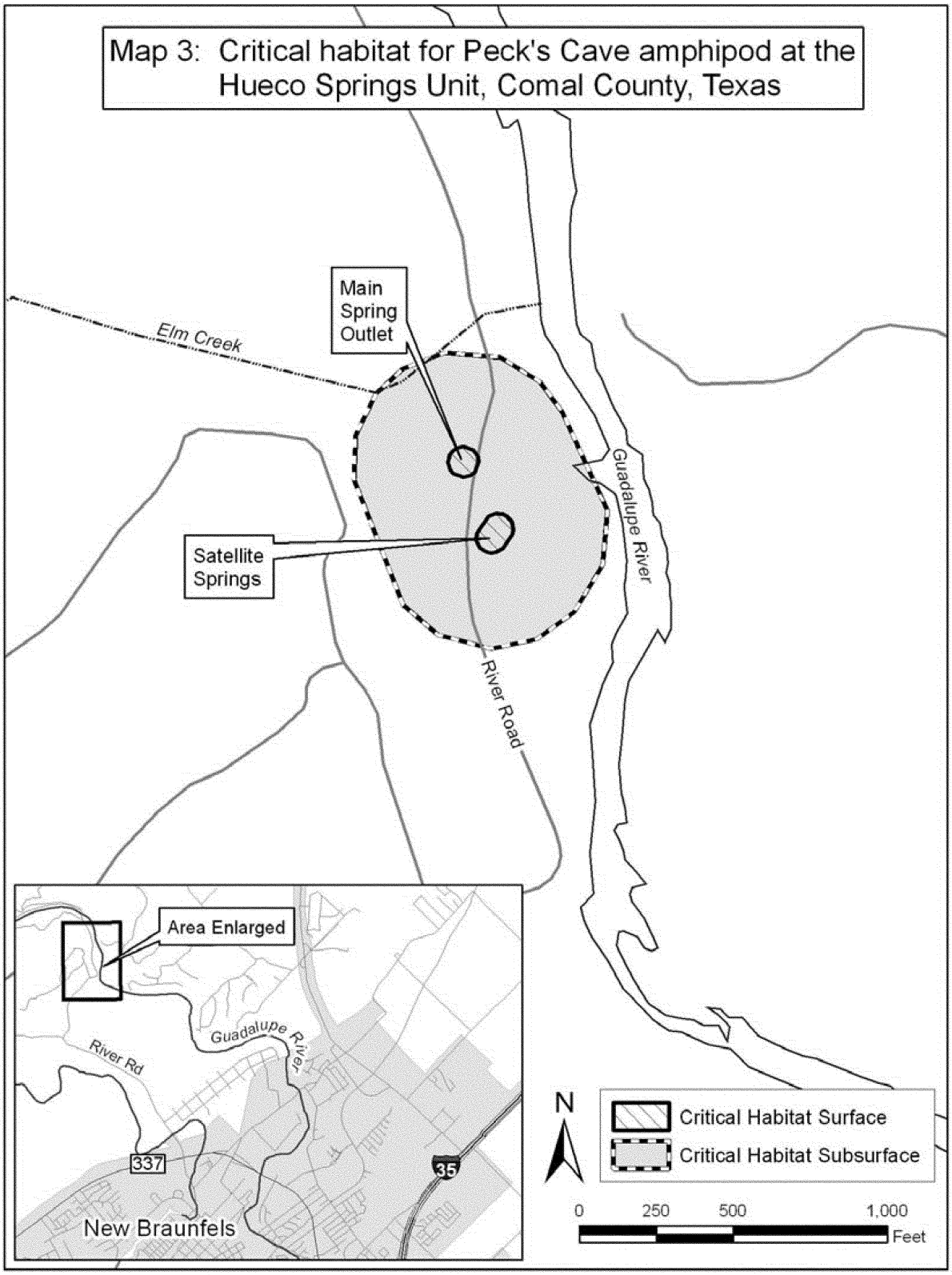


(6) Unit 1: Comal Springs Unit, Comal County, Texas. Map of the Comal Springs Unit follows:



(7) Unit 2: Hueco Springs Unit, Comal County, Texas. Map of the Hueco Springs Unit follows:


Map 3: Critical habitat for Peck's Cave amphipod at the Hueco Springs Unit, Comal County, Texas
Main Spring Outlet
Elm Creek
Satellite Springs
Guadalupe River
River Road
Area Enlarged
Guadalupe River
River Rd
337
35
New Braunfels
N
Critical Habitat Surface
Critical Habitat Subsurface
0
250
500
1,000
Feet

* * * * *

(i) *Insects.*

* * * * *

Comal Springs dryopid beetle (*Stygoparnus comalensis*)

(1) Critical habitat units are depicted for this species in Comal and Hays Counties, Texas, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the Comal Springs dryopid beetle consist of these components:

(i) Springs, associated streams, and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that include:

(A) High-quality water with no or minimal pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semivolatile compounds such as industrial cleaning agents; and

(B) Hydrologic regimes similar to the historical pattern of the specific sites, with continuous surface flow from the spring sites and in the subterranean aquifer;

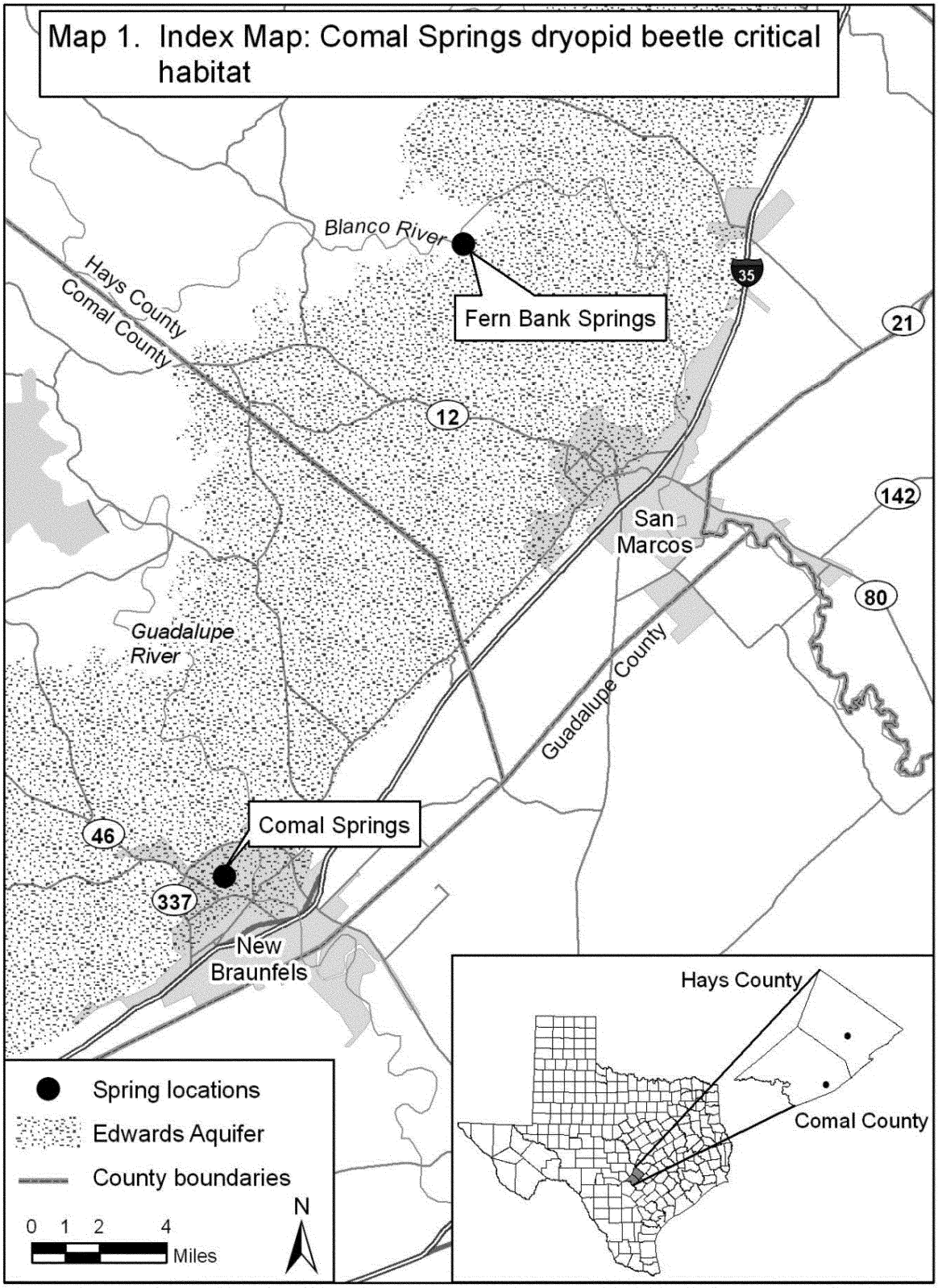
(ii) Spring system water temperatures that range from approximately 68 to 75 °F (20 to 24 °C); and

(iii) Food supply that includes, but is not limited to, detritus (decomposed materials), leaf litter, living plant material, algae, fungi, bacteria, other microorganisms, and decaying roots.

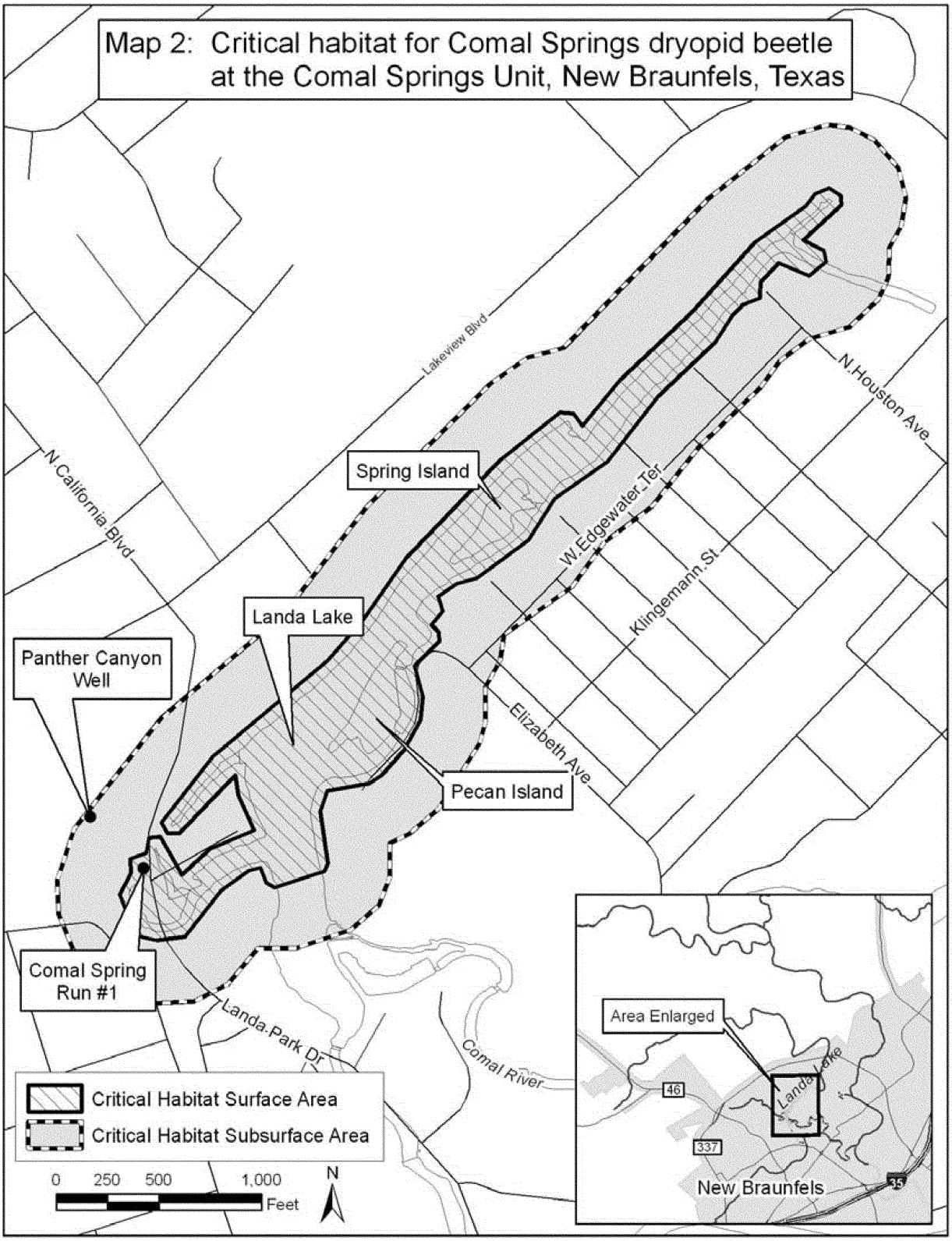
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing on the surface within the legal boundaries on November 22, 2013.

(4) *Critical habitat map units.* Data layers defining map units were created using geographic information systems (GIS), which included species locations, roads, property boundaries, 2011 aerial photography, and USGS 7.5′ quadrangles. Points were placed in the GIS. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/southwest/es/austintexas/*, at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0082, and at the field office responsible for this critical habitat designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

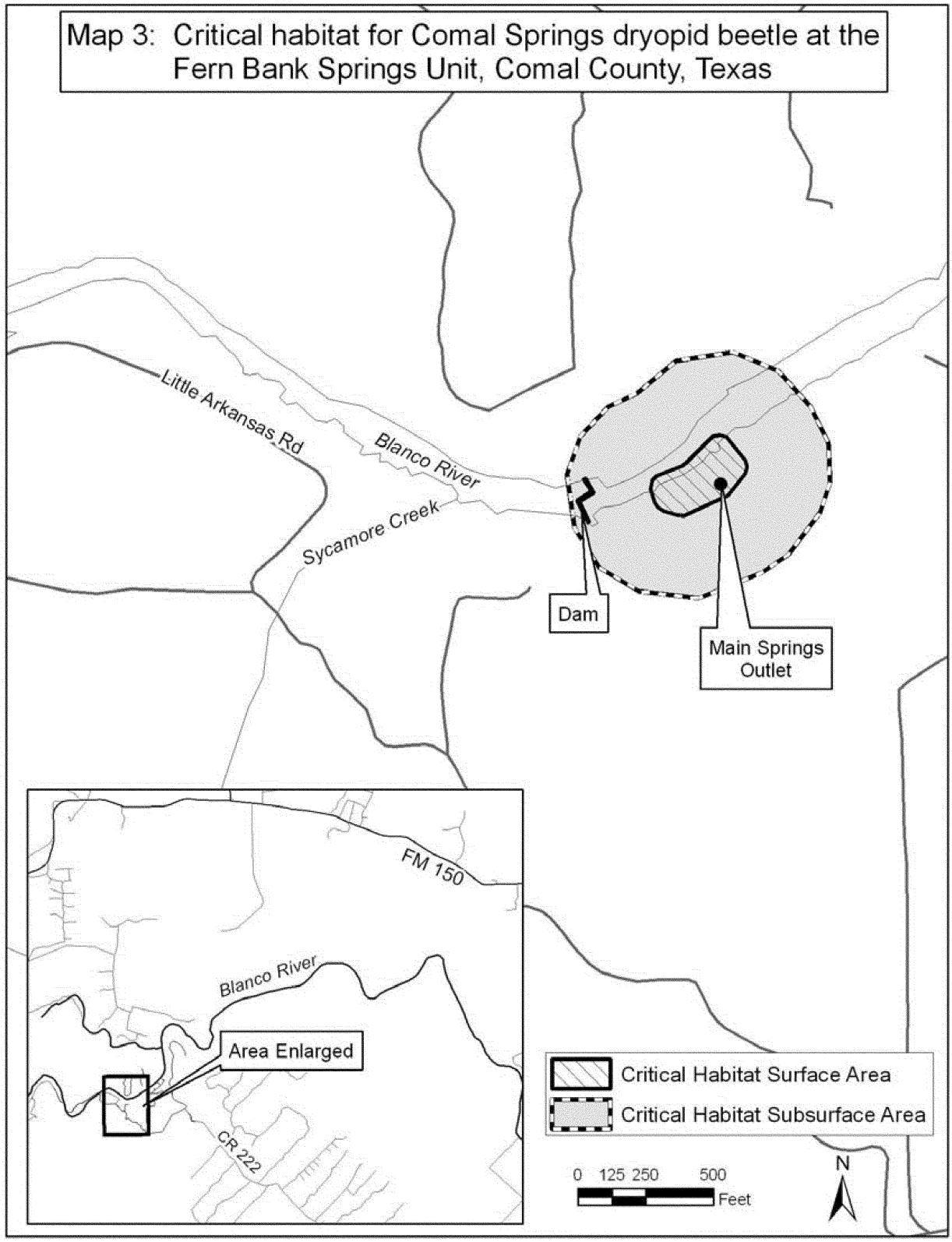
(5) The index map of the critical habitat units for the Comal Springs dryopid beetle follows:



(6) Unit 1: Comal Springs Unit, Comal County, Texas. Map of the Comal Springs Unit follows:



(7) Unit 2: Fern Bank Springs Unit, Hays County, Texas. Map of the Fern Bank Springs Unit follows:



Comal Springs riffle beetle (*Heterelmis comalensis*)

(1) Critical habitat units are depicted for this species in Comal and Hays Counties, Texas, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the Comal Springs riffle beetle consist of these components:

(i) Springs, associated streams, and underground spaces immediately inside of or adjacent to springs, seeps, and upwellings that include:

(A) High-quality water with no or minimal pollutant levels of soaps,

detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semivolatile compounds such as industrial cleaning agents; and

(B) Hydrologic regimes similar to the historical pattern of the specific sites, with continuous surface flow from the spring sites and in the subterranean aquifer;

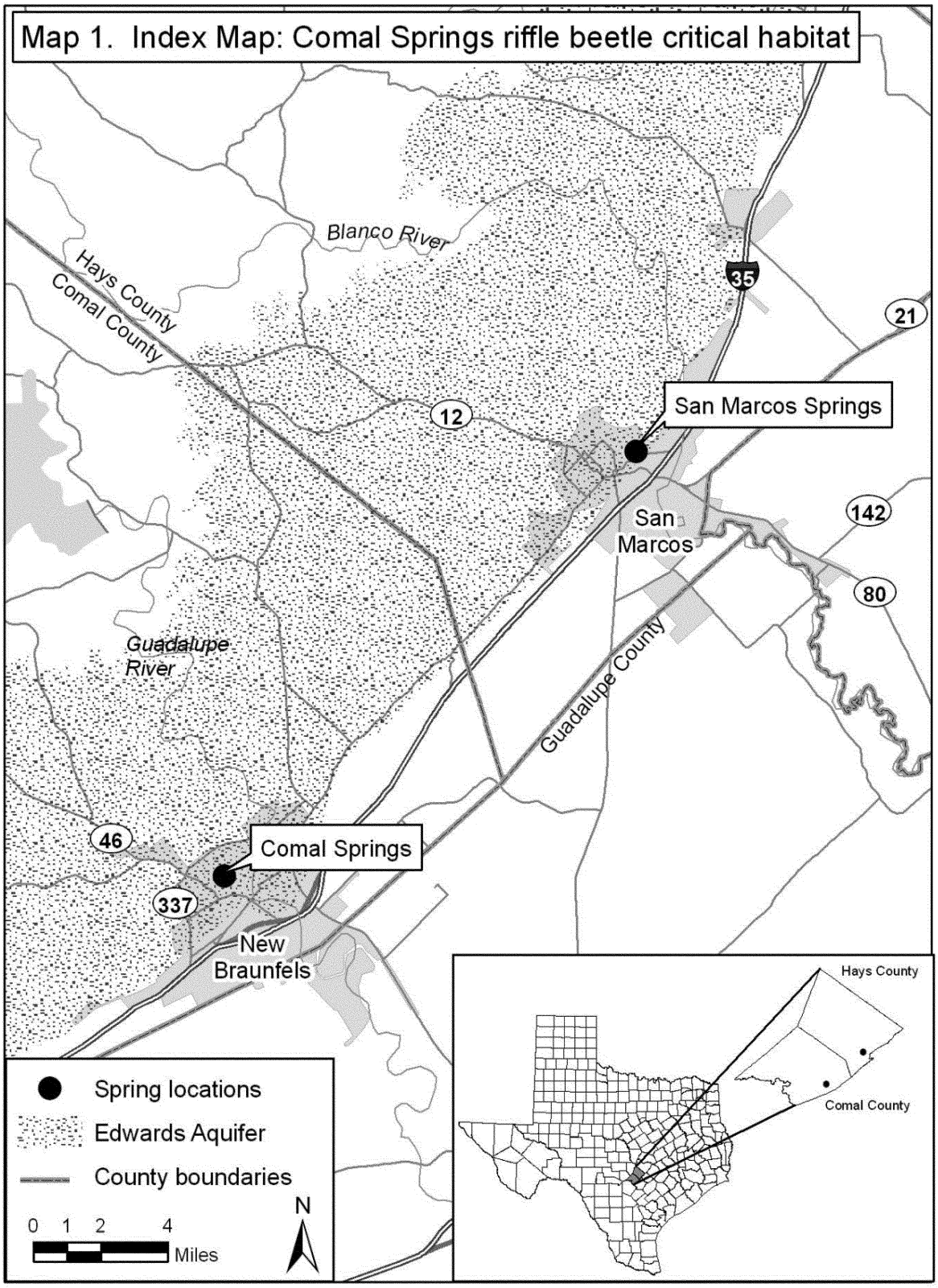
(ii) Spring system water temperatures that range from approximately 68 to 75 °F (20 to 24 °C); and

(iii) Food supply that includes, but is not limited to, detritus (decomposed materials), leaf litter, living plant material, algae, fungi, bacteria, other microorganisms, and decaying roots.

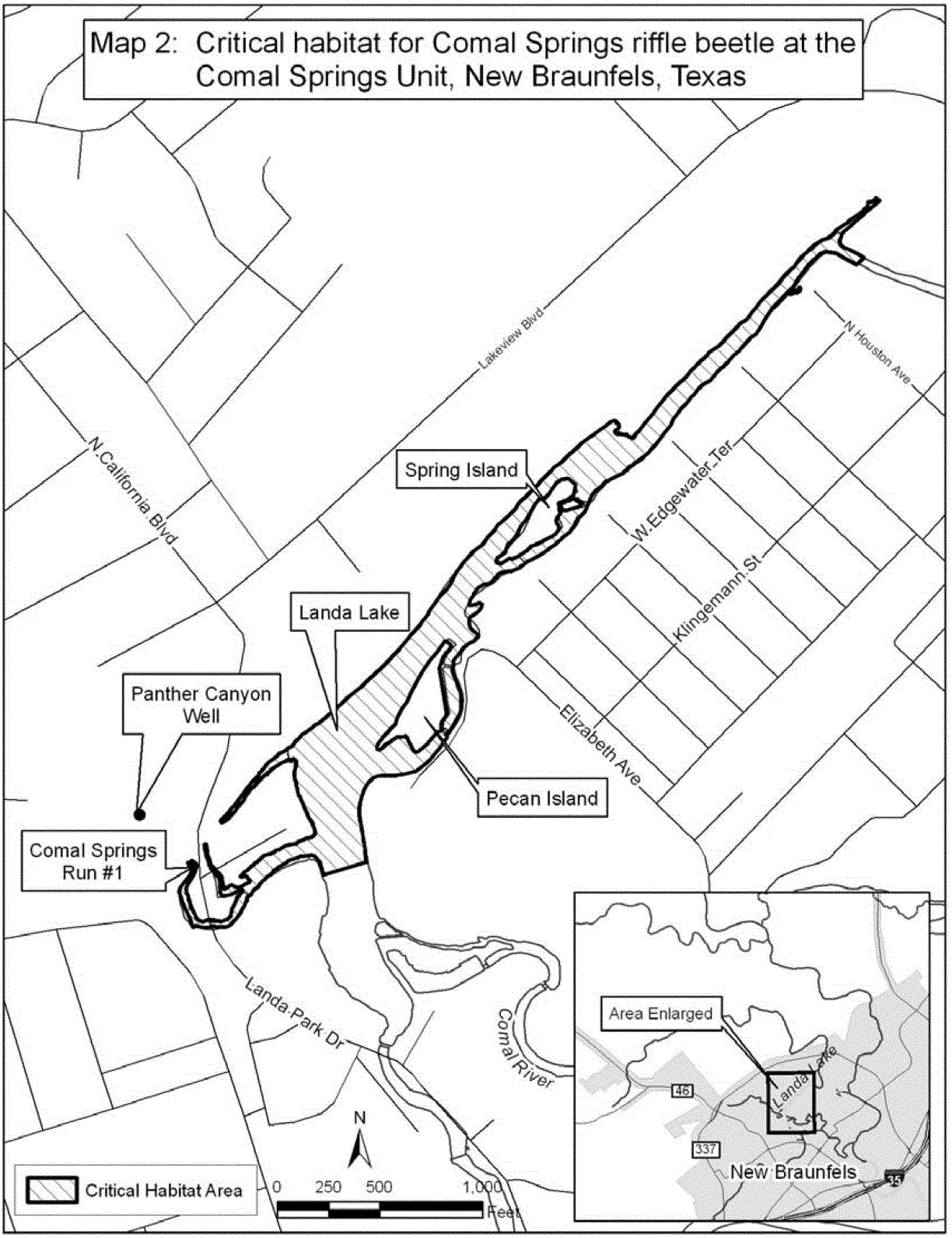
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing on the surface within the legal boundaries on November 22, 2013.

(4) *Critical habitat map units.* Data layers defining map units were created using geographic information systems (GIS), which included species locations, roads, property boundaries, 2011 aerial photography, and USGS 7.5′ quadrangles. Points were placed on the GIS. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/southwest/es/austintexas/*, at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0082, and at the field office responsible for this critical habitat designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

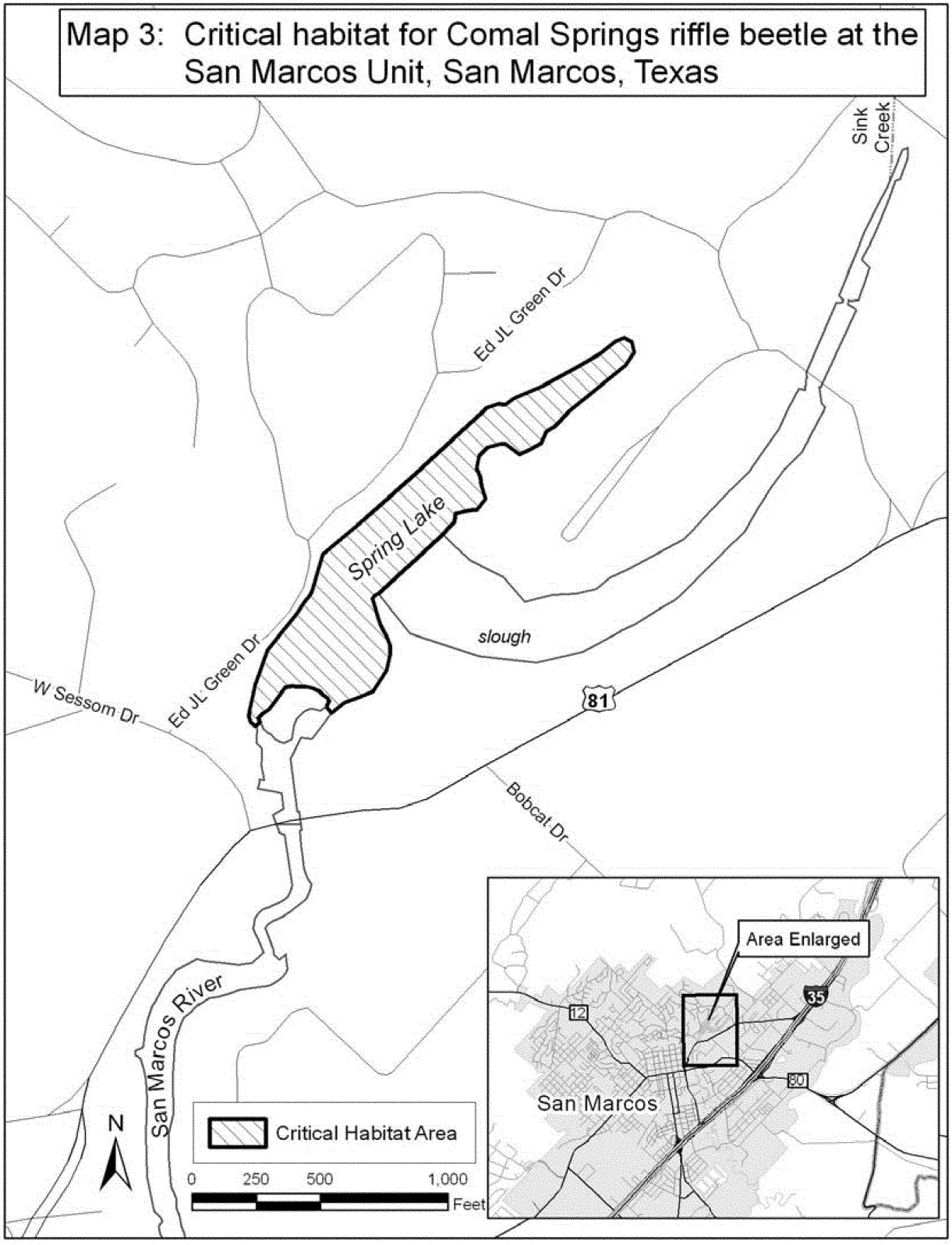
(5) The index map of critical habitat units for the Comal Springs riffle beetle follows:



(6) Unit 1: Comal Springs Unit, Comal County, Texas. Map of the Comal Springs Unit follows:



(7) Unit 2: San Marcos Springs Unit, Hays County, Texas. Map of the San Marcos Springs Unit follows:



* * * * *

Dated: September 27, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–24168 Filed 10–22–13; 8:45 am]

BILLING CODE 4310–55–C

Proposed Rules

Federal Register
Vol. 78, No. 205
Wednesday, October 23, 2013

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Doc. No. AMS–FV–13–0065; FV13–993–1 PR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the assessment rate established for the Prune Marketing Committee (Committee) for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes handled. The Committee locally administers the marketing order, which regulates the handling of dried prunes grown in California. Assessments upon dried prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by November 7, 2013.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jerry L. Simmons, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Jerry.Simmons@ams.usda.gov* or *Martin.Engeler@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202)720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement No. 110 and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed would be applicable to all assessable dried prunes beginning on August 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of entry of the ruling.

This proposed rule would increase the assessment rate established for the Committee for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes handled.

The California dried prune marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs of goods and services in their local area. Therefore, they are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2011–12 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 25, 2013, and unanimously recommended 2013–14 expenditures of $43,791 and an assessment rate of $0.28 per ton of salable dried prunes. The assessment rate of $0.28 is $0.06 higher than the rate currently in effect, even though last year's budgeted expenditures of $44,968 were higher than those recommended for this year.

The Committee unanimously recommended the higher assessment rate because the production estimate of 105,000 tons of salable dried prunes for the 2013–14 crop year is substantially lower than the 137,285 tons produced

during the 2012–13 crop year. Using the proposed assessment rate, assessment income for the 2013–14 crop year would be $29,400. Assessment income, combined with funds carried over from the prior crop year and interest income, is expected to be adequate to cover budgeted expenses for the year.

The major expenditures recommended by the Committee for the 2013–14 year include $26,944 for salaries, $9,538 for operating expenses, and $7,308 for contingencies. Budgeted expenses for these items in 2012–13 were $22,997, $9,970, and $12,001, respectively.

The assessment rate recommended by the Committee was derived by considering the funds needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds carried forward into the 2013–14 crop year, and estimated interest income. As mentioned earlier, dried prune production for the year is estimated at 105,000 salable tons, which should provide $29,400 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed and further rulemaking would be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 800 producers of dried prunes in the California area and approximately 21 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000. (13 CFR 121.201)

Committee data indicates that about 64 percent of the handlers ship less than $7,000,000 worth of dried prunes. Dividing the average prune crop value for 2012 reported by the National Agricultural Statistics Service (NASS) of $172,500,000 by the number of producers (800) yields an average annual producer revenue estimate of about $215,625. Based on the foregoing, the majority of handlers and producers of dried prunes may be classified as small entities.

This proposal would increase the assessment rate established for the Committee and collected from handlers for the 2013–14 and subsequent crop years from $0.22 to $0.28 per ton of salable dried prunes. The Committee unanimously recommended 2013–14 expenditures of $43,791 and an assessment rate of $0.28 per ton of salable dried prunes. The proposed assessment rate of $0.28 is $0.06 higher than the 2012–13 rate. The quantity of assessable dried prunes for the 2013–14 crop year is estimated at 105,000 tons. Thus, the $0.28 rate should provide $29,400 in assessment income, and when combined with carry-in funds and interest income, should be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2013–14 year include $26,944 for salaries, $9,538 for operating expenses, and $7,308 for contingencies. Budgeted expenses for these items in 2012–13 were $22,997, $9,970, and $12,001, respectively.

The Committee unanimously recommended the higher assessment rate because the production estimate of 105,000 tons of salable dried prunes for this year is substantially lower than the 137,285 tons produced last year. At the current assessment rate, the anticipated crop would not generate sufficient revenue to meet the 2013–14 budgeted expenses.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources, including the Committee's Executive Subcommittee. The assessment rate of $0.28 per ton of salable dried prunes was recommended after considering various factors, including the amount of handler assessment revenue needed to meet anticipated expenses, the estimated quantity of salable tons of California dried prunes for the 2013–14 crop year, excess funds carried forward into the 2013–14 crop year, and estimated interest income. An alternative to this action would be to continue with the $0.22 per ton assessment rate. However, an assessment rate of $0.28 per ton of salable dried prunes, along with excess funds from the 2012–13 crop year, is needed to provide enough income to fund the Committee's operations.

A review of historical crop and price information, as well as preliminary information pertaining to the 2013–14 season indicates that the producer price for salable dried prunes for the 2013–14 season could average about $1,300 per ton. Utilizing this estimate and the proposed assessment rate of $0.28, estimated assessment revenue as a percentage of total estimated producer revenue should be about 0.02 percent for the 2013–14 season ($0.28 divided by $1,300 per ton).

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing order.

In addition, the Committee's meeting was widely publicized throughout the California dried prune industry. All interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 25, 2013, meeting was a public meeting. All entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C.

Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/AMSv1.0/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2013–14 crop year began on August 1, 2013, and the marketing order requires that the rate of assessment for each crop year apply to all assessable prunes to be handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plum, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 2013, an assessment rate of $0.28 per ton of salable dried prunes is established for California dried prunes.

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24899 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0864; Directorate Identifier 2013–NM–108–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 777F series airplanes. This proposed AD was prompted by a report of a fire that originated near the first officer's seat and caused extensive damage to the flight deck. This proposed AD would require replacing the low-pressure oxygen hoses with non-conductive low-pressure oxygen hoses in the stowage box and supernumerary ceiling area. We are proposing this AD to prevent electrical current from passing through an internal, anti-collapse spring of the low-pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn and lead to an oxygen-fed fire on the flight deck.

DATES: We must receive comments on this proposed AD by December 9, 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: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

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–2013–0864; Directorate Identifier 2013–NM–108–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.*

regulations.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report of a fire that originated near the first officer's seat and caused extensive damage to the flight deck. Electrical current passing through an internal, anti-collapse spring of the low-pressure oxygen hose can cause the low-pressure oxygen hose to melt or burn and lead to an oxygen-fed fire on the flight deck.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–35A0029, Revision 1, dated April 29, 2013. For information on the procedures, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0864.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously.

Costs of Compliance

We estimate that this proposed AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace oxygen hoses	7 work-hours × $85 per hour = $595	$1,450	$2,045	$36,810

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–2013–0864; Directorate Identifier 2013–NM–108–AD.

(a) Comments Due Date

We must receive comments by December 9, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–35A0029, Revision 1, dated April 29, 2013.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a fire that originated near the first officer's seat and caused extensive damage to the flight deck. We are issuing this AD to prevent electrical current from passing through an internal, anti-collapse spring of the low-pressure oxygen hose, which can cause the low-pressure oxygen hose to melt or burn and lead to an oxygen-fed fire on the flight deck.

(f) Compliance

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

(g) Oxygen Hose Replacement

Within 36 months after the effective date of this AD: Replace the low-pressure oxygen hoses in the stowage box and supernumerary ceiling area with new non-conductive low-pressure oxygen hoses, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–35A0029, Revision 1, dated April 29, 2013.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a low-pressure oxygen hose, part number (P/N) 57034–08A050140,

P/N 57034–08A050215, or P/N 57034–09A050270, on any airplane.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 777–35A0029, dated June 6, 2012, provided that the low-pressure oxygen hoses described in Boeing Alert Service Bulletin 777–35A0029, Revision 1, dated April 29, 2013, were replaced with new non-conductive low-pressure oxygen hoses. Boeing Alert Service Bulletin 777–35A0029, dated June 6, 2012, is not incorporated by reference in 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 paragraph (k) 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 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, Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6457; fax: 425–917–6590; email: *susan.l.monroe@faa.gov.*

(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 September 30, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–24794 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0865; Directorate Identifier 2012–NM–199–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. 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 Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the butt-joints on the forward fuselage above the passenger door are subject to widespread fatigue damage (WFD). This proposed AD would require inspecting the forward fuselage butt-joints for cracking, repairing any crack, and eventually doing a terminating repair. We are proposing this AD to prevent fatigue cracking of such butt-joints, which could result in reduced structural integrity of the airplane and in-flight decompression of the airplane.

DATES: We must receive comments on this proposed AD by December 9, 2013.

ADDRESSES: You may send comments 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:* 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0865; Directorate Identifier 2012–NM–199–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 based on 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

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural

element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as WFD. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent catastrophic failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that design approval holders establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this approach is necessary to enable design approval holders to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0218, dated October 19, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A report has been received of a crack, detected in a butt-joint on the forward fuselage of an F28 Mark 0100 aeroplane, above the passenger door. Investigation results revealed that, depending on the configuration of the aeroplane, four butt joints in the forward fuselage can be affected, at stringers 8, 37, 42 and 67 between fuselage stations 3850 and 5305.
>
> This condition, if not detected and corrected, can result in an exponential crack growth rate, possibly leading to failure of the butt-joint over a certain length and consequent in-flight decompression of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires a one-time inspection [low frequency eddy current] of the forward fuselage butt joints for cracks and, depending on findings, accomplishment of a temporary repair [including a detailed inspection for cracks in the butt strap on the inside of the applicable joint, and corrective actions if necessary] and reporting the findings to Fokker Services. In addition, this AD requires a permanent repair/modification [and a detailed inspection for cracks in the butt strap on the inside of the applicable joint, and corrective actions if necessary].
>
> * * * * *

Corrective actions include removing the cracked part of the butt joint and installing an insert, and installing of an external repair strap. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–53–118, Revision 2, dated October 16, 2012; and Fokker Service Bulletin SBF100–53–119, Revision 2, dated May 8, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

The MCAI specifies an alternative detailed visual inspection of the butt-joints from the inside of the fuselage. This proposed AD would not allow that inspection, and the difference has been coordinated with EASA.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 4 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	127 work-hours × $85 per hour = $10,795	$0	$10,795	$43,180

We estimate the following costs to do any necessary repairs 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 repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	30 work-hours × $85 per hour = $2,550	$0	$2,550

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave., SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

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.

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

List of Subjects in 14 CFR Part 39

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

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 AD:

Fokker Services B.V.: Docket No. FAA–2013–0865; Directorate Identifier 2012–NM–199–AD.

(a) Comments Due Date

We must receive comments by December 9, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, as identified in Fokker Service Bulletin SBF100–53–118, Revision 2, dated October 16, 2012.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the butt-joints on the forward fuselage above the passenger door are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking of such butt-joints, which could result in reduced structural integrity of the airplane and in-flight decompression of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspection

Before the accumulation of 35,000 total flight cycles, or within 8 months after the effective date of this AD, whichever occurs later: Do a low frequency eddy current inspection for cracking of the forward fuselage butt-joints, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–118, Revision 2, dated October 16, 2012.

(h) Repair

If any cracking is found during the inspection specified in paragraph (g) of this AD, before further flight, do the actions specified in either paragraph (h)(1) or (h)(2) of this AD.

(1) Accomplish a temporary repair, including a detailed inspection for cracks in the butt strap on the inside of the applicable joint, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–118, Revision 2, dated October 16, 2012.

(2) Do a terminating repair of the forward fuselage butt-joints, including a detailed inspection for cracks in the butt strap on the inside of the applicable joint, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–119, Revision 2, dated May 8, 2013. Accomplishing the terminating repair specified in this paragraph is a method of compliance with the terminating repair required by paragraph (j) of this AD.

(i) Reporting

Submit a report of any crack findings from the inspection specified in paragraph (g) of this AD to Fokker Services, Hoeksteen 40, 2132 MS Hoofddorp, PO Box 1357, 2130 EL Hoofddorp, The Netherlands; by using the Reporting Form (figure 14 and figure 15, as applicable) of Fokker Service Bulletin SBF100–53–118, Revision 2, dated October 16, 2012; at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD.

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

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

(j) Terminating Repair

Before the accumulation 50,000 total flight cycles, or within 8 months after the effective date of this AD, whichever occurs later: Do the terminating repair of the forward fuselage butt-joints, including a detailed inspection for cracks in the butt strap on the inside of the applicable joint, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–119, Revision 2, dated May 8, 2013. Do all applicable corrective actions before further flight.

(k) Credit for Previous Actions

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

(i) Fokker Service Bulletin SBF100–53–118, dated April 10, 2012.

(ii) Fokker Service Bulletin SBF100–53–118, Revision 1, dated July 6, 2012.

(2) This paragraph provides credit for actions required by paragraphs (h)(2) and (j) of this AD, if those actions were performed before the effective date of this AD using the service bulletins specified in paragraphs (k)(2)(i) or (k)(2)(ii) of this AD, which are not incorporated by reference in this AD.

(i) Fokker Service Bulletin SBF100–53–119, dated June 20, 2012.

(ii) Fokker Service Bulletin SBF100–53–119, Revision 1, dated October 30, 2012.

(l) Compliance Time Provisions

No alternative compliance times may be used for the modification required by paragraph (j) of this AD, unless extensive new data are provided and the compliance time is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m) of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information European Aviation Safety Agency Airworthiness Directive 2012–0218, dated October 19, 2012, for related information, which can be found in the AD docket on the Internet at *http://www.regulations.gov.*

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.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 September 30, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–24795 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21236; Directorate Identifier 2005–NM–011–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 767 airplanes equipped with General Electric Model CF6–80C2 engines. The NPRM proposed to require modifying a relay installation and associated wiring of the engine cowl anti-ice system and performing a functional test of the thrust reverser system. The NPRM also proposed to require replacing the operational program software of certain indicating/recording systems. Since we issued the NPRM, we have received new data that indicate the unsafe condition would not be adequately addressed by the proposed action. The manufacturer has issued new service information to address the unsafe condition. Consequently, we issued new rulemaking action that positively addresses the unsafe condition identified in the NPRM, and eliminates the need for the actions proposed in the NPRM. Accordingly, the NPRM is withdrawn.

DATES: As of October 23, 2013, the proposed rule, which was published in the **Federal Register** on May 18, 2005 (70 FR 28489), is withdrawn.

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

FOR FURTHER INFORMATION CONTACT: Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA,

Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *tung.tran@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 767 series airplanes. The NPRM published in the **Federal Register** on May 18, 2005 (70 FR 28489). The NPRM proposed to require modifying a relay installation and associated wiring of the engine cowl anti-ice system and performing a functional test of the thrust reverser system. The NPRM also proposed to require replacing the operational program software of certain indicating/recording systems. The NPRM was prompted by numerous operator reports of failures of the lock flexshaft of the thrust reverser actuation system (TRAS) between the upper actuator and the TRAS lock. We had proposed the AD to prevent high power in-flight deployment of a thrust reverser, which could cause high roll force and consequent departure from controlled flight.

Actions Since NPRM (70 FR 28489, May 18, 2005) Was Issued

Since we issued the NPRM (70 FR 28489, May 18, 2005), we have received new data that indicate the unsafe condition would not be adequately addressed by the proposed action. Consequently, we issued a new NPRM (78 FR 3363, January 16, 2013) that positively addresses the unsafe condition identified in the NPRM (70 FR 28489, May 18, 2005) and eliminates the need for the actions proposed in that NPRM (70 FR 28489, May 18, 2005).

FAA's Conclusions

We have determined that the unsafe condition identified in the NPRM (70 FR 28489, May 18, 2005) still exists. However, the unsafe condition is addressed in the new NPRM (78 FR 3363, January 16, 2013). Accordingly, the NPRM (70 FR 28489, May 18, 2005) is withdrawn.

Withdrawal of the NPRM (70 FR 28489, May 18, 2005) does not preclude the FAA from issuing the related actions or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws the NPRM (70 FR 28489, May 18, 2005), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2005–21236, Directorate Identifier 2005–NM–011–AD, which published in the **Federal Register** on May 18, 2005 (70 FR 28489).

Issued in Renton, Washington, on September 30, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–24797 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0562]

RIN 1625–AA09

Drawbridge Operation Regulation; Inner Harbor Navigational Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedules that govern the US 90 (Danzinger) Bridge across the Inner Harbor Navigational Canal (IHNC), mile 3.1 and the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) bridge across the IHNC, mile 4.6, both at New Orleans, LA. This proposed change would allow for the safe navigation of vessels while reflecting the low volume of vessel traffic through the bridges thereby increasing efficiency of operations. The proposed change would allow the bridges to operate in a manner that would align the two operating schedules so the bridge owner would be able to use the same bridge crew personnel to operate both bridges with little to no effect on navigation through the bridges.

DATES: Comments and related material must reach the Coast Guard on or before December 23, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0562 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email the Coast Guard; Mr. Jim Wetherington telephone 504–671–2128, emails *james.r.wetherington@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
GIWW Gulf Intracoastal Waterway
LDOTD Louisiana Department of Transportation and Development
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2013–0562), 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 (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://*

www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. 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,* type the docket number [USCG–2013–0562] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0562) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

The US 90 (Danzinger) Bridge, mile 3.1, has a current operating schedule under 33 CFR 117.458(b). The bridge shall open on signal; except that from 8 p.m. to 7 a.m. the draw shall open on signal if at least four hours notice is given, and the draw need not be opened from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. The Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) Bridge has a current operating schedule under 33 CFR 117.458(c). The bridge will open on signal at all times but is allowed to remain closed from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. Louisiana Department of Transportation and Development (LDOTD) (representing the New Orleans Levee District which is the bridge owner) has requested to change the notice required for opening the US 90 (Danzinger) Bridge to two hours notice 24 hours a day; except that the draw need not be opened from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. LDOTD would also like to change the required opening for the Senator Ted Hickey bridge to on signal from 8 a.m. through 8 p.m., open on signal if two hours notice is given from 8 p.m. through 8 a.m. and that the draw need not be opened from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday.

LDOTD initiated this request without prior consultation of waterway users, but did consult with the Coast Guard Eighth District Coastal Region Bridge Branch (dpb) in New Orleans for guidance on how to comply with the requirements of 33 CFR part 117.8. There were no previous regulatory publications or public notices announcing this proposed rule. However, the Coast Guard decided that a test deviation would run in conjunction with the notice of proposed rulemaking (NPRM) to ensure that there were no major concerns on the part of the waterway users. The test deviation will run for thirty days in the middle of the NPRM comment period; from fifteen days after the NPRM comment period begins until fifteen days before it ends. The docket number for the test deviation is also USCG–2013–0562. Comments are encouraged.

C. Basis and Purpose

LDOTD, on behalf of the Orleans Levee District, has requested to modify the operating regulations of the U.S. 90 (Danziger) and the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) bridges on the Inner Harbor Navigational Canal (IHNC) past the Gulf Intracoastal Waterway (GIWW). The proposed change would allow LDOTD to operate these two bridges with the same personnel, thereby increasing the overall efficiency of operations on these bridges and ultimately reducing overall operational costs while allowing for improved transit through these bridges. This section of the IHNC is not on the GIWW and therefore has far fewer opening requests than the GIWW bridges do. The Danzinger Bridge averaged nine openings a month, for vessel traffic, in the last year. The Senator Ted Hickey Bridge averaged 32 openings per month, for vessel traffic, in the last year. This regulatory change would allow for a minimal amount of personnel to work this section of the IHNC while still enabling efficient marine commerce in the area. These proposed changes would also align the two bridges' operating regulations to simplify the planning and use of these bridges by the waterway users.

The US 90 (Danzinger) Bridge across the IHNC, mile 3.1, at New Orleans, Orleans Parish, Louisiana is a vertical lift bridge with a vertical clearance of 50 feet above Mean High Water (MHW), elevation 5.0 Mean Sea Level (MSL), in the closed-to-navigation position and 120 feet MHW, elevation 5.0 MSL, in the open-to-navigation position. The Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) Bridge across the IHNC, mile 4.6, at New Orleans, Orleans Parish, Louisiana is a bascule bridge with a vertical clearance of 46 feet above Mean High Water (MHW), elevation 5.0 Mean Sea Level (MSL), in the closed-to-navigation position and unlimited in the open-to-navigation position.

D. Discussion of Proposed Rule

The bridge owner would like to modify the existing regulation under 33 CFR 117.458(b) and (c). The proposed change to 33 CFR 117.458(b) would allow the bridge to open if two hours notice is given 24 hours a day; except the bridge need not open from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. The proposed change to 33 CFR 117.458(c) would allow the bridge to open on signal from 8 a.m. to 8 p.m. and from 8 p.m. to 8 a.m. if two hours notice is given; except the bridge need not open from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday. These regulatory changes would allow LDOTD to improve the systematic efficiency of bridge operations for vessels using the

portions of the IHNC that are not associated with the GIWW. The proposed changes would do this by allowing the bridge operations to be accomplished with the same personnel and allowing the regulations to work with one another thereby allowing for faster response times for openings and more efficient use of the water way and ultimately more fiscal responsibility on behalf of the owner. There are no alternative routes in this area. Traffic that does not require an opening may pass at any time.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This proposed rule is not a significant regulatory action. This proposed rule merely modifies a currently existing regulation by adjusting the required time of notification necessary to request a bridge opening. If this proposed change is made permanent, mariners passing through this area will be aware of the notification requirements and will be able to plan their transits accordingly and provide the proper notice if necessary.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit the Danzinger Bridge with less than two hours notice 24 hours a day and the owners or operators of vessels needing to transit the Senator Tom Hickey bridge between 8 p.m. to 8 a.m. on less than a two-hour notice.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would create a consistency of operational times as well as allow for the operation of the bridges on this part of the waterway as a system rather than as individual bridges as vessel traffic is relatively low in this general area. By allowing for consistency between the bridge schedules, this proposed rule change could actually allow for a better flow of commerce in this area. Vessels that can safely transit under the bridge may do so at any time.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule. 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. 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.

9. Civil Justice Reform

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

10. 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.

11. Indian Tribal Governments

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

power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.458 revise paragraphs (b) and (c) to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

* * * * *

(b) The US 90 (Danzinger) Bridge, mile 3.1, shall open on signal if at least two hours notice is given; except that the draw need not be opened from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday.

(c) The draw of the Senator Ted Hickey (Leon C. Simon Blvd./Seabrook) Bridge, mile 4.6, shall open on signal from 8 a.m. through 8 p.m. and from 8 p.m. through 8 a.m. if at least two hours notice is given; except that the draw need not be opened from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday.

Dated: September 23, 2013.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2013–24319 Filed 10–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 12

RIN 2900–AO41

Designee for Patient Personal Property

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulation that governs a competent veteran's designation of a person to receive the veteran's funds and personal effects in the event that such veteran was to die while in a VA field facility. The proposed rule would eliminate reference to an obsolete VA form, clarify the role of a VA fiduciary for an incompetent veteran-patient, as well as restructure the current regulation for ease of readability.

DATES: Comments must be received by VA on or before December 23, 2013.

ADDRESSES: Written comments may be submitted through *www.regulations.gov;* by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO41, Designee for Patient Personal Property.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director, Business Policy, Chief Business Office, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: If a competent veteran who is receiving VA medical care dies in a VA field facility, any funds and personal effects belonging to the veteran must be turned over to the person who had been designated by the veteran upon admission to such VA field facility. VA requests and encourages a competent veteran to designate an individual and provide the facility with the individual's information in order to facilitate the process of disposition of the veteran's funds and personal effects in the event of his or her death, and to help alleviate some of the burden on the deceased veteran's survivors.

Current § 12.1(a) states that a competent veteran who is admitted to receive VA care will be requested and encouraged to designate on the prescribed VA Form 10–P–10, Application for Hospital Treatment or Domiciliary Care, a person to whom VA would deliver the veteran's funds and effects in the event of such veteran's death. When this regulation was originally written in 1948, VA Form 10–P–10 was the VA form used by veterans to apply for hospital or domiciliary care in the VA health care system. VA Form 10–P–10 contained a space for a veteran to designate a person who would receive the veteran's funds and effects in the event of the veteran's death in a VA field facility. The veteran provided the name and address of the designee, as well as an alternate designee, on the form. However, VA Form 10–P–10 is an obsolete form that is no longer used by VA. The current form that veterans use to apply for enrollment in the VA health care system is VA Form 10–10EZ, Application for Health Benefits. However, VA Form 10–10EZ does not include a space for a veteran to designate someone to receive his or her funds and effects.

VA currently requests a veteran to name a designee during the registration process when VA admits a veteran for care at a VA field facility. The designee information is recorded by VA personnel directly into the veteran's record in the Veterans Health Information Systems and Technology Architecture (VistA), VA's patient database. The veteran is requested to verify the designation each subsequent

time the veteran is admitted, during the registration process. However, having a VA employee enter the designee into VistA without having a signed written designation by the veteran increases the risk for litigation against VA by the veteran's survivors. The veteran's survivors may claim the designee was not appointed by the veteran because the veteran did not sign a document to designate such individual to receive his or her personal funds and effects. In order to reduce the risk of litigation, we propose to create a new VA form. VA would encourage a competent veteran to complete and sign this form upon admittance to receive VA medical care. On said form, the veteran would designate an individual to receive the veteran's funds and effects in the event that such veteran were to die while receiving VA medical care. Proposed paragraph (a)(1) would state: ''Upon admission to a VA field facility, VA will request and encourage a competent veteran to designate in writing, on the relevant VA form, an individual to whom VA will deliver the veteran's funds and effects in the event of the veteran's death in such VA field facility.'' In proposed paragraph (a)(5), we would state that, to be effective, a completed form must be received by the facility head or facility designee prior to the veteran's death. We would not include the form number in proposed paragraph (a) in order to avoid future amendments in the event that such form should change.

Current paragraph (a) also states: ''The veteran may in writing change or revoke such designation at any time.'' We propose to restate this requirement, reworded for clarity, as proposed paragraph (a)(2). Proposed paragraph (a)(2) would state: ''The veteran may change or revoke a designation in writing, on the relevant VA form, at any time.''

We also propose to restructure § 12.1 for ease of readability. Current § 12.1(a) is a long and very dense paragraph containing information on several key elements of the designation process. We propose to divide it into several smaller paragraphs to make the information easier to find.

Section 8502 of title 38, United States Code, does not restrict whom the veteran may designate to receive the veteran's funds or effects in the event that such veteran dies in a VA field facility. However, to ensure compliance with the rules regarding government ethics, current § 12.1(a) states that ''[t]he person designated may not be an employee of the Department of Veterans Affairs unless such employee be the wife (or husband), child, grandchild, mother, father, grandmother, grandfather, brother, or sister of the veteran.'' In proposed § 12.1(a)(4), we would continue to disallow as a possible designee a VA employee who is not a member of the veteran's family simply to avoid any potential for impropriety or the appearance thereof.

However, we believe that the list of potential designees in the current rule should be broadened to accommodate other members of the veteran's family who are not on the list. The determination of the designee is an expression of preference by the veteran and restricting this determination to a limited pool of family members may prevent the veteran from designating a trusted individual in the veteran's extended family because they are employed by VA. Thus, we propose to eliminate this list and simply state, in proposed paragraph (a)(4), that the designee may not be a VA employee unless such employee is a member of the veteran's family. We would also define the term ''family member'' for purposes of this section to include ''the spouse, parent, child, step family member, extended family member or an individual who lives with the veteran but is not a relative of the veteran.''

Proposed paragraph (a)(3) would cross-reference § 12.5, Nondesignee cases, for instances in which the designee is unable or unwilling to accept the delivery of funds and effects. We would also cross-reference § 12.5 for instances in which the veteran does not provide a designee. Because § 12.5 provides a process for VA to follow when no designee exists or when a designee is unable or unwilling to accept the delivery of funds and effects, we propose to eliminate the need for the veteran to name an alternate designee, as stated in current paragraph (a). This will also ease any burden on the veteran to make an additional designation.

Proposed paragraph (b) would incorporate the language from current paragraph (a) that states that the delivery of the veteran's funds or effects does not affect the title to such funds or effects or the person ultimately entitled to receive them. Proposed paragraph (b) would restructure the language of paragraph (a) for ease of readability, without change in content.

Current paragraph (a) also states that if a veteran becomes incompetent while admitted to VA care, any designation that the veteran had previously made will become inoperative with respect to the funds deposited by VA in the Personal Funds of Patients account that are derived from gratuitous benefits under laws administered by VA. It further states that the veteran's guardian may change or revoke the existing designation with regards to the personal effects and funds derived from other sources. We propose to add a new paragraph to explain what happens to Personal Funds of Patients accounts when a veteran becomes incompetent. VA has authority, under 38 U.S.C. 5502(a)(1), to appoint an individual to manage a veteran's VA benefits after VA determines that the veteran is incompetent. The term that VA uses for this individual is ''fiduciary.''

Section 5506 of title 38, United States Code, defines the term ''fiduciary,'' for purposes of chapters 55 and 61 of 38, United States Code, as ''(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or (2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.'' The term ''fiduciary'' is different than the term ''guardian'' as the latter term is currently used in paragraph (a). The term ''guardian'' in current paragraph (a) refers to a guardian or conservator appointed by a state court after such court makes a determination that a veteran is incompetent.

VA may, pursuant to 38 U.S.C. 5502(a) and 38 CFR 13.55, conclude that a veteran is incompetent to manage his or her VA-derived funds based on medical evidence without the need of a court determination and, as a result, appoint a fiduciary, who may or may not be the guardian appointed by the state court. The VA-appointed fiduciary is authorized by VA to manage the veteran's monetary VA benefits, while a court-appointed guardian or conservator may be authorized to manage all of the veteran's affairs. We would state in proposed paragraph (c) that if an order of a state court determines that a veteran is incompetent or if a VA clinician determines that the veteran is unable to manage monetary VA benefits after such veteran is admitted in a VA field facility, then ''[t]he VA field facility staff will contact the Veterans Benefits Administration for the application of 38 CFR 3.353, regarding an incompetency rating as to whether the veteran is able to manage monetary VA benefits, and, if appropriate, 38 CFR 13.55, regarding VA fiduciary appointments.'' We would also state that the Veterans Benefits Administration's determination of a veteran being incompetent to manage VA benefits would negate any designation under paragraph (a) of this

section with regards to VA benefits deposited by VA into the Personal Funds of Patients. However, the Veterans Benefits Administration's determination of a veteran being incompetent to manage VA benefits will not change the veteran's designation regarding ''disposition of funds and personal effects derived from non-VA sources, unless a court-appointed guardian or conservator changes or revokes the existing designation.''

Proposed paragraph (c) would also not include the term ''gratuitous benefits under laws administered by the Department of Veterans Affairs,'' which appears in the current regulation. This is an archaic term that is no longer used in VA, and we believe that the public will find it confusing. The modern convention of this term is ''VA benefits.'' For this same reason, we propose to remove the phrase ''funds derived from gratuitous benefits under laws administered by the Department of Veterans Affairs'' from § 12.0 and replace it with ''funds derived from VA benefits.'' For this same reason, we would also make similar changes to §§ 12.2(a), 12.3(a)(1), 12.4(a), 12.4(d), 12.5(c), 12.5(d).

We would move the content of current § 12.1(b) to proposed § 12.1(d), and would add that VA will encourage a veteran to place articles of little or no use to the veteran during the period of care in the custody of either a family member or a friend, whereas the current rule refers only to the veteran's ''relatives.''

We also propose to amend the authority citation for 38 CFR part 12. The current authority citation for part 12 is ''72 Stat. 1114, 1259, as amended; 38 U.S.C. 501, 8510.'' We propose to delete the reference to ''72 Stat. 1114, 1259, as amended,'' because it is an outdated method of referencing VA statutory authority. The current method of citation is to title 38 of the United States Code. We also propose to correct the citation because 38 U.S.C. 8510 is not the sole authority for 38 CFR part 12. Chapter 85 of title 38, United States Code, applies to all the sections within 38 CFR part 12. We, therefore, propose to amend the authority citation for 38 CFR part 12 to state ''Authority: 38 U.S.C. 501, 8501–8528.''

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule includes a provision constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Specifically, proposed § 12.1 contains a collection of information under the Paperwork Reduction Act of 1995. Accordingly, under section 3507(d), VA has submitted a copy of this rulemaking action to OMB for review. OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''2900–AO41–Designee for Patient Personal Property.''

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed amendments to 38 CFR 12.1 contain a collection of information under the Paperwork Reduction Act of 1995 for which we are requesting approval by OMB. This collection of information is described immediately following this paragraph.

Title: Designee for Patient Personal Property.

Summary of collection of information: The information required in § 12.1 would allow the veteran, upon admission to a VA field facility, to designate a person to receive the veteran's funds or effects in the event that the veteran dies while admitted to such VA field facility. The information required in § 12.1 would also allow the veteran to change or revoke such designee.

Description of the need for information and proposed use of information: If the veteran dies in a VA field facility, any funds or personal effects belonging to the veteran must be turned over to a person designated by the veteran. VA requests and encourages a veteran to name a person as a designee in order to facilitate the process of disposition of the veteran's funds and effects. VA also allows the veteran the opportunity to change or revoke such designee at any time. The information obtained through this collection eliminates some of the burden on the deceased veteran's survivors in the event of the veteran's death in a VA field facility.

Description of likely respondents: Veterans admitted to a VA field facility.

Estimated number of respondents per year: 165,844.

Estimated frequency of responses per year: 1.

Estimated average burden per response: 3 minutes.

Estimated total annual reporting and recordkeeping burden: 8,292 hours per year.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as

they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by OMB as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this proposed rule are as follows: 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.019, Veterans Rehabilitation—Alcohol and Drug Dependence.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 30, 2013, for publication.

List of Subjects in 38 CFR Part 12

Estates; Veterans.

Dated: October 17, 2013.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 12 as follows:

PART 12—DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS

■ 1. The authority citation for part 12 is revised to read as follows:

Authority: 38 U.S.C. 501, 8501–8528.

§ 12.0 [Amended]

■ 2. Amend § 12.0 paragraph (b) by removing the phrase ''funds derived from gratuitous benefits under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''funds derived from VA benefits''.

■ 3. Revise § 12.1 to read as follows:

§ 12.1 Designee cases; competent veterans.

(a) *Designees—general.* (1) Upon admission to a VA field facility, VA will request and encourage a competent veteran to designate in writing, on the relevant VA form, an individual to whom VA will deliver the veteran's funds and effects in the event of the veteran's death in such VA field facility. The individual named by the veteran is referred to in this part as the designee.

(2) The veteran may change or revoke a designation in writing, on the relevant VA form, at any time.

(3) If the veteran does not name a designee or if a designee is unable or unwilling to accept delivery of funds or effects, § 12.5 *Nondesignee cases,* applies.

(4) The designee may not be a VA employee unless such employee is a member of the veteran's family. For purposes of this section, a family member includes the spouse, parent, child, step family member, extended family member or an individual who lives with the veteran but is not a member of the veteran's family.

(5) To be effective, a completed form must be received by the facility head or facility designee prior to the veteran's death.

(b) *Delivery of funds and effects.* The delivery of the veteran's funds or effects to the designee is only a delivery of possession. Such delivery of possession does not affect in any manner:

(1) The title to such funds or effects; or

(2) The person legally entitled to ownership of such funds or effects.

(c) *Veteran becomes incompetent.* If a veteran is determined to be incompetent pursuant to an order of a state court or is determined to be unable to manage monetary VA benefits by a VA clinician after the veteran is admitted to a VA field facility, the VA field facility staff will contact the Veterans Benefits Administration for the application of 38 CFR 3.353, regarding an incompetency rating as to whether the veteran is able to manage monetary VA benefits, and, if appropriate, 38 CFR 13.55, regarding VA fiduciary appointments. If the Veterans Benefits Administration determines that a veteran is incompetent to manage monetary VA benefits, any designation by the veteran under paragraph (a) of this section will cease with respect to VA benefits that are deposited by VA into the Personal Funds of Patients. The veteran's designation will not change with respect to disposition of funds and personal effects derived from non-VA sources, unless a court-appointed guardian or conservator changes or revokes the existing designation.

(d) *Retention of funds and effects by a veteran.* Upon admission to a VA field facility, VA will encourage a competent veteran to:

(1) Place articles of little or no use to the veteran during the period of care in the custody of a family member or friend; and

(2) Retain only such funds and effects that are actually required and necessary for the veteran's immediate convenience.

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–XXXX.)

(Authority: 38 U.S.C. 8502)

§ 12.2 [Amended]

■ 4. In § 12.2 amend paragraph (a) by removing the phrase ''funds deposited by the Department of Veterans Affairs in Personal Funds of Patients which were derived from gratuitous benefits under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''funds deposited by VA in Personal Funds of Patients that were derived from VA benefits''.

§ 12.3 [Amended]

■ 5. In § 12.3 amend paragraph (a)(1) by removing the phrase ''funds deposited by the Department of Veterans Affairs in Personal Funds of Patients which were derived from gratuitous benefits under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''funds deposited by VA in Personal Funds of Patients that were derived from VA benefits,'' and by removing the word ''gratuitous'' and adding, in its place ''VA''.

§ 12.4 [Amended]

■ 6. Amend § 12.4 by:

■ a. In paragraph (a), removing the phrase ''funds on deposit in Personal Funds of Patients derived from gratuitous benefits under laws administered by the Department of Veterans Affairs and deposited by the Department of Veterans Affairs'' and adding, in its place, ''funds deposited by VA in Personal Funds of Patients that were derived from VA benefits''.

■ b. In paragraph (d), removing the phrase ''funds deposited by the Department of Veterans Affairs in Personal Funds of Patients derived from gratuitous benefits under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''funds deposited by VA in Personal Funds of Patients that were derived from VA benefits''.

§ 12.5 [Amended]

■ 7. Amend § 12.5 by:

■ a. In paragraph (c), removing the phrase ''gratuitous benefits deposited by the Department of Veterans Affairs in Personal Funds of Patients under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''funds deposited by VA in Personal Funds of Patients that were derived from VA benefits''.

■ b. In paragraph (d), removing the phrase ''gratuitous benefits under laws administered by the Department of Veterans Affairs'' and adding, in its place, ''VA benefits''; and removing ''funds derived from gratuitous'' and adding, in its place, ''funds derived from VA''.

[FR Doc. 2013–24625 Filed 10–22–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO86

VA Dental Insurance Program—Federalism

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations related to the VA Dental Insurance Program (VADIP), a pilot program to offer premium-based dental insurance to enrolled veterans and certain survivors and dependents of veterans. Specifically, this rule would add language to clarify the preemptive effect of certain criteria in the VADIP regulations.

DATES: Comments must be received by VA on or before November 22, 2013.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO86–VA Dental Insurance Program—Federalism.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin Cunningham, Director, Business Policy, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This proposed rule would amend 38 CFR 17.169 to add language to clarify the limited preemptive effect of certain criteria in the VA Dental Insurance Program (VADIP), a pilot program to offer premium-based dental insurance to enrolled veterans and certain survivors and dependents of veterans. Under VADIP, VA contracts with private insurers through the Federal contracting process to offer dental insurance, and the private insurer is then responsible for the administration of the dental insurance plan. VA's role under VADIP is primarily to form the contract with the private insurer and verify the eligibility of veterans, survivors, and dependents. VADIP is authorized, and its implementing regulations are required, by section 510 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163 (2010) (section 510).

''Preemption'' refers to the general principle that Federal law supersedes conflicting State law. U.S. Const. art. VI, cl. 2; *Gade* v. *Nat'l Solid Wastes Mgmt. Ass'n,* 505 U.S. 88, 98 (1992); *M'Culloch* v. *Maryland,* 17 U.S. 316, 317 (1819). However, the subject of insurance regulation is unique. Under 15 U.S.C. 1012, no Act of Congress may be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, unless such Act specifically relates to the business of insurance. Although section 510 does not include express preemption language, Congress intended to legislate about the business of insurance in several subsections of section 510, hence preempting conflicting State and local laws. See *Swanco Ins. Co.-Arizona* v. *Hager,* 879 F.2d 353, 359 (8th Cir. 1989) (''Instead of total preemption, Congress 'selected particularized means to [an] end in conscious recognition that a considerable area of state regulation would remain intact.' '') (quoting *Ins. Co. of the State of Pa.* v. *Corcoran,* 850 F.2d 88, 93 (2nd Cir. 1988)).

For example, section 510(h) requires VA to determine and annually adjust VADIP insurance premiums. Determining premium rates is an important aspect of the ''business of insurance.'' *Gilchrist* v. *State Farm Mut. Auto. Ins. Co.,* 390 F.3d 1327, 1331 (11th Cir. 2004) (citing *United States Dep't of Treasury* v. *Fabe,* 508 U.S. 491, 503 (1993); *Grp. Life & Health Ins. Co.* v. *Royal Drug Co.,* 440 U.S. 205, 224 (1979)). States strictly regulate insurance premium rates. See 5 Steven Plitt et al., Couch on Insurance § 69:13 (3d ed. 2012). If a State denies the premium rate set by VA and such rate

is required by section 510(h)(1) in order ''to cover all costs associated with the pilot program,'' then the state would frustrate ''the lawful objective of a [F]ederal statute.'' *United States* v. *Composite State Bd. of Med. Exam'rs, State of Georgia,* 656 F.2d 131, 135 n.4 (5th Cir. 1981).

Applying these principles here, Congress specifically intended to legislate on the business of insurance under certain subsections of section 510. The following chart lists these subsections and their corresponding regulatory paragraphs:

Topic	Subsection of section 510	Paragraph of § 17.169
Eligibility for VADIP	510(b)	§ 17.169(b).
Duration of VADIP	510(c)	N/A.
Coverage locations	510(d)	N/A.
Plan benefits	510(f)	§ 17.169(c)(2).
Enrollment periods	510(g)	§ 17.169(d).
Establishing amounts of premiums, time frame for premium adjustments, and responsibility for payment of premiums.	510(h)	§ 17.169(c)(1).
Bases and minimum procedures for voluntary disenrollment	510(i)	§§ 17.169(e)(2)–(e)(5).

Consequently, these subsections of section 510 and their relevant regulatory counterparts preempt conflicting State and local laws.

State and local laws, including laws relating to the business of insurance, are not preempted by section 510, however, in areas where section 510 is silent. Examples of such areas of law include claims processes, licensing, underwriting, and appeals related to involuntarily disenrollment. Additionally, if State or local laws, including laws relating to the business of insurance, are not in conflict with any portion of section 510, then such State or local law may coexist with section 510.

Preemption allows for the implementation of uniform benefits in all States and may reduce the overall cost of VADIP. We therefore propose changes to § 17.169 that would add preemption language in accordance with the discussion above.

Executive Order 13132, Federalism

Section 6(c) of Executive Order 13132 (entitled ''Federalism'') requires an agency that is publishing a regulation that has federalism implications and that preempts State law to follow certain procedures. Regulations that have federalism implications, according to section 1(a) of Executive Order 13132, are those that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Because this regulation addresses a federalism issue, in particular preemption of State laws, VA conducted prior consultation with State officials in compliance with Executive Order 13132. VA solicited comment and input from State insurance regulators, through their representative national organization, the National Association of Insurance Commissioners (NAIC). In response to its request for comments, VA received a letter from the Chief Executive Officer of the NAIC, which agreed with VA's position that this rulemaking properly identifies the limited areas where the statutes and regulations implementing VADIP preempt state laws and regulations concerning the business of insurance. The NAIC also agreed with VA's position that state law and regulation should continue to apply where federal law and regulations are silent, including in the areas of licensing and claims processing. VA received no other comments from the NAIC on this rulemaking.

VA's promulgation of this regulation complies with the requirements of Executive Order 13132 by (1) in the absence of explicit preemption in the authorizing statute, identifying the clear evidence that Congress intended to preempt State law, or where the exercise of State authority conflicts with the exercise of Federal authority under a Federal statute; (2) limiting the preemption to only those areas where we find existence of a clear conflict or clear evidence of Congress' intention that Federal law preempt State law; (3) restricting the regulatory preemption to the minimum level necessary to achieve the objectives of the statute; (4) consulting with the State insurance regulators, as indicated above; and (5) providing opportunity for comment through this rulemaking and its companion direct final rulemaking, see RIN 2900–AO85.

Administrative Procedure Act

On October 22, 2013, VA published a separate, substantively identical direct final rule in the **Federal Register**. See RIN 2900–AO85. The publication of the direct final rule and the proposed rule will speed notification and comments for rulemaking under section 553 of the Administrative Procedure Act should we have to withdraw the direct final rule due to receipt of any significant adverse comment.

For purposes of the direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or why it would be ineffective or unacceptable without a change.

Under direct final rule procedures, if no significant adverse comment is received within the comment period, the direct final rule will become effective on the date specified in RIN 2900–AO85. After the close of the comment period, VA will publish a document in the **Federal Register** indicating that no significant adverse comment was received and confirming the date on which the final rule will become effective. VA will also publish in the **Federal Register** a notice withdrawing this proposed rule.

However, if any significant adverse comment is received, VA will publish in the **Federal Register** a notice acknowledging receipt of a significant adverse comment and withdrawing the direct final rule. In the event the direct final rule is withdrawn because of any significant adverse comment, VA can proceed with this proposed rulemaking by addressing the comments received and publishing a final rule. Any comments received in response to the direct final rule will be treated as comments regarding this proposed rule. VA will consider such comments in developing a subsequent final rule. Likewise, any significant adverse comment received in response to this proposed rule will be considered as a comment regarding the direct final rule.

VA believes this regulatory amendment would be non-controversial and anticipates that this rule would not result in any significant adverse

comment, and therefore is issuing it with a 30-day comment period.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures would be authorized. All existing or subsequent VA guidance would be read to conform with this rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Only States, dental insurers, certain veterans and their survivors and dependents, none of which are small entities, would be affected. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this proposed regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009 Veterans Medical Care Benefits and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 16, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Dental health, Government contracts, Health care, Health professions, Health records, Veterans.

Dated: October 17, 2013.

William F. Russo,

Deputy Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. In § 17.169 add paragraph (g) to read as follows:

§ 17.169 VA Dental Insurance Program for veterans and survivors and dependents of veterans (VADIP).

* * * * *

(g) *Limited preemption of State and local law.* To achieve important Federal interests, including but not limited to the assurance of the uniform delivery of benefits under VADIP and to ensure the operation of VADIP plans at the lowest possible cost to VADIP enrollees, paragraphs (b), (c)(1), (c)(2), (d), and (e)(2) through (e)(5) of this section preempt conflicting State and local laws, including laws relating to the business of insurance. Any State or local law, or regulation pursuant to such law, is without any force or effect on, and State or local governments have no legal authority to enforce them in relation to, the paragraphs referenced in this paragraph or decisions made by VA or a participating insurer under these paragraphs.

* * * * *

[FR Doc. 2013–24588 Filed 10–22–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0681; FRL–9901–85–Region 9]

Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve elements of a State Implementation Plan

(SIP) revision submitted by the State of Hawaii on February 13, 2013, pursuant to the requirements of of the Clean Air Act (CAA or the Act) for the 2008 Lead (Pb) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. We are taking comments on this proposal and plan to follow with a final action.

DATES: Written comments must be received on or before November 22, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R09–OAR–2013–0681, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: richmond.dawn@epa.gov.*
3. *Fax:* 415–947–3579.
4. *Mail or deliver:* Dawn Richmond, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

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

FOR FURTHER INFORMATION CONTACT: Dawn Richmond, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3207, *richmond.dawn@epa.gov.*

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

Table of Contents

I. Background

A. Statutory Framework and Scope of Infrastructure SIPs

Section 110(a)(1) of the CAA requires states to make a SIP submission within 3 years after the promulgation of a new or revised primary NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must include. Many of the section 110(a)(2) SIP elements relate to the general information and authorities that constitute the ''infrastructure'' of a state's air quality management program and SIP submittals that address these requirements are referred to as ''infrastructure SIPs.'' These infrastructure SIP elements are as follows:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C): Program for enforcement of control measures and regulation of new stationary sources.
- Section 110(a)(2)(D)(i): Interstate pollution transport.
- Section 110(a)(2)(D)(ii): Interstate and international pollution abatement.
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J): Consultation with government officials, public notification, and prevention of significant deterioration (PSD) and visibility protection.
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

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

In addition, this rulemaking does not address three substantive issues that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (SSM), that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (director's discretion); and, (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule.'' [1] Instead, EPA has indicated that it has other authority to address any such existing SIP defects in other rulemakings, as appropriate. A detailed rationale for why these issues are not part of the scope of infrastructure SIP rulemakings can be found in EPA's proposed rule entitled, ''Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards'' in

[1] 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform).

section I.C (''Scope of the Infrastructure SIP Evaluation'').[2]

B. Regulatory Background

On October 15, 2008, EPA issued a revised NAAQS for Pb.[3] This action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of section 110(a)(2) by October 15, 2011. On October 14, 2011, EPA issued ''Guidance on Section 110 Infrastructure SIPs for the 2008 Pb NAAQS.'' [4]

II. State Submittal and EPA Action

On February 13, 2013, the Hawaii Department of Health (HDOH) submitted the ''Hawaii State Implementation Plan Revision for 2008 Lead National Ambient Air Quality Standard Clean Air Act § 110(a)(1) & (2)'' (Hawaii Pb Infrastructure SIP), which includes (1) an ''Infrastructure SIP Certification of Adequacy,'' (2) Hawaii Administrative Rules (HAR) section 11–60.1–90, (3) three technical support documents concerning interstate transport under 110(a)(2)(D) and (4) other supporting materials.[5]

On February 26, 2013, EPA found that Hawaii had failed to make a complete submittal to satisfy the requirements of section 110(a)(2) for the 2008 Pb NAAQS.[6] Specifically, EPA found Hawaii failed to submit the infrastructure SIP elements that relate to the prevention of significant deterioration (PSD) program in CAA sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).[7] We also explained that, because EPA had already promulgated a FIP that addresses PSD-related requirements for Hawaii, the finding of failure to submit would not trigger any additional PSD FIP obligations.

III. EPA's Evaluation and Proposed Action

EPA has evaluated the Hawaii Pb Infrastructure SIP in relation to the infrastructure SIP requirements of CAA section 110(a)(2) and the applicable implementing regulations in 40 CFR Part 51. The Technical Support Document (TSD) for this action, which is available in the docket to this action, includes our evaluation for each element, as well as our evaluation of HAR section 11–60.1–90.

Based upon this analysis, EPA proposes to approve HAR section 11–60.1–90 into the Hawaii SIP. We also propose to approve the Hawaii Pb Infrastructure SIP with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (minor NSR program) only.
- Section 110(a)(2)(D)(i)(I): Interstate transport (significant contribution and interference with maintenance).
- Section 110(a)(2)(D)(i)(II) (in part): Interstate transport (visibility protection only).
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Public notification.
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

As explained above, we previously found the Hawaii Pb Infrastructure SIP incomplete with respect to the PSD-related requirements of section 110(a)(2). Under CAA section 110(k)(1)(C), where EPA determines that a portion of a SIP submission is incomplete, ''the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).'' Accordingly, we are not proposing to act on the Hawaii Pb Infrastructure SIP with respect to the PSD-related requirements in Sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).

IV. Statutory and Executive Order Reviews

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

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

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

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[2] 77 FR 21913, 21914 (April 12, 2012). That proposal also describes a similar rationale with respect to existing provisions for minor source NSR programs. However, that rationale is not relevant to today's proposal, as EPA recently approved a comprehensive set of revisions to Hawaii's previous minor source NSR rules. 77 FR 24148 (April 23, 2012).

[3] 73 FR 66964. The final rule was signed on October 15, 2008 and published in the **Federal Register** on November 12, 2008. The 1978 Pb standard (1.5 μg/m^3 as a quarterly average) was modified to a rolling 3 month average not to exceed 0.15 μg/m3. EPA also revised the secondary NAAQS to 0.15 μg/m^3 and made it identical to the revised primary standard.

[4] See Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Regions 1–10 (October 14, 2011).

[5] A copy of the complete Hawaii Pb Infrastructure SIP submittal has been placed in the docket for this action.

[6] 78 FR 12961.

[7] *Id.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: September 25, 2013.

Jared Blumenfeld,

Regional Administrator, EPA Region 9.

[FR Doc. 2013–24885 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0828; FRL–9901–54–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve additions and revisions to the monitoring and sulfur dioxide rules in the Indiana state implementation plan submitted on September 19, 2011. The monitoring rules will be used to determine whether various source categories are in compliance with the applicable emission limits. EPA is also proposing approval of a related definition submitted by Indiana on September 6, 2013.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0828, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submission as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 18, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–24119 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0440; FRL–9901–84–Region4]

Approval and Promulgation of Implementation Plans; Tennessee; Bristol; 2010 Lead Base Year Emissions Inventory and Conversion of Conditional Approvals for Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the Lead 2010 base year emissions inventory State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on April 11, 2013. The emissions inventory was submitted to meet the requirements of the Clean Air Act (CAA or Act) for the Bristol 2008 Lead National Ambient Air Quality Standards (NAAQS) nonattainment area (hereafter also referred to as the ''Bristol Area'' or ''Area''). Additionally, EPA is proposing to convert conditional approvals to full approvals for Tennessee's 1997 annual fine particulate matter ($PM_{2.5}$) NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS and 2008 ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA conditionally approved these portions of Tennessee's infrastructure submissions for these NAAQS on March 6, 2013, and March 26, 2013. Tennessee has since met the obligations associated with these conditional approvals, and therefore, EPA is proposing to convert these conditional approvals to full approvals.

DATES: Written comments must be received on or before November 22, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0440, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4–RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0440,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0440. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

a. Emissions Inventory

On November 12, 2008 (73 FR 66964), EPA revised the Lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu g/m^3$) to 0.15 $\mu g/m^3$ calculated over a three-month rolling average. EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On November 22, 2010 (75 FR 71033), EPA promulgated initial air quality designations for the 2008 Lead NAAQS, which became effective on December 31, 2010, based on air quality monitoring data for calendar years 2007–2009, where there was sufficient data to support a nonattainment designation. Designations for all remaining areas were completed on November 22, 2011 (76 FR 72097), which became effective on December 31, 2011, based on air quality monitoring data for calendar years 2008–2010. Effective December 31, 2010, the Bristol Area was designated as nonattainment for the 2008 Lead NAAQS. This designation triggered a requirement for Tennessee to submit a SIP revision with a plan for how the Bristol Area would attain the 2008 Lead NAAQS as expeditiously as practicable, but no later than December 31, 2015.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP revision under title I, part D of the CAA. This SIP revision must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable, but no later than the date required by the CAA, together with a base year emissions inventory, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures for failure to meet RFP and attainment deadlines. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP revision to EPA.

On August 29, 2012 (77 FR 55232), EPA took final action to determine that the Bristol Area (comprising the portion of Sullivan County bounded by a 1.25 kilometer radius surrounding the Universal Transverse Mercator coordinates 4042923 meters E, 386267 meters N, Zone 17, which surrounds the Exide Technologies Facility, the only source above the revised lead NAAQS within the Area) had attaining data for the 2008 Lead NAAQS. This clean data determination was based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 Lead NAAQS based on the calendar years 2009–2011 data. The 2012 monitoring data also demonstrated attainment for the 2008 Lead NAAQS. Pursuant to EPA's Clean Data Policy, once EPA finalizes a clean data determination, all the requirements for the Area to submit an attainment demonstration, RACM, a RFP plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the Area continues to attain the 2008 Lead NAAQS.

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. EPA notes that a final determination of attainment would not suspend the emissions inventory requirement found in CAA section 172(c)(3), which requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions of the lead from all sources in the nonattainment area (i.e., base year emissions inventory).

b. Conditional Approvals

On October 4, 2012, Tennessee submitted a letter requesting conditional approval of certain prevention of significant deterioration (PSD)-related infrastructure elements.[1] Specifically,

[1] The CAA requires that the SIP provide for the implementation, maintenance, and enforcement of

Continued

Tennessee requested conditional approval of elements of the infrastructure SIP related to the requirements in its SIP applicable to its permitting program for adopting the $PM_{2.5}$ PSD increments as promulgated in the rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule,'' 75 FR 64864 (October 20, 2010) (hereafter referred to as the ''$PM_{2.5}$ PSD Increments-SILs-SMC Rule''). Following promulgation of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, the PSD increments portion of the Rule became one of the prerequisites for approval of the PSD-related infrastructure requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 ozone NAAQS, and the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. The Rule provides additional regulatory provisions under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for New Source Review, including $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.''

With respect to the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 ozone NAAQS, and 110(a)(2)(D)(i)(II) for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, EPA conditionally approved Tennessee's infrastructure SIP submissions, because at the time of these approvals, the State had not yet adopted the PSD increments provided in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule; however, the State had committed through the October 4, 2012, letter to do so within one year. Based upon this commitment, and consistent with section 110(k)(4) of the CAA, EPA took final action to conditionally approval Tennessee's infrastructure SIP submissions related to the above-described PSD program requirements for the 1997 annual and the 2006 24-hour fine $PM_{2.5}$ NAAQS, and the 2008 ozone NAAQS. *See* 78 FR 14450 (March 6, 2013), and 78 FR 18241 (March 26, 2013), respectively.

Following these actions, and consistent with the terms of the conditional approvals, Tennessee submitted a SIP revision on May 10, 2013, to adopt the PSD $PM_{2.5}$ increments (set forth in Chapter 1200–03–09 of the Tennessee Air Pollution Control Regulations—*Construction and Operating Permits,* Rule Number .01—Construction Permits) and the then applicable regulatory requirements for implementing the $PM_{2.5}$ NAAQS, as promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule. This SIP revision was provided to satisfy the October 4, 2012, commitment made by the State. EPA took final action approving the May 10, 2013, submittal on July 25, 2013. *See* 78 FR 44886. As such, Tennessee has satisfied the conditions listed in EPA's previous conditional approvals for these infrastructure submissions. (*See* the above July 25, 2013, **Federal Register** publication for additional information).

II. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008 Lead Standard (PDF) (99pp, 665k) rulemaking, EPA finalized the guidance related to the emissions inventories requirements. The current regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following requirements:

- States must develop and periodically update a comprehensive, accurate, current inventory of actual emissions from all source affecting ambient lead concentrations;
- The SIP inventory must be approved by EPA as a SIP element and is subject to public hearing requirements; and
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year.

For the base-year inventory of actual emissions, EPA recommends using either 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.[2] For lead SIPs, the CAA requires that all sources of lead emissions in the nonattainment area must be submitted with the base-year inventory. In today's action, EPA is approving the base year emissions inventory portion of the SIP revision submitted by Tennessee on April 11, 2013, (hereinafter also referred to as ''Tennessee's submission'') as required by section 172(c)(3).

III. EPA Analysis of the Bristol 2010 Lead Base Year Emissions Inventory

The State of Tennessee followed EPA's recommendation by using the year of designation (2010) as the base year in the Bristol Area. Actual emissions from all sources of lead were reviewed and compiled, as applicable and available, for the base year emissions inventory requirement. The discussion below provides more details on how the lead emissions were calculated for the Bristol Area.

The only source of lead emissions above 0.5 tons per year within the Bristol Area is Exide Technologies Facility, a lead acid battery manufacturing and recycling facility which processes lead and reclaimed lead into batteries for the auto industry. Pursuant to 40 CFR 51.117(e), the Exide Technologies Facility is the only point source evaluated as part of this emissions inventory requirement. The stationary point source emissions for the Exide Technologies Facility were calculated using data collected through stack tests and the application of AP–42 emissions factors for the source and quality assured by TDEC (see Appendix A of Tennessee's submission). To obtain estimates of the stationary area and nonroad and onroad mobile emissions, Tennessee used the EPA 2008 National Emissions Inventory (NEI)[3] for Sullivan County, as the Bristol Area is located within Sullivan County. Specifically, area source emissions were obtained from the EPA Emissions Inventory System that archives and processes emissions data submitted from the state, local and tribal agencies for use in the NEI. Area source emissions are listed in Appendix D of Tennessee's submission.

each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. *See* 42 U.S.C. 7410(a).

[2] See EPA document titled ''Addendum to the 2008 Lead NAAQS Implementation Questions and Answers'' dated August 10, 2012, included in EPA's SIP Toolkit located at *http://www.epa.gov/air/lead/kitmodel.html.*

[3] EPA notes that area sources are only required to be submitted for the NEI every three years, according to the Air Emissions Reporting Rule. The most recent public release of the NEI that includes area sources is the 2008 NEI version 2. Because the 2011 NEI is under development, that data was not available for the State to consider in this SIP.

No nonroad and onroad sources of emissions of lead were found in the 2008 version 2 of the NEI. A detailed discussion of the emissions inventory development can be found in Tennessee's submission. Table 1 below shows the level of emissions expressed in pounds per year (lbs/year), in the Bristol Area for the 2010 base year and the emissions source categories.

TABLE 1—2010 LEAD EMISSIONS FOR THE BRISTOL AREA (LBS/YEAR)

Year	Onroad	Nonroad	Area	Point
2010	0	0	66	1,280

EPA has evaluated Tennessee's 2010 base year emissions inventory for the Bristol Area, and has made the preliminary determination that this inventory was developed consistent with EPA's guidance for emissions inventory. As such, pursuant to section 172(c)(3), EPA is proposing to approve Tennessee's 2010 base year emissions inventory for the Bristol Area.

IV. Conversion of Conditional Approvals for Tennessee's SIP

As described above, on July 25, 2013, EPA took final action to approve Tennessee's May 10, 2013, SIP submission to adopt the PSD $PM_{2.5}$ increments (set forth in Chapter 1200–03–09 of the Tennessee Air Pollution Control Regulations—*Construction and Operating Permits,* Rule Number .01—Construction Permits) and related regulatory requirements for implementing the $PM_{2.5}$ NAAQS, as promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule. *See* 78 FR 44886. This submission was provided to satisfy the October 4, 2012, commitment made by the State. As such, Tennessee has satisfied the conditions listed in EPA's previous conditional approvals for the infrastructure submissions (see 78 FR 44886 for additional information). Therefore, EPA is proposing action to convert its conditional approvals with respect to the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone, and the PSD requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS to full approvals. Since Tennessee's May 10, 2013, SIP revision, satisfies the conditional approval requirements for conversion to a full approval, the conditional approval language at 40 CFR 52.2219(c)[4] and (e), included in EPA's final conditional approvals published on March 6, 2013 and on March 26, 2013, is no longer necessary. Accordingly, EPA is also proposing to remove the conditional approval language relating to Tennessee's PSD program from the 40 CFR 52.2219 to reflect that the program has been fully approved.[5]

V. Proposed Action

EPA is proposing to approve the 2010 base year emissions inventory SIP revision for lead for the Bristol Area as submitted by the State of Tennessee on April 11, 2013. Additionally, EPA is proposing to convert the March 6, 2013, and March 26, 2013, conditional approvals with respect to the PSD requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone, and the PSD requirements of section 110(a)(2)(D)(i)(II) for 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS to full approvals. EPA is also proposing to remove the conditional approval language from 40 CFR 52.2219 to reflect that the PSD program has been converted to full approval, and that Tennessee has met the State's obligations related to the previous conditional approvals. These actions are being proposed pursuant to section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this 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 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 proposal 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.

[4] The conditional approval language at 40 CFR 52.2219(c) incorrectly lists a conditional approval of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 Lead NAAQS. This error stems from a typographical error included in the action finalizing approval of certain sections of the 2008 Lead NAAQS infrastructure SIP. *See* 78 FR 36440. EPA is publishing a correction notice in this **Federal Register** correcting this inadvertent error, such that the language at 40 CFR 52.2219(c) correctly describes the conditional approval of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour Ozone NAAQS.

[5] EPA notes that through this action, the Agency is not proposing any revisions to the conditionally-approved provisions described at 40 CFR 52.2219(a), (b) or (d).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

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

Dated: September 25, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–24853 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; FCC 13–119]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities—Waivers of iTRS Mandatory Minimum Standards

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend its rules setting minimum standards for telecommunications relay services (TRS) by eliminating standards for Internet-based relay services (iTRS) and public switched telephone network-based captioned telephone services (CTS) which are inapplicable to, or technologically infeasible for, these services. In the past and currently, these services had been exempted from these standards by the grant of waivers. This action is necessary to provide greater certainty for iTRS and CTS users and providers with respect to the TRS mandatory minimum standard and to obviate the need for further periodic waiver filings regarding the waived standards.

DATES: Comments are due December 23, 2013 and reply comments are due January 21, 2014.

ADDRESSES: You may submit comments, identified by CG Docket No. 03–123, by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://fjallfoss.fcc.gov/ecfs2/.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and CG Docket No. 03–123.

- *Paper filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving 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 St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial Mail sent by 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 should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to *fcc@bcpiweb.com.* 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: Roger Holberg, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2134 or email *Roger.Holberg@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Waivers of Mandatory Minimum Standards, Notice of Proposed Rulemaking (*NPRM*), document FCC 13–119, adopted on September 5, 2013, and released on September 6, 2013, in CG Docket No. 03–123. The full text of document FCC 13–119 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com.* Document FCC 13–119 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs.* 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 and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). The proceeding this *NPRM* 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 sec. 1.1206(b). In proceedings governed by sec. 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.

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 13–119 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).

Synopsis

1. In the last decade, iTRS and CTS providers have petitioned for and been granted waivers of various TRS mandatory minimum standards deemed inapplicable to or technologically infeasible for iTRS and CTS. Several of these waivers have been limited in duration, necessitating periodic requests for extension by the affected providers.

2. When section 225 of the Communications Act of 1934, as amended (Act), was first enacted and implemented, there was only one type of TRS, which required the party with a speech or hearing disability to utilize a text telephone, or TTY, to transmit text over the PSTN to a communications assistant (CA). The CA then relayed the call between two parties by converting everything that the text caller typed into voice for the hearing party and typing everything that the voice user responded back to the person with a disability.

3. With the development of new communication technologies, the Commission recognized new forms of TRS as eligible for compensation from the Interstate TRS Fund, including three forms of iTRS: Video Relay Service (VRS), Internet-Protocol (IP) Relay, and IP CTS. Today iTRS account for more than 90% of the total relay service minutes reimbursed from the Fund. For all forms of TRS, the Commission has adopted mandatory minimum standards to achieve functionally equivalent relay service.

4. To ensure that TRS is provided in a manner that is functionally equivalent to voice telephone service, section 225 of the Act requires the Commission to prescribe functional requirements, guidelines, operations procedures, and minimum standards for these services. The Commission's mandatory minimum standards are intended to ensure that the user experience when making TRS calls is as close as possible to a voice user's experience when making conventional telephone calls. Over the years, however, the Commission has granted TRS providers waivers of certain TRS mandatory minimum standards that were deemed either technologically infeasible for or simply inapplicable to a particular form of TRS. The waivers granted for IP CTS and CTS have been issued for indefinite periods, while most waivers granted for VRS and IP Relay have been limited in duration. Generally, the limited-duration waivers have been renewed periodically—in recent years on an annual basis. The Commission has conditioned many of the waivers on the filing of annual reports in which providers are expected to detail their progress in achieving compliance with the underlying mandatory minimum standards. The reports are designed to help the Commission determine whether technological advances can enable providers to comply with the waived mandatory minimum standards.

5. On November 19, 2009, Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc. (Petitioners) filed a ''Request for Extension and Clarification of Various iTRS Waivers'' (Hamilton Request), requesting the Commission to extend indefinitely all iTRS waivers of limited duration and to provide clarification on what Petitioners claim are discrepancies in some of the waivers. The Commission initiates this proceeding both in response to Petitioners' request and to fulfill our commitment to take a more in-depth look at the merits of making permanent or eliminating these waivers. Although the Hamilton Request did not address the waivers granted for CTS, the Commission includes those waivers as well in the scope of this overall review.

6. In undertaking this review, the Commission notes that, historically, it has generally been reluctant to grant permanent exemptions from its mandatory minimum standards based on mere assertions of technological infeasibility. The Commission undertakes its current review of the pending waivers mindful of this Commission precedent.

7. The iTRS waivers that the Commission addresses in this proceeding generally fall into two categories. One group consists of waivers for standards mandating that TRS include features and functions that are available with voice telephone service. In this first group, the Commission has waived the mandatory minimum standards for ''types-of-calls,'' equal-access, pay-per-call, three-way calling rules, and speed dialing. The second group consists of waivers for standards mandating the provision of specific communication services needed by people with speech or hearing disabilities. In this second group, the Commission has waived mandatory minimum standards for voice carry over (VCO), hearing carry over (HCO), speech-to-speech (STS), ASCII/Baudot-compatible services, Spanish-to-Spanish, and call-release. With respect to waivers that are presently limited in duration, the Commission seeks comment on whether to make the waivers permanent by amending its rules to explicitly state that the waived mandatory minimum standards are inapplicable to the specified iTRS providers. The Commission asks whether this approach will result in a clearer understanding of and better ongoing compliance with the Commission's rules. For waivers that are already of unlimited duration, the Commission seeks comment on whether amending its rules to codify these as permanent exemptions similarly would result in a clearer understanding of and better ongoing compliance with the Commission's rules.

8. *Types-of-Calls Requirement.* Commission rules require TRS providers to ''be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.'' Until now, the Commission has waived the ''types of calls'' mandate in response to iTRS providers' showings that there is no effective per-call billing mechanism to accurately identify and bill iTRS users for long distance and operator-assisted calls, and that the costs of developing such a mechanism would be prohibitive. Many providers have maintained an inability to devise such a mechanism because they claim that they do not have a billing relationship with their users, and that to set up a billing system would not be cost effective. The Commission seeks comment on whether the justifications that have supported this waiver in the past still exist such that it should continue to extend the limited-duration waiver has been done in the recent past or whether we should codify a rule that permanently exempts iTRS providers from having to offer these billing options. Finally, even though the Commission has never waived the types-of-calls requirement for IP CTS, Hamilton seeks an exemption for all forms of iTRS. To the extent Hamilton meant to include IP CTS in its request, the Commission seeks comment on the rationale for establishing a permanent

exemption under circumstances where no waiver has been granted previously.

9. The Commission seeks comment on the continued need to require the provision of operator-assisted billing (*i.e.,* collect, calling card, and third party billing) and sent-paid billing for long distance calls handled by iTRS providers, in light of the significant changes that have taken place in communication technologies—including the steep decline in traditional relay usage since the initial adoption of the ''types of calls'' requirement more than 20 years ago.

10. Given these technological changes, including the greater reliance that relay users have on iTRS, consumers may no longer need or necessarily want the same billing options that were appropriate when relay services were primarily accessed via the PSTN. The Commission seeks feedback on this assumption, and whether amending its rules to eliminate the requirement for iTRS providers to offer billing arrangements for ''operator-assisted'' billing and sent-paid billing for long distance calls, provided that iTRS providers do not charge for such calls, is appropriate and consistent with the Act's intent to achieve functional equivalency. In this regard, the Commission asks commenters to address all three forms of iTRS–VRS, IP Relay and IP CTS—and to specifically address the rationale for eliminating the requirement for IP CTS under circumstances where no waiver has been granted previously.

11. *Equal Access to Interexchange Carriers.* The Commission's rules require TRS providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is provided to voice users. The Commission has waived this requirement indefinitely for IP Relay and IP CTS providers and on a limited-duration basis for VRS providers. The waivers are contingent on iTRS providers providing long distance service without charge. Should the Commission amend its rules to exempt iTRS providers permanently from the ''equal access to interexchange carriers'' requirement (based on its technical infeasibility and inapplicability to an iTRS environment), provided that iTRS providers do not charge for long distance service? The Commission seeks comment on the value to consumers of providing equal access to long distance carriers in an IP-based environment. Is there any reason to require iTRS providers to allow for equal access to interexchange carriers in order to satisfy the functional equivalency requirements of section 225(a)(3) of the Act?

12. To the extent that commenters believe that this requirement remains applicable and necessary to an iTRS environment, the Commission asks (1) whether it is feasible for iTRS providers to implement networking and routing solutions to allow iTRS users to choose their carriers and (2) whether reliable mechanisms exist to allow carriers to distinguish between local and long distance calls for this purpose. Finally, the Commission invites comment on the costs of implementing solutions to fulfill this standard and on the appropriate interval for revisiting the technological feasibility issues in the future.

13. *Pay-per-Call (900) calls.* The Commission's rules require TRS providers to be capable of handling pay-per-call (*i.e.,* 900-number) calls. The Commission has waived this requirement—indefinitely for IP CTS providers, but on a limited-duration basis for IP Relay and VRS providers—because no billing mechanism has been available to handle the charges associated with pay-per-call calls. The pay-per-call standard presupposes a billing relationship that does not presently exist between iTRS providers and users. The Commission seeks comment on the technical feasibility of and benefits to requiring that such a relationship be established for the purpose of the pay-per-call requirement. In addition, the Commission seeks comment and information on whether the implementation of ten-digit numbering and registered location requirements has increased the feasibility of providing and verifying ANI for pay-per-call billing purposes. To the extent that parties maintain that this feature is not feasible now, but may be in the future, the Commission also seeks comment on the appropriate interval for revisiting the technological feasibility issue. In addition, the Commission seeks comment on whether to adopt a rule codifying a permanent exemption or to eliminate the indefinite waiver for IP CTS providers. Finally, the Commission invites comment on whether the value of pay-per-call services to iTRS consumers and possible CA exposure to abusive and/or obscene video images should affect our determination regarding a permanent exemption from the pay-per-call requirement.

14. *Three-way calling.* Three-way calling, also required by the Commission's rules, allows more than two parties to be on the telephone line at the same time with the CA. Waivers of the requirement for VRS and IP Relay providers were previously allowed to expire. The Commission proposes to terminate the three-way calling waiver for IP CTS providers and seeks comment on this proposal. The Commission asks commenters that disagree with this proposal to justify the need for a continued waiver. If the Commission were to eliminate the waiver of the three-way calling requirement for IP CTS, the Commission further seeks comment on an appropriate termination date.

15. *Speed dialing.* Speed dialing allows a TRS user to give the CA a ''short-hand'' name or number (*e.g.,* ''call Mom'') for the user's most frequently called telephone numbers. This feature permits a person making a TRS call through a CA to place the call without having to remember or locate the number he or she desires to call. The Commission waived this requirement for VRS and IP Relay until January 1, 2008. The Commission subsequently found that all VRS providers—but not all IP Relay providers—were offering a speed dialing feature. As a result, the speed dialing waiver was allowed to expire for VRS but generally was extended for IP Relay for one year to allow the remaining IP Relay providers sufficient time to offer speed dialing.

16. With regard to IP CTS, the Commission, in 2007, indefinitely waived speed dialing for IP CTS providers, contingent on such providers filing annual reports addressing the waiver. The Commission asks for comment on whether it would be in the public interest for the Commission to terminate the waiver for speed dialing for IP CTS providers. In particular, the Commission seeks comment on whether other IP CTS providers are currently offering speed dialing capability, and if not, whether there are any technical barriers preventing IP CTS providers from offering speed dialing. If the Commission was to terminate the speed dialing waiver for IP CTS, it seeks comment on when such termination should take effect. To the extent commenters argue for continued waiver, the Commission seeks comment on when it should revisit the need for this waiver.

17. The second group of waived mandatory minimum standards relates to specific forms of TRS needed by people with disabilities, including voice carry over (VCO), hearing carry over (HCO), speech-to-speech, ASCII/Baudot-compatible services, Spanish-to-Spanish, and call release.

18. *VCO and HCO.* The Commission's rules require TRS providers to offer VCO and HCO. With VCO, a person who has a hearing disability, but who is able to speak, communicates by voice directly to the other party to the call

without intervention by the CA, and the other party's voice response is relayed by the CA as text. With HCO, a person who has a speech disability, but who is able to hear, listens directly to the other party's voice without intervention by the CA, and in reply has the CA convert his or her typed responses into voice. There are multiple forms of VCO and HCO. The Commission has granted fixed-duration waivers for VRS and IP Relay of all the VCO and HCO mandatory minimum standards except two-line VCO and HCO, based on providers' representations that Internet connections are unable to deliver voice and data over a single line with the necessary quality. The Commission also has granted these waivers for IP CTS indefinitely, as well as granting an indefinite waiver of HCO for CTS. All such waivers have been conditioned on the filing of annual reports regarding the technological feasibility of compliance.

19. The Commission seeks comment on whether, given advances in Internet technologies and the availability of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY by some providers for some IP-based relay services, waivers for these features continue to be necessary. Specifically, the Commission seeks feedback on the extent to which these services are technically feasible over a broadband connection and on whether any distinction should be drawn for service in low bandwidth environments. The Commission also seeks comment on the quality and convenience of the two-line VCO and HCO services that are currently available from iTRS providers. Are such services generally available and affordable, and are these adequate substitutes for one-line VCO and HCO? To the extent that we permit two-line VCO and HCO as ''work-arounds'' to single-line VCO and HCO, the Commission seeks feedback on whether it should condition such waivers on providers' absorbing the additional cost of subscriptions for any additional telephone lines needed for the voice leg of the service. The Commission asks commenters to weigh the benefits of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY against the cost of providing these services. If the Commission were to eliminate the waivers for one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY for VRS and IP Relay, it seeks comment on an appropriate termination date.

20. The Commission seeks comment on amending our rules to permanently exempt CTS and IP CTS providers from providing any form of HCO. The Commission has previously determined that HCO involves ''particular functionalities that do not apply to captioned telephone calls.'' Specifically, as the Commission explained, when using CTS, ''a person with some residual hearing can speak to the other party and in return both listen to what the other party is saying and read text of what that party is saying . . . [, t]his service . . . is simply not able to handle . . . HCO relay calls.'' The Commission has similarly exempted IP CTS providers.

21. *Speech-to-Speech.* Speech-to-Speech (STS) service allows a person with a speech disability to communicate with voice telephone users through the use of CAs who are trained to understand the speech patterns of persons with disabilities and can repeat the words spoken by that person. The Commission has recognized STS as a form of TRS and required that it be offered as a mandatory service. In 2002, the Commission waived this requirement for IP Relay providers for a limited period of time. The Commission subsequently has extended this waiver on multiple occasions. The Commission also waived the STS requirement indefinitely for CTS, IP CTS, and VRS, finding this mandatory minimum standard to be inapplicable to these relay services. Specifically, STS is purely speech-based, while CTS and IP CTS require the CA to provide communication in text and, under our current rules, VRS requires the CA to provide communication in American Sign Language (ASL). Petitioners request that the Commission waive the STS requirement indefinitely for IP Relay ''because, as with VRS and IP CTS calls, one leg of an Internet Relay call is entirely text-based without any speech capabilities, thus rendering the service incapable of providing STS. The Commission seeks comment on amending our rules to exempt CTS, IP CTS and VRS providers from the STS requirement. The Commission also invites comment on whether to permanently exempt IP Relay providers from offering STS.

22. *ASCII/Baudot Communications.* The Commission's rules contain technical mandatory minimum standards that are specific to the traditional TTY-based form of TRS. One of these rules requires TRS providers to be capable of handling communications using the ASCII and Baudot formats, at any speed generally in use. The Commission has granted CTS and IP CTS providers indefinite waivers of these mandatory minimum standards but has not addressed their applicability to VRS or IP Relay providers. The Commission proposes to amend its rules to explicitly exempt all forms of iTRS from the ASCII/Baudot call handling requirement. The Commission invites comment on this proposal, and on whether to codify as permanent exemptions the existing waivers for CTS and IP CTS.

23. *Spanish Language Service over CTS, IP CTS, and IP Relay.* Section 64.603 of the Commission's rules requires the provision of interstate PSTN-based relay services in Spanish. The Commission has ruled that although VRS providers may offer and be compensated for Spanish language services, they are not required to do so. The Commission has not made any ruling regarding the applicability of the Spanish language requirement to CTS, IP CTS and IP Relay. Given that IP Relay, CTS and IP CTS are not mandatory, the Commission proposes to conclude that Spanish language versions of these services are non-mandatory services. In this regard, the Commission seeks feedback on the extent to which Spanish-language IP Relay, CTS and IP CTS are currently available to and utilized by consumers, on the value of such services to Spanish-speaking consumers, and on whether mandating Spanish language IP Relay, CTS and IP CTS is necessary to ensure the availability of these forms of TRS for the Spanish-speaking population. Commenters are also asked to weigh the benefits of mandating Spanish language IP Relay, CTS and IP CTS against the burdens for providers to offer these services. The Commission also seeks comment on whether to amend its part 64 rules to codify its ruling that VRS providers are not required to offer Spanish language VRS.

24. *Call Release.* The Commission's rules require TRS providers to offer ''call release,'' a feature that allows the CA to drop out—or be ''released'' from the relay call after setting up a direct TTY-to-TTY connection between the caller and the called party. The Commission has waived this requirement indefinitely for CTS and IP CTS providers, but on a limited-duration basis for VRS and IP Relay providers. The Commission invites comment on the inapplicability and/or technical infeasibility of the call release feature in the IP environment and consequently whether we should amend our rules to permanently exempt all iTRS providers as well as CTS providers from compliance with this standard. If parties still consider this standard relevant to IP-based services, the Commission further invites comment and information on whether solutions to the present technological barriers to this

feature are available, and if so, the costs and benefits of implementing such solutions. To the extent that parties maintain that this feature is not feasible now, but may be in the future, the Commission also seeks comment on the appropriate interval for revisiting the technological feasibility issue.

25. *Annual Reports.* For those mandatory minimum standards for which the Commission decides to adopt permanent exemptions in place of existing waivers, it further proposes elimination of the requirement to file annual reports. The Commission asks commenters for their input on this proposal.

Initial Regulatory Flexibility Certification

26. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

27. In document FCC 13–119, the Commission seeks comment on its proposal to permanently waive in some instances and to terminate the waivers in other instances of certain operational, technical, and functional mandatory minimum standards applicable to the provision of TRS for providers using the Internet to provide services such as VRS, IP Relay, and IP CTS as well as for providers offering traditional CTS. To be eligible for compensation from the interstate TRS Fund, a TRS provider must offer service in compliance with all applicable mandatory minimum standards, unless they are waived. The Commission has waived several of these mandatory minimum standards for VRS, IP Relay, and IP CTS either because, as Internet-based services, it is not technologically feasible for them to meet the requirement or, in the case of VRS, because VRS is a video-based service and the communication is via sign language and not text. The Commission has waived other mandatory minimum standards that are inapplicable to the particular form of TRS, including VRS, IP Relay, IP CTS and CTS. Some of these waivers have been for finite periods, usually one year, and require new waivers at the end of the period while other waivers have been for indefinite periods. Document FCC 13–119 proposes to incorporate these waivers into the Commission's rules to obviate the need for annual waivers to be applied for and granted and to harmonize the treatment of all TRS providers to which these mandatory minimum standards do not apply given the technology through which the service is provided.

28. Document FCC 13–119 seeks comment on whether to incorporate these waivers into the rules. It further seeks comment on a Petitioner's request that the Commission clarify whether the Spanish-to-Spanish requirement should be a non-mandatory service for IP Relay and IP CTS providers as it is for VRS providers.

29. Where a mandatory minimum standard is inapplicable, the Commission proposes to convert existing waivers of the mandatory minimum standards to permanent exemptions, thereby eliminating unnecessary administrative burdens on providers and the Commission. Specifically, IP CTS providers have received waivers for the following features: (1) Gender preference; (2) handling calls in ASCII and Baudot formats; (3) call release; (4) Speech-to-Speech; (5) Hearing Carry Over (HCO) and VCO services; (6) outbound 711 calling; (7) emergency call handling; (8) equal access to interexchange carriers; (9) pay-per-call (900) service; (10) three-way calling; (11) speed dialing; and (12) certain rules applying to CAs.

30. With regard to the criterion of the economic impact of document FCC 13–119, with respect to those waivers that are proposed to be made permanent or otherwise codified, the Commission notes that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA's standard, would benefit by being relieved from the necessity to periodically file for new waivers of the TRS mandatory minimum standards and from incurring unnecessary expenses in research and development of features or services that are inapplicable to certain types of TRS services. Therefore, the Commission concludes that with respect to those waivers, document FCC 13–119, if adopted, will not have a significant economic impact on any entities.

31. With respect to those waivers that are being terminated, the record shows that the providers are generally providing the features that had been the subject of such waivers. For example, the record shows that providers are now able to offer three-way calling and speed dialing. With respect to one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY, the Commission is seeking comment to better determine which features should be waived and which features no longer require a waiver for the providers of VRS, IP Relay, IP CTS and CTS. The Commission believes that the entities that may be affected by the termination of such waivers are only those TRS providers that offer VRS, IP Relay, IP CTS and CTS. Should the TRS providers, including the small entities, become affected by the termination of such waivers, the costs of compliance of the requirements to offer three-way calling and speed dialing are minimal. Neither the Commission nor the SBA has developed a definition of ''small entity'' specifically directed toward TRS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, for which the small business size standard is all such firms having 1,500 or fewer employees. Collectively, there are fewer than ten TRS providers that are authorized by the Commission or, in the case of CTS, by any state Commission, to offer these services. No more than four of these entities may be small businesses under the SBA size standard. Therefore, document FCC 13–119, if adopted would not have a significant economic impact on a substantial number of small entities.

32. The Commission therefore certifies, pursuant to the RFA, that the proposals in document FCC 13–119, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in document FCC 13–119 require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of document FCC 13–119, including a copy of the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

33. Pursuant to the authority contained in sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 225, that document FCC 13–119 *is adopted.*

34. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of

document FCC 13–119, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, and 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Amend § 64.603 by adding paragraph (c) to read as follows:

§ 64.603 Provision of services.

* * * * *

(c) Providers of captioned telephone relay service, Internet-based captioned telephone relay service, VRS and IP Relay are not required to offer speech-to-speech relay service and interstate Spanish language relay service.

■ 3. Amend § 64.604 by revising paragraphs (a)(3)(ii), (iv), (v), and (vi) and (b)(1) and (3) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(a) * * *

(3) * * *

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Providers of Internet-based TRS need not provide the same billing options (*e.g.,* sent-paid long distance, operator-assisted, calling card, collect, and third party billing) traditionally offered for wireline and wireless voice services.

* * * * *

(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls: Text-to-voice and voice-to-text; VCO, two line VCO, VCO-to-TTY, and VCO-to-VCO; HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers and VRS providers are not required to provide VCO-to-TTY and HCO-to-TTY. Captioned telephone service providers and Internet-based captioned telephone service providers are not required to provide text-to-voice; VCO-to-TTY; HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.

(vi) TRS providers are required to provide the following features: call release functionality (only with respect to the provision of TTY-based TRS); speed dialing functionality; and three-way calling functionality.

* * * * *

(b) *Technical standards*—(1) *ASCII and Baudot.* TTY service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

* * * * *

(3) *Equal access to interexchange carriers.* TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–24262 Filed 10–22–13; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 78, No. 205
Wednesday, October 23, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. Number AMS–FV–11–0054; FV–13–331]

United States Standards for Grades of Okra

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is revising the voluntary United States Standards for Grades of Okra by removing the ''Unclassified'' category from the standards.

DATES: *Effective:* November 22, 2013.

FOR FURTHER INFORMATION CONTACT: Dave Horner, Standardization Branch, Specialty Crops Inspection Division, telephone: (540) 361–1128 or 1150. The revised United States Standards for Grades of Okra are available on the Specialty Crops Inspection Division Web site at *www.ams.usda.gov/scihome.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. Because the United States Standards for Grades of Fruits and Vegetables are not connected with Federal marketing orders or U.S. import requirements, they no longer appear in the Code of Federal Regulations. They are, however, maintained by the AMS Fruit and Vegetable Program and are available on the Internet at *www.ams.usda.gov/scihome.*

AMS is revising the voluntary United States Standards for Grades of Okra using the procedures in Part 36, Title 7 of the Code of Federal Regulations (7 CFR Part 36). These standards were last revised December 18, 1928.

Background and Response to Comments

On February 9, 2012, AMS published a notice in the **Federal Register** (77 FR 6772) soliciting comments about removing the ''unclassified'' section and any other possible revision to the United States Standards for Grades of Okra. The public comment period closed on April 9, 2012, with no responses.

On May 1, 2013, AMS published a second notice in the **Federal Register** (78 FR 25416) soliciting comments about removing the ''unclassified'' section from the United States Standards for Grades of Okra. The public comment period closed on May 31, 2013, with no responses.

Based on the information gathered, AMS will remove and reserve ''Section 51.3946 Unclassified.'' The revision will bring the okra standards in line with current marketing practices and other commodity standards. This section is being removed in standards for all commodities as they are revised. It is no longer considered necessary since it is not a grade and only serves to show that no grade has been applied to the lot.

The official grade of a lot of okra covered by these standards will be determined by the procedures set forth in the Regulations Governing Inspection, Certification, and Standards of Fresh Fruits, Vegetables and Other Products (Sec. 51.1 to 51.61).

The revisions to the United States Standards for Grades of Okra will be effective 30 days after publication of this notice in the **Federal Register**.

Authority: 7 U.S.C. 1621–1627.

Dated: October 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–24818 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Guaranteed Farm Loan Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of re-opening of a public comment period.

SUMMARY: The Farm Service Agency (FSA) is reopening and extending the comment period for 60 days to allow interested individuals and organizations to comment on the extension and revision of a currently approved information collection associated with the Guaranteed Farm Loan Program. The amended estimate adds the merger of the information collection for the Land Contract Guarantee Program (0560–0279) into the Guaranteed Farm Loan Program. This information collection is used to make and service loans guaranteed by FSA to eligible farmers and ranchers by commercial lenders and to provide guarantees to the seller of a farm through the use of land contracts.

DATES: We will consider comments that we receive by December 23, 2013.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Trent Rogers, Senior Loan Specialist, USDA, FSA, Stop 0522, 1400 Independence Avenue SW., Washington, DC 20250.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Trent Rogers at the above addresses.

FOR FURTHER INFORMATION CONTACT: Trent Rogers, Senior Loan Specialist, (202) 720–3889.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Guaranteed Farm Loans.
OMB Control Number: 0560–0155.
Expiration Date of Approval: 01/31/2014.

Type of Request: Extension with revision.

Abstract: FSA published the original notice and request for comments in the **Federal Register** on Friday, August 7, 2013 (78 FR 48135). The following information is being provided again and to amend the estimated total annual burden hours due to merger of two information collections.

This information collected under OMB Number 0560–0155 is needed to effectively administer the FSA's general guaranteed farm loan programs. The information is collected by the FSA loan official in consultation with participating commercial lenders. The basic objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The reporting requirements imposed on the public by the regulations at 7 CFR part 762 are necessary to administer the guaranteed loan program in accordance with statutory requirements of the Consolidated Farm and Rural Development Act and are consistent with commonly performed lending practices.

FSA also provides guarantees for loans made by private sellers of a farm or ranch on a land contract sales basis. This information is needed to effectively administer the FSA Land Contract Guarantee Program. Since this program is also a guarantee program, FSA is merging the annual burden hours into the general Guaranteed Loan Program information collection. The reporting requirements imposed on the public by the regulations at 7 CFR part 763 are necessary to administer the Land Contract Guaranteed Loan Program in accordance with statutory requirements of the Consolidated Farm and Rural Development Act and as specified in the 2008 Farm Bill. Collection of information after loans are made is necessary to protect the Government's financial interest.

Overall, the number of respondents is estimated to increase by 458, the number of responses is estimated to decrease by 14,709, and the number of burden hours is estimated to decrease by 7,873 in comparison to the information that was published on August 7, 2013 (78 FR 48135). The changes are due to less usage of the interest assistance agreement form and merging the burden hours of the Land Contract Guarantee Program into the Guaranteed Loan Program information collection. The separate approval for OMB control number of 0560–0279 will discontinue when FSA receives OMB approval for the extension and revision of the OMB control number of 0560–0155.

FSA believes that requesting additional time to comment on the notice is reasonable and provides the public the opportunity to comment on the information collection. As result of reopening and extension, the comment period will close on December 23, 2013. All comments from the original notice published August 7, 2013 will be automatically included with the additional comments submitted in the response to this notice.

Estimate of Average Time To Respond: 62.2 minutes per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent

Type of Respondents: Farmers and ranchers.

Estimated Number of Respondents: 16,183.

Estimated Number of Report Filed per Respondent: 15.7.

Estimated Total Annual Number of Responses: 243,977.

Estimated Total Annual Burden Hours: 253,097.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed on September 26, 2013.

Juan M. Garcia,

Administrator, Farm Service Agency.

[FR Doc. 2013–24890 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Amendment to Certification of Nebraska's Central Filing System

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

ACTION: Notice.

SUMMARY: In response to a request from Nebraska's Secretary of State we are approving amendments to the debtor identification and signature requirements of the certified central filing system for Nebraska to permit the conversion of all debtor social security and taxpayer identification numbers into approved unique identifiers. The proposed specific procedure whereby Nebraska will automatically convert social security numbers and taxpayer identification numbers into ten number unique identifiers has been reviewed and determined to permit the numerical searching of master lists while providing protection against identity theft.

DATES: *Effective Date:* October 23, 2013.

SUPPLEMENTARY INFORMATION: The Grain Inspection, Packers and Stockyards Administration (GIPSA) administers the Clear Title program for the Secretary of Agriculture. The Clear Title program is authorized by Section 1324 of the Food Security Act of 1985, which requires that States implementing central filing systems for notification of liens on farm products have such systems certified by the Secretary.

A listing of the States with certified central filing systems is available through the Internet on the GIPSA Web site (*http://www.gipsa.usda.gov*). Farm products covered by a State's central filing system are also identified through the GIPSA Web site. The Nebraska central filing system covers specified farm products.

We originally certified the central filing system for Nebraska on December 19, 1986. On August 30, 2012, John A. Gale, Nebraska's Secretary of State, requested the certification be amended to incorporate the use of an approved unique identifier other than a Social Security Number or Tax Payer Identification Number, in accordance with the 2004 amendments to Section 1324 of the Food Security Act.

This notice announces our approval of the amended certification for Nebraska's central filing system. Details of the specific procedures by which Nebraska will create approved unique identifiers are being provided by GIPSA to the Secretaries of State of other states

with certified central filing systems. The statewide central filing system of Nebraska is certified for all specific farm productions produced in the state. Examples of farm productions and possible entries for lien identification include:

Apples, Artichokes, Asparagus, Barley, Bees, Buffalo, Bull semen, Cantaloupe, Carrots, Cattle and calves, Chickens, Corn, Cucumbers, Dry beans, Eggs, Embryos/Genetic Products, Emu, Fish, Flax Seed, Grapes, Hay, Hogs, Honey, Honey Dew Melon, Horses, Llamas, Milk, Muskmelon, Oats, Onions, Ostrich, Popcorn, Potatoes, Pumpkins, Raspberries, Rye, Seed crops, Sheep & Lambs, Silage, Sorghum Grain, Soybeans, Squash, Strawberries, Sugar Beets, Sunflower Seeds, Sweet Corn, Tomatoes, Trees, Triticale, Turkeys, Vetch, Walnuts, Watermelon, Wheat and Wool.

Authority: 7 U.S.C. 1631, 7 CFR 2.22(a)(3)(v) and 2.81(a)(5), and 9 CFR 205.101(e).

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–24737 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

United States Standards for Feed Peas, Split Peas, and Lentils

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA

ACTION: Notice and request for comments.

SUMMARY: The Department of Agriculture's (USDA) Grain Inspection, Packers, and Stockyards Administration (GIPSA) is reviewing the United States Standards for Feed Peas, Split Peas, and Lentils under the Agriculture Marketing Act (AMA) of 1946. To ensure that the standards and official grading practices remain relevant, GIPSA invites interested parties to comment on whether the current U.S. Standards for Feed Peas, Split Peas, and Lentils are meeting the needs in today's marketing environment.

DATES: GIPSA will consider comments received by November 22, 2013.

ADDRESSES: You may submit your written or electronic comments on this notice to:

- *Mail, hand deliver, or courier:* Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530, Washington, DC, 20250–3604.
- *Email comments to: comments.gipsa@usda.gov*
- *Fax:* (202) 690–2173.
- *Internet:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

All comments will become a matter of public record and should be identified as ''Feed Peas, Split Peas, and Lentil Comments,'' making reference to the date and page number of this issue of the **Federal Register**. Comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the GIPSA Management and Budget Services at (202) 720–7486 to make an appointment to read comments.

FOR FURTHER INFORMATION CONTACT: Beverly A. Whalen at USDA, GIPSA, FGIS, Policies, Procedures, and Market Analysis Branch, Field Management Division, National Grain Center, 10383 N. Ambassador Drive, Kansas City, Missouri 64153; Telephone (816) 659–8410; Fax Number (816) 872–1258; email *Beverly.A.Whalen@usda.gov.*

SUPPLEMENTARY INFORMATION: GIPSA will solicit comments for 30 days. All comments received within the comment period will be made part of the public record maintained by GIPSA, will be available to the public for review, and will be considered by GIPSA before final action is taken on the proposal.

Authority: 7 U.S.C. 1621 *et seq.*

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–24742 Filed 10–22–13; 8:45 am]

BILLING CODE 3410–KD–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

[9/19/2013 through 10/17/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Mercury Communications, Inc	1710 Larkin Williams Road, Fenton, MO 63026.	9/17/2013	The firm manufacturers' transmission towers for the telecommunications industry.
Convenience Electronics, Inc ..	4405 Triangle Street, McFarland, WI 34119.	9/25/2013	The firm manufactures custom cable harnesses and assemblies.

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: October 17, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–24831 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting ''Rescheduled''

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on November 12, 2013, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than November 5, 2013.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 23, 2013 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: October 18, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–24860 Filed 10–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Open Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on November 13, 2013, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than November 6, 2013.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Dated: October 18, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–24862 Filed 10–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on November 5, 2013, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the Public.
3. Discussions on results from last, and proposals for next Wassenaar meeting.
4. Report on proposed and recently issued changes to the Export Administration Regulations.
5. Other business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than October 29, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation

materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 20, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with matters the premature disclosure of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a) (1) and 10(a) (3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: October 18, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–24859 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on November 6 and 7, 2013, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, November 6

Open Session

1. Welcome and Introductions.
2. Working Group Reports.
3. Industry presentation: Modular Instruments.
4. Industry presentation: Electronic Design Roadmap.
5. New business.

Thursday, November 7

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than October 30, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 4, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202)482–2813.

Dated: October 18, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–24857 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Notice of Partial Rescission and Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to requests from Petitioners [1] and two Indian companies, Navneet Publications (India) Ltd. (Navneet) and AR Printing & Packaging (India) Pvt. Ltd. (AR Printing), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined paper products (CLPP) from India.[2] The period of review (POR) is September 1, 2011, through August 31, 2012. The Department initiated a review of 82 Indian producers/exporters of subject merchandise,[3] but Petitioners timely withdrew their review request in its entirety.[4] We are rescinding this review in its entirety with the exception of the two self-requesting companies, Navneet and AR Printing. We preliminarily find that Navneet (the sole mandatory respondent) sold subject merchandise at less than normal value during the POR. We have preliminarily assigned AR Printing (the sole non-selected company) the non-selected rate based on the margin calculated for Navneet in this review.

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone (202) 482–3797 or (202) 482–1167, respectively.

Scope of the Order

The merchandise covered by the *CLPP Order* is certain lined paper products. The merchandise subject to this order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020,

[1] The Petitioners are the Association of American School Paper Suppliers (AASPS) and its individual members.

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 65858 (October 31, 2012) (*Initiation Notice*).

[4] *See* Petitioners' withdrawal letter dated January 28, 2013. Petitioners' request for review covered 82 Indian producers/exporters of subject merchandise, including Navneet and AR Printing. *See* Petitioners' review request letter dated September 28, 2012.

4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[5]

Partial Rescission of the 2011–2012 Administrative Review

On January 28, 2013, Petitioners timely withdrew their request for the 2011–2012 administrative review in its entirety, which affects 80 Indian producers/exporters of the subject merchandise covered in the *Initiation Notice*.[6] In accordance with 19 CFR 351.213(d)(1),[7] and consistent with our practice,[8] we are rescinding this review in its entirety with the exception of Navneet and AR Printing.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export prices (EP) have been calculated in accordance with section 772 of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum.[9]

The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period September 1, 2011, through August 31, 2012:

Manufacturer/exporter [10]	Weighted-average dumping margin (percent)
Navneet Publications (India) Ltd	6.62
AR Printing & Packaging (India) Pvt. Ltd	6.62

Disclosure and Public Comment

The Department intends to disclose to interested parties to this proceeding the calculations performed in connection with these preliminary results within five days after the date of publication of this notice.[11] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than the later of 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[12] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[13] All case and rebuttal briefs must be filed electronically using IA ACCESS, and must also be served on interested parties.[14] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS. Executive summaries should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, using Import Administration's IA ACCESS system.[15] An electronically filed document must be received successfully in its entirety by the Department's IA ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[16] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[17] Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rate

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[18] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis (i.e.,* 0.50 percent). Where either the respondent's weighted-average dumping margin is zero or *de*

[5] For a complete description of the Scope of the Order, *see* 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 Partial Rescission and Preliminary Results of Antidumping Duty Administrative Review: Certain Lined Paper Products from India'' (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

[6] *See* footnote 4 on page 1.

[7] In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' The instant review was initiated on October 31, 2012. Therefore, the deadline to withdraw review requests was January 29, 2013. Thus, Petitioners' withdrawal request is timely.

[8] *See, e.g., Brass Sheet and Strip from Germany: Notice of Rescission of Antidumping Duty Administrative Review,* 73 FR 49170 (August 20, 2008); *see also, Certain Lined Paper Products from India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 21781 (May 11, 2009).

[9] *See* Preliminary Decision Memorandum.

[10] The margin for AR Printing & Packaging (India) Pvt. Ltd. (the sole non-selected company in this review), was based on the calculated weighted-average margin of Navneet (the sole mandatory respondent in this review).

[11] *See* 19 CFR 351.224(b).

[12] *See* 19 CFR 351.309(d).

[13] *See* 19 CFR 351.309(c)(2) and (d)(2).

[14] *See* 19 CFR 351.303(f).

[15] *See* 19 CFR 351.310(c).

[16] *Id.*

[17] *See* 19 CFR 351.310.

[18] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

minimis, or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review where applicable.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Navneet and AR Printing will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.91 percent, the all-others rate established in the investigation.[19] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[19] *See* the *CLPP Order.*

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 19 CFR 351.214(b)(4).

Dated: September 20, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Period of Review
3. Scope of the Order
4. Partial Rescission of the 2011–2012 Administrative Review
5. Discussion of Methodology
6. Rate for Non-selected Company

[FR Doc. 2013–24834 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–805]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 10, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania. For the final results we continue to find that ArcelorMittal Tubular Products Roman S.A. (AMTP) has not sold subject merchandise at less than normal value and that entries of subject merchandise made by Canadian Natural Resources Limited (CNRL) should be liquidated without regard to antidumping duties.

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Thomas Schauer, 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) 482–0665, and (202) 482–0410, respectively.

Background

On July 10, 2013, the Department published the preliminary results of the administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania.[1] We invited interested parties to comment on the *Preliminary Results.* We received no comments. The Department has conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order include small diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the American Society for Testing and Materials (ASTM) A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The merchandise subject to the order is typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7304.10.10.20, 7304.10.50.20, 7304.19.10.20,

[1] *See Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania: Preliminary Results of Antidumping Duty Administrative Review;* 2011–2012, 78 FR 41369 (July 10, 2013) (*Preliminary Results*).

7304.19.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or ''hollow profiles'' of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications.

The scope of the order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of the order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of the order.

Specifically excluded from the scope of the order are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of the order, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line, or pressure applications.

With regard to the excluded products listed above, the Department will not instruct CBP to require end use certification until such time as the petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being used in a covered application. If such information is provided, we will require end use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in covered applications as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A–161 specification is being used in a standard, line or pressure application, we will require end use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Final Results of the Review

We have made no changes to our calculations announced in the *Preliminary Results.* As a result of our review, we determine that a weighted-average dumping margin of 0.00 percent exists for ArcelorMittal Tubular Products Roman S.A. for the period August 1, 2011, through July 31, 2012.

As discussed in the Preliminary Results, CNRL had no sales to unaffiliated customers in the United States, or to unaffiliated customers for exportation to the United States. Although CNRL entered subject merchandise for consumption during the period of review (POR), the merchandise was not sold in any form, either in the form as entered or as further manufactured; it was exported back to CNRL in Canada. As a result, consistent with our decision in *OCTG*

from Japan,[2] antidumping duties would not be applied to CNRL's subject merchandise under current law and practice. Accordingly, we will instruct CBP to liquidate the entries at issue without regard to antidumping duties.

Assessment Rates

In accordance with the *Final Modification,*[3] the Department will instruct U.S. Customs and Border Protection (CBP) to liquidate entries for AMTP without regard to antidumping duties.

Because we found that CNRL did not sell subject merchandise to an unaffiliated customer in the United States, or to unaffiliated customers for exportation to the United States, but exported all the subject merchandise back to CNRL in Canada, we will instruct CBP to liquidate its entries covered by this review without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by AMTP for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for AMTP will be 0.00 percent, the weighted average dumping margin established in the final results of this administrative review; [4] (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise for the most recently completed segment of this proceeding; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.06 percent, the all-others rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania,* 65 FR 48963 (August 10, 2000). These cash deposit requirements shall remain in effect until further notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–24838 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Oil Country Tubular Goods From Japan: Preliminary Results and Rescission* {*sic*} *in Part of Antidumping Duty Administrative Review,* 64 FR 48589, 48590–91 (September 7, 1999) (*OCTG from Japan*).

[3] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification*).

[4] We are not establishing a cash-deposit rate for CNRL because the merchandise exported by CNRL was not sold in any form. *See* ''Final Results of Review'' section, above.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–942]

Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Countervailing Duty Administrative Review; 2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain kitchen appliance shelving and racks (kitchen racks) from the People's Republic of China (PRC). The period of review (POR) is January 1, 2011, through December 31, 2011. We preliminarily determine that New King Shan (Zhu Hai) Co., Ltd. (NKS) received countervailable subsidies during the POR. We are also rescinding this review for Jiangsu Weixi Group Co. (Weixi).

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Jennifer Meek or Josh Morris, Office of 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) 482–2778 and (202) 482–1779, respectively.

Scope of the Order

This order covers shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens. The merchandise subject to the order is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 8418.99.80.50, 7321.90.50.00, 7321.90.60.40, 7321.90.60.90, 8418.99.80.60, 8419.90.95.20, 8516.90.80.00, and 8516.90.80.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive.

A full description of the scope of the 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 Preliminary Results for the Countervailing Duty Administrative Review: Kitchen Appliance Shelving and Racks from the People's Republic of China,'' dated concurrently with this notice (Preliminary Decision Memorandum), which is hereby adopted by this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to Weixi because the review request was timely withdrawn.

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 preliminarily determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[1] 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] Finally, we were not able to make a preliminary determination of countervailability for one program because we require further information.[3] We intend to seek that information and address the program in a post-preliminary analysis prior to our final results.

Preliminary Results of the Review

As a result of this review, we preliminarily determine a net subsidy rate of 8.52 percent for NKS for the period January 1, 2011, through December 31, 2011.

Assessment Rates

For Weixi, countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2011, through December 31, 2011, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after publication of this notice. For NKS, we intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for NKS. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[4] Due to the Department's intention to release a post-preliminary analysis memorandum, interested parties may submit written comments (case briefs) no later than one week after the issuance of that memorandum and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs. Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce within 30 days after the date of publication of this notice.[5] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[6] Parties should confirm by telephone the date, time, and location of the hearing.

Parties are reminded that briefs and hearing requests are to be filed electronically using IA ACCESS and that electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: September 30, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2013–24836 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–DS–P

[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. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum.

[2] *See* sections 776(a) and (b) of the Act. For further discussion, see Preliminary Decision Memorandum at ''Use of Facts Otherwise Available and Adverse Inferences.''

[3] *See* Preliminary Decision Memorandum at ''Programs for Which More Information is Required.''

[4] *See* 19 CFR 351.224(b).

[5] *See* 19 CFR 351.310(c).

[6] *See* 19 CFR 351.310.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of Closed Meeting.

SUMMARY: The Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet in closed session Monday through Friday, November 4–8, 2013, 8:30 a.m. to 5:30 p.m. Eastern time each day. The purpose of this meeting is to review recommendations from site visits, and recommend 2013 Malcolm Baldrige National Quality Award recipients.

DATES: The meeting will be held Monday through Friday, November 4–8, 2013, 8:30 a.m. to 5:30 p.m. Eastern time each day. The entire meeting will be closed to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–4781, email *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the Judges Panel will meet on Monday through Friday, November 4–8, 2013, 8:30 a.m. to 5:30 p.m. Eastern time each day. The Judges Panel is composed of twelve members, appointed by the Secretary of Commerce, chosen for their familiarity with quality improvement operations and competitiveness issues of manufacturing companies, services companies, small businesses, health care providers, and educational institutions. Members are also chosen who have broad experience in for-profit and nonprofit areas. The purpose of this meeting is to review recommendations from site visits, and recommend 2013 Malcolm Baldrige National Quality Award recipients.

The Senior Advisor to the Deputy Secretary performing the non-exclusive duties of the Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 19, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409, that the meeting of the Judges Panel may be closed in accordance with 5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential; and, 5 U.S.C. 552b(c)(9)(B) because for a government agency the meeting is likely to disclose information that could significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and discussion of these data as compared to the Malcolm Baldrige National Quality Award criteria in order to recommend 2013 Malcolm Baldrige National Quality Award recipients, will be closed to the public.

Dated: October 17, 2013.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–24801 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority Board Special Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Public Meeting of the First Responder Network Authority.

SUMMARY: The Board of the First Responder Network Authority (FirstNet) will hold a Special Meeting via telephone conference (teleconference) on October 25, 2013.

DATES: The Special Meeting will be held on Friday, October 25, 2013, from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time.

ADDRESSES: The Special Meeting will be conducted via teleconference. Members of the public may listen to the meeting by dialing toll-free 1 (888) 469–3306 and using passcode ''FirstNet.'' Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Uzoma Onyeije, Secretary, FirstNet, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230: telephone (202) 482–0016; email *uzoma@firstnet.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (Act), Public Law 112–96, 126 Stat. 156 (2012), created FirstNet as an independent authority within the NTIA. The Act directs FirstNet to establish a single, nationwide interoperable public safety broadband network. The FirstNet Board is responsible for making strategic decisions regarding FirstNet's operations. As provided in Section 4.08 of the FirstNet Bylaws, the Board through this Notice provides at least two days' notice of a Special Meeting of the Board to be held on October 25, 2013. The Board may, by a majority vote, close a portion of the Special Meeting as necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting FirstNet, including pending or potential litigation. *See 47 U.S.C. 1424*(e)(2).

Matters to Be Considered: NTIA will post an agenda for the Special Meeting on its Web site at *http://www.ntia.doc.gov/category/firstnet* prior to the meeting. The agenda topics are subject to change.

Time and Date: The Special Meeting will be held on October 25, 2013, from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time. The times and dates are subject to change. Please refer to NTIA's Web site at *http://www.ntia.doc.gov/category/firstnet* for the most up-to-date information.

Other Information: The teleconference for the Special Meeting is open to the public. On the date and time of the Special Meeting, members of the public may call toll-free 1 (888) 469–3306 and use passcode ''FirstNet'' to listen to the meeting. If you experience technical difficulty, please contact Helen Shaw by telephone (202) 482–1157; or via email *hshaw@ntia.doc.gov.* Public access will be limited to listen-only. Due to the limited number of ports, attendance via teleconference will be on a first-come, first-served basis. The Special Meeting is accessible to people with disabilities. Individuals requiring accommodations are asked to notify Mr. Onyeije, by telephone (202) 482–0016 or email *uzoma@firstnet.gov,* at least two days (2) business days before the meeting.

Records: NTIA maintains records of all Board proceedings. Board minutes

will be available at *http://www.ntia.doc.gov/category/firstnet.*

Dated: October 18, 2013.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–24800 Filed 10–22–13; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Department of Defense.

ACTION: Meeting notice; cancellation.

SUMMARY: On Monday, September 23, 2013 (78 FR 58290–58291), the Department of Defense published a notice announcing a meeting of the Defense Business Board (DBB), which was scheduled for Thursday, October 17, 2013. This notice announces the cancellation of the October 17, 2013 meeting. Due to the lapse of appropriations, the scheduled DBB meeting on October 17, 2013 is cancelled. Due to the government shutdown, this notice of meeting cancellation could not be published before the date of the meeting that is now cancelled.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis Ferguson, *Phyllis.L.Ferguson2.civ@mail.mil,* 703–695–7563 or Ms. Debora Duffy, *Debora.K.Duffy.civ@mail.mil,* (703) 697–2168.

SUPPLEMENTARY INFORMATION:

Meeting Announcement: Due to the lapse of appropriations, the Department of Defense cancelled the meeting of the Defense Business Board on October 17, 2013. As a result, the Department of Defense was unable to provide appropriate notification as required by 41 CFR 102–3.150(a). Therefore, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: October 17, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–24719 Filed 10–22–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meetings of the National Commission on the Structure of the Air Force; Cancellation of October 1, 2013, October 4, 2013 and October 9, 2013 Meetings

AGENCY: Director of Administration and Management, DoD.

ACTION: Notice of Advisory Committee Meeting; Cancellation.

SUMMARY: On Thursday, September 12, 2013 (78 FR 56219–56220), the Department of Defense published a notice announcing an October 1, 2013 meeting of the National Commission on the Structure of the Air Force in Bossier City, Louisiana. On Thursday, September 26, 2013 (78 FR 59343–59344), the Department of Defense published a notice announcing an October 4, 2013 meeting of the National Commission on the Structure of the Air Force in Colorado Springs, Colorado. On October 3, 2013 (78 FR 61342–61343), the Department of Defense published a notice announcing an October 9, 2013 meeting of the National Commission on the Structure of the Air Force in Chicopee, Massachusetts. Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), this notice announces that the National Commission on the Structure of the Air Force meetings scheduled for Tuesday, October 1, Friday, October 4, 2013 and Wednesday, October 9, 2013 were cancelled due to the government shutdown.

FOR FURTHER INFORMATION CONTACT: Mrs. Marcia Moore, Designated Federal Officer, National Commission on the Structure of the Air Force, 1950 Defense Pentagon Room 3A874, Washington, DC 20301–1950. Email: *marcia.l.moore12.civ@mail.mil.* Desk (703) 545–9113. Facsimile (703) 692–5625.

SUPPLEMENTARY INFORMATION:

Meeting Announcement: Due to the lapse of appropriations, the Department of Defense cancelled the meetings of the National Commission on the Structure of the Air Force on October 1, 4, and 9 of 2013. As a result, the Department of Defense was unable to provide appropriate notification as required by 41 CFR 102–3.150(a). Therefore, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: October 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–24788 Filed 10–22–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Navy Base Intermodal Facility at the former Charleston Naval Complex (CNC) in North Charleston, South Carolina

AGENCY: U.S. Army Corps of Engineers, Department of the Army

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Charleston District intends to prepare a Draft Environmental Impact Statement (DEIS) to assess the potential social, economic, and environmental effects of the proposed construction and operation of an intermodal container transfer facility (ICTF) by the South Carolina Department of Commerce Division of Public Railways d/b/a Palmetto Railways (Palmetto Railways). The DEIS will assess potential effects of a range of alternatives, including the proposed alternative.

DATES: *Public Scoping Meeting:* A public scoping meeting is planned for Thursday, November 14, 2013 beginning at 5:30 p.m. EDT at the Chicora School of Communications, 3795 Spruill Avenue, North Charleston, South Carolina, 29405. An open house will be held from 5:30–7 p.m. The formal scoping meeting will be held from 7–9 p.m. Individuals and organizations that are interested in the proposed activity or whose interests may be affected by the proposed work are encouraged to attend the Scoping Meeting and to submit written comments to the Corps.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about the proposed project and DEIS, please contact Mr. Nathaniel Ball, Corps Project Manager, by telephone: 843–329–8044 or toll-free 1–866–329–8187, or by mail: Mr. Nathaniel I. Ball, U.S. Army Corps of Engineers, 69–A Hagood Avenue, Charleston, South Carolina 29403. For inquiries from the media, please contact the Corps, Charleston District Corporate Communication

Officer (CCO), Ms. Glenn Jeffries by telephone: 843–329–8123.

SUPPLEMENTARY INFORMATION: The Corps is evaluating a proposal from Palmetto Railways in accordance with Corps regulations and the policies and procedures that are established in the National Environmental Policy Act (NEPA). Based on the available information, the Corps has determined that the Proposed Navy Base Intermodal Facility has the potential to significantly affect the quality of the human environment and therefore warrants the preparation of an EIS. Additional information about the proposed project and the NEPA process is available on the project Web site at: *www.navybaseictf.com.*

1. *Description of the Proposed Project.* Palmetto Railways currently provides rail services to Union Pier Terminal, Columbus Street Terminal, Veterans Terminal, and North Charleston Terminal and various private industries in the region. Palmetto Railways has proposed to construct and operate an ICTF on a 90-acre site at the former CNC. The proposed ICTF would provide equal access to both Class I railroads serving Charleston, South Carolina: CSX Transportation (CSX) and Norfolk Southern Railway (NS). The ICTF would be a state-of-the-art intermodal terminal that would utilize sustainable intermodal terminal technologies. The proposed ICTF is being designed to accommodate existing intermodal rail traffic and anticipated future growth associated with the Port of Charleston. Components of the ICTF would include conventional terminal components such as high-mast lighting, rail or rubber-tired mounted container cranes, and terminal hostlers. Further, it is anticipated that the development of the ICTF will encourage the development of freight-related facilities adjacent to the ICTF that would include warehousing and distribution facilities, as well as transloading and other freight-related industrial facilities.

2. Alternatives. A range of alternatives to the proposed action will be identified, and those found to be reasonable alternatives will be fully evaluated in the DEIS, including: the no-action alternative, the applicant's proposed alternative, alternatives that may result in avoidance and minimization of impacts, and mitigation measures not in the proposed action; however, this list in not exclusive and additional alternatives may be considered for inclusion.

3. Scoping and Public Involvement Process. A scoping meeting will be conducted to gather information on the scope of the project and alternatives to be addressed in the DEIS. Additional public and agency involvement will be sought through the implementation of a public involvement plan and through an agency coordination team.

4. Significant issues. Issues and potential impacts associated with the proposed project that are likely to be given detailed analysis in the DEIS include, but are not necessarily limited to,: existing transportation infrastructure (roadways and railways), waters of the United States, air quality, noise, light, environmental justice, economics, visual resources/aesthetics, general environmental concerns, historic properties, fish and wildlife values, Federally-listed threatened or endangered species, flood hazards, flood plain values, land use, recreation, water quality, hazardous waste and materials, socioeconomics, safety, and in general, the needs and welfare of the people.

5. Additional Review and Consultation. Additional review and consultation, which will be incorporated into the preparation of this DEIS, will include, but will not necessarily be limited to, Section 401 of the Clean Water Act; Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act; the National Environmental Policy Act; the Endangered Species Act; and the National Historic Preservation Act.

6. Availability of the Draft EIS. The Corps expects the DEIS to be made available to the public in late fall/winter 2014. A Public Hearing will be held during the public comment period for the DEIS.

John T. Litz,

Lieutenant Colonel, U.S. Army Corps of Engineers, Charleston District.

[FR Doc. 2013–24736 Filed 10–22–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Integrated Postsecondary Education Data System (IPEDS) 2013–2016; Extension of Public Comment Period; Correction

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On October 2, 2013, the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** (Page 60864, Column 2) seeking public comment for an information collection entitled, ''Integrated Postsecondary Education Data System (IPEDS) 2013–2016''. The comment period for this information collection request has been extended to November 14, 2013.

The Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: October 18, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–24808 Filed 10–22–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Biological and Environmental Research Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee (BERAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, October 28, 2013; 9:00 a.m.–5:15 p.m.

Tuesday, October 29, 2013; 8:30 a.m.–12:15 p.m.

ADDRESSES: Hilton Washington DC/Rockville Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen, Designated Federal Officer, BERAC, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290. Telephone (301) 903–9817; fax (301) 903–5051 or email: *david.thomassen@science.doe.gov*. The most current information concerning this meeting can be found on the Web site: *http://science.energy.gov/ber/berac/meetings*.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda Topics

- Report From the Office of Biological and Environmental Research
- News From the Biological Systems Science and Climate and Environmental Sciences Divisions
- Discussion of the Committee of Visitors Report and the BER Report on BER Virtual Laboratory: Innovative Framework for Biological and Environmental Grand Challenges
- Workshop Reports
- Science Talks
- New Business
- Public Comment

Public Participation: The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact David Thomassen at the address or telephone number listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

This Notice is being published in less than the normal 15 days due to a lapse in Federal appropriations and the shutdown of Federal agencies.

Minutes: The minutes of this meeting will be available for public review and copying within 45 days at the BERAC Web site: *http://science.energy.gov/ber/berac/meetings/berac-minutes*.

Issued in Washington, DC, on October 17, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–24872 Filed 10–22–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 13, 2013 6:00 p.m.

ADDRESSES: Department of Energy Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37830.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 576–0956 or email: *noemp@emor.doe.gov* or check the Web site at *www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments From the Deputy Designated Federal Officer
- Comments From the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Public Comment Period
- Presentation
- Additions/Approval of Agenda
- Motions/Approval of September 11, 2013 Meeting Minutes
- Status of Recommendations With DOE
- Committee Reports
- Federal Coordinator Report
- Adjourn

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/board-minutes.html.*

Issued at Washington, DC, on October 18, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–24833 Filed 10–22–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 20, 2013, 1:00 p.m.–7:00 p.m.

ADDRESSES: Ohkay Conference Center, 68 New Mexico 291, San Juan Pueblo, New Mexico 87566.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1:00 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Lee Bishop
Establishment of a Quorum: Roll Call and Excused Absences, William Alexander
Welcome and Introductions, Carlos Valdez, Chair
Approval of Agenda and September 10, 2013 and September 25, 2013 Meeting Minutes
1:15 p.m. Public Comment Period

1:30 p.m. Old Business
- Written Reports
- Other Items

1:45 p.m. New Business
- Election of Committee Officers
- Report from Ad Hoc Committee on Annual Board Evaluation
- Other items

2:15 p.m. Break
2:30 p.m. Presentation on Corrective Measures Evaluation for Cap and Cover of Area G
3:30 p.m. Update From Liaison Members
- New Mexico Environment Department, John Kieling
- Los Alamos National Laboratory, Jeffrey Mousseau
- DOE, Peter Maggiore

4:30 p.m. Consideration and Action on Draft Recommendation(s)
5:00 p.m. Dinner Break
6:00 p.m. Public Comment Period, Carlos Valdez
6:15 p.m. Consideration and Action on Draft Recommendation(s) (continued)
6:30 p.m. Items from DDFO, Lee Bishop
- Report on NNMCAB Recommendations and DOE Responses
- Other items

6:45 p.m. Wrap-Up and Comments from Board Members, Carlos Valdez
7:00 p.m. Adjourn

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*

Issued at Washington, DC, on October 18, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–24837 Filed 10–22–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah; Meeting

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, November 21, 2013, 6:00 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Rachel Blumenfeld, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda.
- Administrative Issues.
- Public Comments (15 minutes).
- Adjourn.

Breaks Taken as Appropriate.

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Rachel Blumenfeld as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Rachel Blumenfeld at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Rachel Blumenfeld at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2013Meetings.html.*

Issued at Washington, DC, on October 18, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–24839 Filed 10–22–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC13–22–000]

Commission Information Collection Activities (FERC–733); Comment Request

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 proposed information collection FERC–733, Demand Response/Time-Based Rate Programs and Advanced Metering.

DATES: Comments on the collection of information are due December 23, 2013.

ADDRESSES: You may submit comments (identified by Docket No. IC13–22–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–733, Demand Response/Time-Based Rate Programs and Advanced Metering

OMB Control No.: To be determined

Type of Request: Approval of a new survey of demand response and time-based rate programs and tariffs, and advanced metering that replaces the FERC–731 survey.

Abstract: Section 1252(e)(3) of the Energy Policy Act of 2005,[1] requires the Federal Energy Regulatory Commission (FERC or Commission) to prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes. Specifically, EPAct 2005 Section 1252(e)(3) requires that the Commission identify and review:

(A) Saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) Existing demand response programs and time-based rate programs;

(C) The annual resource contribution of demand resources;

(D) The potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) Steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) Regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

In 2006 and 2008, the Commission designed and used Office of Management and Budget (OMB) approved collections FERC–727, *Demand Response and Time Based Rate Programs Survey* (OMB Control No. 1902–0214), and FERC–728, *Advanced Metering Survey* (OMB Control No. 1902–0213), to collect and convey to Congress the requested demand response and advanced metering information. In 2010 and 2012, the Commission designed and used OMB approved collection FERC–731, *Demand Response/Time-Based Rate Programs and Advanced Metering* (OMB Control No. 1902–0251).

For 2014 and 2016 the Commission proposes to continue to utilize a voluntary survey (FERC–733) that incorporates changes to the previously approved FERC–731 to improve data quality and reduce respondent burden. The Commission proposes to (1) align its collection of Advanced Metering Infrastructure (AMI) installations with that of the Energy Information Administration (EIA), (2) consolidate several questions, (3) eliminate some of the data collected on the FERC–731, (4) include three additional categories regarding customer's methods of accessing data, and (5) request additional details concerning retail demand response programs that participate in wholesale programs.[2]

The Commission proposes to revise the structure of its question on advanced meters to comport with recent changes approved by OMB for the EIA in Form EIA–861, Schedule 6, Part D, ''Advanced Metering and Customer Communication.'' The Commission also proposes to eliminate certain data elements requested by the 2012 FERC–731 including: the respondents' number of customers by customer sector in Question 3, and the request for the respondents' long-range (4 to 6 years) plans for demand response programs in Question 5.

The Commission believes that the above changes should result in a more accurate and streamlined data collection that will reduce respondent burden.

The Commission investigated alternatives, including using data from the North American Electric Reliability Corporation (NERC) and EIA, to fielding and collecting data using a FERC designed survey. However, as explained below, the data is not currently collected or cannot be obtained by the Commission in time to complete the 2014 report to Congress.

NERC, as the Electric Reliability Organization for the United States [3] as certified by the Commission, has begun to collect demand response data on dispatchable and non-dispatchable resources that it needs to conduct its reliability work. Reporting demand response information in the Demand Response Availability Data System (DADS) is mandatory for all entities who are part of NERC's functional model. The Demand Response Data Task Force at NERC developed DADS to collect demand response program information. DADS currently collects information on dispatchable and controllable demand response resources. DADS does not currently collect and report information on several key demand response program types including economic, and time-based rate programs. Because DADS does not currently collect and report data which is specifically required by EPAct 2005, the system cannot be relied upon for FERC's reporting purposes. EPAct 2005 specifically requires FERC to identify and review time-based rate programs.

NERC plans to require its registered entities to report information on these other demand response program types in the future, but it is unclear at this time when NERC may begin to collect these additional data or whether the new data will be available or suitable for FERC staff to use to prepare their reports to Congress.

The EIA collects aggregated information on energy efficiency and load management as well as advanced metering data in its EIA–861, ''*Annual Electric Power Industry Report.''* The data collected in this survey does not identify specific demand response programs or time-based rate programs, but it does support the Commission's advanced metering data needs. Unfortunately, the finalized advanced metering data for 2013 will not be

[1] Pub. L. 109–58, § 1252(e)(3), 119 Stat. 594, 966 (2005) (EPAct 2005).

[2] The additional details of the retail demand response programs that participate in wholesale demand response programs is necessary to identify the potential peak reductions that are solely wholesale in nature and not associated with specific demand response efforts at the retail program level.

[3] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *appeal docketed sub nom. Alcoa, Inc.* v. *FERC,* No. 06–1426 (D.C. Cir. Dec. 29, 2006).

available until the fourth quarter of 2014 under EIA's proposed schedule. Therefore, the EIA data will not be available to the Commission in time to report 2013 findings in calendar year 2014.

Because these alternatives will not provide data or will not provide data in a timely manner for the 2014 report, the Commission proposes to conduct a survey (attached in the docket) with a response deadline of May 1, 2014. This survey has been designed to be consistent with the NERC's data collection such that, in future years, the Commission may be able to use the NERC data when it becomes available, phase-out the FERC demand response survey and still comply with EPAct 2005 Section 1252(e)(3).

FERC staff has designed a survey that will impose minimal burden on respondents by providing respondents with an easy-to-complete, fillable form that will include such user friendly features as pre-populated fields and drop-down menus, make use of the data that is becoming available from reliable sources, and provide it with the information necessary to draft and file the report that is required by Congress. The survey can be electronically filed. A paper version of the survey will be available for those who are unable to file electronically.

Access to the Proposed Materials: The survey form, instructions, and glossary are attached to this docket, but they are not being published in the **Federal Register**.[4] Interested parties can see the materials electronically as part of this notice in FERC's eLibrary (*http://www.ferc.gov/docs-filing/elibrary.asp*) by searching Docket No. IC13–22–000.

Interested parties may also request paper or electronic copies of any of the materials by contacting FERC's Public Reference Room by email at *public.referenceroom@ferc.gov* or by telephone at (202) 502–8371

Type of Respondents: The Commission is proposing to collect the demand response and advanced metering information via a voluntary survey from the nation's entities that serve wholesale and retail customers. The information will be used to draft and file the report that is required by Congress. Industry cooperation is important for us to obtain as accurate and up-to-date information as possible to respond to Congress, as well as to provide information to states and other market participants. We, therefore, strongly encourage all potential survey respondents to complete the survey.

Estimate of Annual Burden:[5] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–733—DEMAND RESPONSE/TIME-BASED RATE PROGRAMS AND ADVANCED METERING

	Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours per response	Estimated total burden[6]
	(A)	(B)	(A)×(B)=(C)	(D)	(C)×(D)
Entities that serve wholesale and retail customers	3,400	1	3,400	3.5	11,900

The total estimated cost burden to respondents for the 2014 survey is $669,613 (11,900 hours/year × $56.27/hour[7] = $669,613. The estimated cost per respondent for the survey is $196.95 (3.5 hours/survey × $56.27/hour = $196.95.

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: September 26, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24827 Filed 10–22–13; 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: ER13–107–005.

Applicants: South Carolina Electric & Gas Company.

Description: South Carolina Electric & Gas Company submits Order No. 1000 10.16.2013 to be effective 12/31/9998.

Filed Date: 10/16/13.

Accession Number: 20131016–5103.

Comments Due: 5 p.m. ET 11/14/13.

Docket Numbers: ER13–2122–001.

Applicants: Fowler Ridge Wind Farm LLC.

Description: Fowler Ridge Wind Farm LLC submits Compliance Filing—Amdmt to MBR Tariff Previous Filing of 8/7/2013 to be effective 10/17/2013.

Filed Date: 10/16/13.

Accession Number: 20131016–5091.

Comments Due: 5 p.m. ET 11/6/13.

Docket Numbers: ER14–103–000.

Applicants: Horsehead Corporation.

Description: Horsehead Corporation submits FERC Electric Rate Schedule No. 1 to be effective 10/16/2013.

Filed Date: 10/16/13.

Accession Number: 20131016–5036.

Comments Due: 5 p.m. ET 11/6/13.

Docket Numbers: ER14–104–000.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits tariff filing per 35.13(a)(2)(iii: 2013–10–16–PSCo-HLYCRS-Reimb of Expenditures-354 to be effective 12/15/2013.

[4] The attached form is for illustrative purposes only and does not include all the interactive features of the actual form.

[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] This collection occurs every two years and OMB approval is typically for three years. As such, it is likely that there will be two surveys completed during the time this form is approved. When we submit this collection to OMB for approval (after the comment period) we will likely calculate the total burden for three years (two surveys) and average the total burden over those three years.

[7] This figure is based on the average salary plus benefits for a management analyst (NAICS Occupation Code 13–1111). We obtained wage and benefit information from the Bureau of Labor Statistics (see *http://bls.gov/oes/current/naics2_22.htm* and *http://www.bls.gov/news.release/ecec.nr0.htm*).

Filed Date: 10/16/13.
Accession Number: 20131016–5089.
Comments Due: 5 p.m. ET 11/6/13.
Docket Numbers: ER14–105–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company Cancels Three Rate Schedules Related to the Four Corners Project (RS Nos. 47, 48, and 461).
Filed Date: 10/16/13.
Accession Number: 20131016–5107.
Comments Due: 5 p.m. ET 11/6/13.
Docket Numbers: ER14–106–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–10–15 RSG Day Ahead Gaming Filing to be effective 10/17/2013.
Filed Date: 10/16/13.
Accession Number: 20131016–5111.
Comments Due: 5 p.m. ET 11/6/13.

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: October 16, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24826 Filed 10–22–13; 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: EC14–7–000.
Applicants: Astoria Energy II LLC.
Description: Application for Authorization to Dispose of Jurisdictional Facilities and Request for Expedited Treatment and Privileged Treatment of Exhibit I of Astoria Energy II LLC.
Filed Date: 10/16/13.
Accession Number: 20131016–5023.
Comments Due: 5 p.m. ET 11/6/13.
Docket Numbers: EC14–8–000.
Applicants: Gilroy Energy Center, LLC, Creed Energy Center, LLC, Goose Haven Energy Center, LLC, Calpine Peaker Holdings, LLC, Peaker Holdings I, LLC,GEC Holdings, LLC.
Description: Joint Application for Authorization under Section 203 of the Federal Power Act of Gilroy Energy Center, LLC, et al.
Filed Date: 10/16/13.
Accession Number: 20131016–5025.
Comments Due: 5 p.m. ET 11/6/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2399–004.
Applicants: American Transmission Systems, Incorporation, PJM Interconnection, L.L.C.
Description: American Transmission Systems, Incorporated submits FirstEnergy submits compliance filing per 9/27/2013 Order in ER12–2399–001, 002 to be effective 9/27/2013.
Filed Date: 10/15/13.
Accession Number: 20131015–5376.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER13–102–002.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits NYISO Order No. 1000 Regional Planning Compliance Filing to be effective 1/1/2014.
Filed Date: 10/15/13.
Accession Number: 20131015–5427.
Comments Due: 5 p.m. ET 11/14/13.
Docket Numbers: ER13–107–004.
Applicants: South Carolina Electric & Gas Company.
Description: South Carolina Electric & Gas Company submits Order No. 1000 to be effective 1/1/2014.
Filed Date: 10/15/13.
Accession Number: 20131016–5000.
Comments Due: 5 p.m. ET 11/14/13.
Docket Numbers: ER13–1851–004.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: New England Power Pool Participants Committee submits Winter Reliability Compliance Filing to be effective 9/6/2013.
Filed Date: 10/15/13.
Accession Number: 20131015–5377.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER13–2266–001.
Applicants: ISO New England Inc.
Description: Winter Reliability Bid Results Compliance Filing of ISO New England Inc.
Filed Date: 10/15/13.
Accession Number: 20131015–5367.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–96–000.
Applicants: Healthy Planet Partners Energy Company, LLC.
Description: Healthy Planet Partners Energy Company, LLC submits HPP MBRA Application to be effective 1/15/2014.
Filed Date: 10/15/13.
Accession Number: 20131015–5390.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–97–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 10–15–13 Attach FF–4 to be effective 12/19/2013.
Filed Date: 10/15/13.
Accession Number: 20131015–5413.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–98–000.
Applicants: Entergy Services, Inc., Midcontinent Independent System Operator, Inc.
Description: Entergy Services, Inc. submits 2013–10–15 Rate Schedule 38 to be effective 12/19/2013.
Filed Date: 10/15/13.
Accession Number: 20131015–5418.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–99–000.
Applicants: Public Service Company of Colorado.
Description: Public Service Company of Colorado submits 2013–10–15–PSCo–TSGT–NOC of 329, 341, & 333 to be effective 12/14/2013.
Filed Date: 10/15/13.
Accession Number: 20131015–5426.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–100–000.
Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–10–15 Rate Schedule 40 EMI–SMEPA to be effective 12/19/2013.
Filed Date: 10/15/13.
Accession Number: 20131016–5001.
Comments Due: 5 p.m. ET 11/5/13.
Docket Numbers: ER14–101–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Amended LGIA with NextEra Desert Center Blythe, LLC to be effective 11/1/2013.
Filed Date: 10/16/13.
Accession Number: 20131016–5004.
Comments Due: 5 p.m. ET 11/6/13.
Docket Numbers: ER14–102–000.

Applicants: Midcontinent Independent System Operator, Inc., Dairyland Power Cooperative.

Description: Midcontinent Independent System Operator, Inc. submits 2013–10–16 Dairyland Attachment O and GG filing to be effective 1/1/2014.

Filed Date: 10/16/13.

Accession Number: 20131016–5031.

Comments Due: 5 p.m. ET 11/6/13.

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: October 16, 2013..

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24825 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–1–000]

Notice Announcing Workshop; Zero Rate Reactive Power Rate Schedules

Concurrent with this notice, the Commission is issuing an order in *Chehalis Power Generating, L.P.,* Docket No. ER05–1056–007 clarifying its policy related to jurisdictional reactive power rate schedules.[1] In that order, the Commission finds that, on a prospective basis, for any jurisdictional reactive power service (including within-the-deadband reactive power service) provided by both new and existing generators, the rates, terms, and conditions for such service must be pursuant to a rate schedule on file with the Commission, even when that rate schedule provides no compensation for such service. As set forth in that order, the Commission directed staff to conduct a workshop, in a generic proceeding, to explore the mechanics of public utilities filing reactive power rate schedules for which there is no compensation.

Take notice that the Commission intends to hold a staff-led workshop open to the public at a time and date to be announced to explore the process for filing reactive power rate schedules for which there is no compensation. A subsequent notice will be issued in this docket setting forth the details of the workshop.

Dated: October 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–24740 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–2–000]

Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene; Orchard City, Colorado

On October 7, 2013, Orchard City, Colorado (Orchard City) filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The 22 kW Orchard City Water Treatment Plant Hydroelectric Project would utilize Orchard City's water intake pipeline that delivers water to its water treatment plant, and it would be located in Delta County, Colorado.

Applicant Contact: Mike Morgan, Orchard City Public Work, 9661 2100 Austin Road, Austin, CO 81410, Phone No. (970) 314–1515.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A new ''y'' pipe intake off the existing 10-inch diameter water supply pipeline; (2) a new 12-foot-long, 10-inch diameter intake pipe; (3) a new powerhouse containing one new 22-kilowatt generating unit; (4) a new, 6-foot-long, 10-inch diameter exit pipeline discharging water into an existing 10-inch water supply pipeline; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 190 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	*Description*	*Satisfies (Y/N)*
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

[1] *Chehalis Power Generating, L.P.,* 145 FERC ¶ 61,052 (2013).

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–2–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: October 16, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–24739 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1056–007]

Order on Voluntary Remand and Clarifying Policy on Filing of Reactive Power Service Rate Schedules; Chehalis Power Generating, L.P.

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, Cheryl A. LaFleur, and Tony Clark.

1. This case is before the Commission on voluntary remand from the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). Below, the Commission continues to affirm its finding that the rate schedule Chehalis Power Generating L.P. [1] (Chehalis) proposed for supplying Reactive Supply and Voltage Control from Generation Sources Service (reactive power) to the Bonneville Power Administration (Bonneville or BPA) is a changed rate subject to the suspension and refund provisions of section 205(e) of the Federal Power Act (FPA).[2] However, the Commission clarifies its policy related to jurisdictional reactive power rate schedules for which there is no compensation, requiring that such rate schedules containing the rates, terms, and conditions for reactive power service be filed with the Commission on a prospective basis. This policy will ensure that ratepayers are protected from, *inter alia,* excessive rates, as the Commission will have the ability to suspend and refund any changed rates upon filing.

I. Background

2. On May 31, 2005, Chehalis submitted a proposed rate schedule to the Commission setting forth proposed rates for Chehalis's provision of reactive power to Bonneville. Chehalis denominated the rate as ''initial'' stating that ''[t]he reactive power service that is the subject of the submitted rates is a new service offered by Chehalis in that it has never sought to charge for this service before.'' [3]

3. On July 27, 2005, the Commission accepted Chehalis's reactive power rate schedule, suspended it for a nominal period, made it effective subject to refund, and established hearing and settlement judge procedures.[4] In that order, the Commission found that the reactive power rate schedule was not an initial rate, because ''[a]n initial rate must involve a new customer and a new service.'' [5] The Commission stated that ''Chehalis has been providing reactive power to BPA pursuant to an interconnection agreement, albeit without charge. Thus, the proposed rates for reactive power in the instant proceeding are not initial rates, but are changed rates.'' [6]

4. On December 15, 2005, the Commission denied Chehalis's rehearing request. The Commission explained that its well-settled precedent established that an initial rate is a rate for a new service to a new customer.[7] Finding that Chehalis had already been providing reactive power to Bonneville, the Commission denied rehearing and explained that Chehalis was not providing a new service to a new customer.[8]

[1] On October 20, 2010, TNA Merchant Projects, Inc. (TNA) filed a motion with the Commission to substitute itself for Chehalis. In appeal proceeding No. 08–1201, the D.C. Circuit granted a similar motion and substituted TNA as petitioner in place of Chehalis because TNA owned all the equity interests in Chehalis at the time Chehalis filed its petition for review, and while TNA sold the equity interests, it nevertheless retained the rights to the claims made in this proceeding. For consistency with the Commission's earlier orders and the parties' pleadings, the D.C. Circuit continued to refer to the petitioner as ''Chehalis.'' *TNA Merchant Projects* v. *FERC,* 616 F.3d 588, 589 n.1 (D.C. Cir. 2010) (*TNA Merchants Projects*). We will also refer to the petitioner, TNA, as ''Chehalis.''

[2] 16 U.S.C. 824d(e) (2006).

[3] Chehalis May 31, 2005 Filing Letter at 6.

[4] *Chehalis Power Generating, L.P.,* 112 FERC ¶ 61,144, at PP 1, 21 (2005).

[5] *Id.* P 23.

[6] *Id.*

[7] *Chehalis Power Generating, L.P.,* 113 FERC ¶ 61,259, at P 11 (2005); *accord id.* PP 13–15.

[8] *Id.* PP 11–12.

5. On May 23, 2008, Chehalis petitioned the D.C. Circuit for review.[9] On August 10, 2010, the D.C. Circuit remanded the case to the Commission on a single issue: whether or not the rate for reactive power should have been filed with the Commission. In its remand order, the D.C. Circuit observed that, while Chehalis had advanced ''a host'' of grounds for reversing the Commission's orders, and while the Commission had provided responsive arguments, the court would address only one of Chehalis's arguments, one that the court stated that the Commission ''entirely failed to address.'' [10] That argument is that ''the only rates that are subject to § 205(e)'s suspension and refund provisions are those that change a rate already *on file with* FERC.'' [11]

6. The D.C. Circuit summarized Chehalis's ''on file with'' argument as follows: before May 31, 2005, Chehalis had not filed a rate schedule—pursuant to FPA section 205(c)—for the reactive power it provided to Bonneville. Because Chehalis had not previously filed a rate schedule for the reactive power it provided to Bonneville, Chehalis stated that there could be no change in rates under the FPA. And because FPA section 205(e) limits the Commission's power to suspend rates and order refunds to changed rates, the Commission therefore could not suspend and order refunds here.[12] The court remanded the case to the Commission to consider this argument.[13]

7. In its order on remand, the Commission found that the rate for reactive power that Chehalis provided to Bonneville should have been filed, thus making Chehalis's filing a changed rate, subject to the suspension and refund provisions of section 205(e) of the FPA.[14] The Commission noted that, in any event, whether or not a pre-existing rate had, in fact, been filed with the Commission was not part of the Commission's longstanding test for the determination of what constitutes a changed versus an initial rate.[15] The Commission's well settled precedent was that an initial rate was one that involved both a new service and a new customer.[16] Because the record in the case showed that Chehalis had been providing reactive power service to Bonneville since 2003, the proposed rate schedule for the provision of reactive power filed on May 31, 2005 did not propose a rate for a new service and a new customer.[17]

8. The Commission denied rehearing of its Remand Order, stating that section 205 of the FPA required that rates, terms, and conditions of jurisdictional services must be filed with the Commission, and because reactive power is a jurisdictional service, Chehalis should have filed its rate schedule for reactive power. Accordingly, the Commission found it was fair to treat Chehalis's proposed rate schedule at issue as a changed rate.[18] The Commission also rejected Chehalis's contention that the Commission's action was contrary to its precedent ''cancelling and rejecting generators' rate schedules when there is no longer any compensation associated with the obligation to follow a voltage schedule.'' [19] The Commission distinguished *Hot Spring Power Co., L.P.*[20] and other similar cases cited by Chehalis on the ground that, while the purchasing utilities involved were not obligated to pay the generators for within-the-deadband reactive power, the generators in those cases all had, in fact, filed rates.[21]

9. On appeal of the Remand Order and Rehearing Order, Chehalis contends that the Commission erred by determining: (1) That the interconnection agreement between Chehalis and BPA was required to be filed prior to May 2005, even though it did not contain rates for reactive power service and Chehalis was not proposing to collect charges for such service prior to that date, and (2) that the proposed rate schedule for supply of reactive power service filed by Chehalis in May 2005 was a change in rates that could be suspended and made subject to refund under section 205(e) of the FPA. Chehalis specifically argued that, in prior Commission orders, when the generators cancelled their existing reactive power rate schedules, the Commission accepted those cancellations without suggesting that a replacement rate schedule must be filed for the supply of reactive power without compensation.[22]

10. Upon consideration of Chehalis's brief filed with the court, the Commission moved for a voluntary remand to more fully consider Chehalis's arguments. On June 18, 2013, the court granted the Commission's motion.

II. Commission Determination

11. The Commission finds that further explanation is required in this proceeding. Section 205 requires that rates, terms, and conditions for jurisdictional services must be filed with the Commission; the statute does not make such a filing optional, or otherwise grant discretion to utilities to decide whether or when they must file their rates, terms, and conditions.[23] If the provision of reactive power is a jurisdictional service,[24] and no one in this proceeding denies that it is, then the utility providing this service has an obligation to file a rate schedule governing the provision of this service. Accordingly, we reaffirm our finding that Chehalis should have earlier filed a rate schedule for its provision of reactive power service, making its later filing on May 31, 2005, a changed rate.

12. However, the Commission also recognizes that it has previously accepted notices of cancellation of reactive power rate schedules where compensation was no longer involved. In order to clarify the Commission's policy related to reactive power service provided without compensation, the Commission finds that, on a prospective basis, for any jurisdictional reactive power service (including within-the-deadband reactive power service) provided by both existing and new generators, the rates, terms, and

[9] In the meantime, the Commission, having ordered settlement and hearing procedures on the proper rate for the reactive power, determined a just and reasonable rate and ordered Chehalis to make refunds to Bonneville. *Order on Initial Decision,* 123 FERC ¶ 61,038, at P 13 (2008).

[10] *TNA Merchant Projects,* 616 F.3d at 591–92.

[11] *Id.* at 592 (*emphasis supplied*).

[12] *Id.* The D.C. Circuit correctly observed that neither Bonneville nor Chehalis disputes that Chehalis did not file a rate schedule for reactive power service before May 31, 2005. *Id.*

[13] *Id.* at 593.

[14] *Chehalis Power Generating, L.P.,* 134 FERC ¶ 61,112, at PP 19–21 (2011) (Remand Order).

[15] *Id.* P 4.

[16] *Id.* P 21.

[17] *Id.*

[18] *Chehalis Power Generating, L.P.,* 141 FERC ¶ 61,116, at P 17 (2012) (Rehearing Order).

[19] *Id.* P 20.

[20] 113 FERC ¶ 61,080 (2010).

[21] Rehearing Order, 141 FERC ¶ 61,116 at P 20.

[22] Brief of Petitioner, *TNA Merchant Projects, Inc.* v. *FERC,* No. 13–1008, at 28–29 (D.C. Cir. Apr. 15, 2013).

[23] 16 U.S.C. 824d(c) (2006).

[24] *See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,703 (1996), *order on reh'g,* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC,* 535 U.S. 1 (2002). Indeed, if it were not a jurisdictional service, then Chehalis should not have filed its proposed rate schedule and proposed reactive power rate in the first place, and the Commission should not have accepted it and should not have authorized Chehalis to charge the rate. Rather, Chehalis has recognized that this service is a jurisdictional service, which warrants a filing, as evidenced by the fact of Chehalis's filing.

conditions for such service must be pursuant to a rate schedule on file with the Commission,[25] even though the rate schedule would provide no compensation for such service.[26] The Commission directs staff to conduct a workshop, in a generic proceeding, to explore the mechanics of public utilities filing reactive power rate schedules for which there is no compensation.

13. This policy is consistent with the Commission's precedent distinguishing between a changed rate and an initial rate.[27] In *Southwestern Electric Power Co.,* the Commission defined an initial rate as one that provides for a new service to a new customer.[28] The Commission explained: ''We believe that our broadened definition of a change in rate is consistent with and serves to further the policies which underlie the FPA. The primary purpose of the legislation is the protection of customers from excessive rates and charges.'' [29] The Commission emphasized that this definition of a changed rate allowed the Commission to give customers refund protection and, therefore, shield them from the ability of utilities to exploit any sort of regulatory lag by filing unjust and unreasonable rates.[30] Stressing this policy of protecting customers, the Commission stated: ''Taking a broad view as to what constitutes a change in rate clearly serves, by making filings subject to the Commission's suspension and refund authority under section 205(e) of the FPA, to protect customers of electricity from excessive or exploitative rates.'' [31]

14. As we explain below, because our policy is being clarified and we are prospectively providing for the filing of rates, terms and conditions for the provision of reactive power service (even within-the-deadband reactive power service) for which there is no compensation, we find that it would be appropriate for Chehalis to recover the amounts it previously refunded to BPA, with interest calculated in accordance with 18 CFR 35.19a (2013).[32] The DC Circuit has recognized the Commission's authority to order recoupment of funds previously paid if the Commission provides adequate explanation.[33] In the instant case, we find the recoupment of funds would be appropriate.[34] The Commission is clarifying its policy and, as explained above, finding that, with regard to jurisdictional reactive power service (even within-the-deadband reactive power service) for which there is no compensation, on a prospective basis rate schedules governing the rates, terms, and conditions for such service must be on file with the Commission.[35] Therefore, given that we are applying this policy on a prospective basis, we find that it would be appropriate for Chehalis to recover the amounts previously refunded to BPA, with interest.

The Commission orders:

The Secretary is hereby directed to promptly publish a copy of this order in the **Federal Register**.

By the Commission.

Issued October 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–24756 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

[25] We note that our *pro forma* large generator interconnection agreement, in section 9.6, governs the provision of reactive power by an interconnection customer, i.e., by a generator, including the instance where an interconnection customer, i.e., a generator, may charge for reactive power outside the deadband. Absent payment to the transmission provider's own or affiliated generators, our longstanding policy has been that a transmission provider does not have to separately pay an interconnection customer, i.e., a generator, for reactive power within the deadband.

[26] 16 U.S.C. 824d(c) (2006) (requiring that ''every public utility shall file with the Commission . . . schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classification, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services''); *Prior Notice and Filing Requirements under Part II of the Federal Power Act,* 64 FERC ¶ 61,139, at 61,987, *order on reh'g,* 65 FERC ¶ 61,081 (1993) (stating that the Commission has considerable flexibility in determining what rates and practices are ''for or in connection with,'' ''affecting,'' ''pertaining'' or ''relat[ing] to'' jurisdictional service and, accordingly, must be filed for Commission review)*; Sulphur Springs Valley Elec. Coop.,* 107 FERC ¶ 61,284, at P 7 (2004) (finding that the public utility was obligated to file two agreements for jurisdictional services even though there were no specified charges or revenues associated with the agreements).

[27] *See, e.g., WPS Canada Generation, Inc.,* 103 FERC ¶ 61,193, at P 15 (2003) (finding that a particular facility had been providing reactive power service to Maine Public for years, although under different ownership, and, therefore, the proposed rates were changed rates rather than initial rates); *Calpine Oneta Power, L.P.,* 103 FERC ¶ 61,338, at P 11 (2003) (finding that the Oneta Project had been supplying reactive power to Public Service Company of Oklahoma, although without charge); *Public Service Co. of Colorado,* 74 FERC ¶ 61,354, at 62,087 & n.2 (1996) (finding that a power supply agreement with Glenwood Springs adds a new customer to an existing service and, therefore, constitutes a changed rate); *Northern States Power Co.,* 74 FERC ¶ 61,106, at 61,345 (1996) (finding that Northern States's filing was a changed rate because it unbundled its requirements rates to provide for separately-stated charges for various types of transmission); *Gulf States Utilities Co.,* 45 FERC ¶ 61,246, at 61,725 (1988) (finding that a rate schedule for transmission service was a changed rate because Gulf States was already providing service to Lafayette and Plaquemine and the present filing merely provided for a different service to existing customers); *Florida Power & Light Co.* v. *FERC,* 617 F.2d 809, 813–17 (D.C. Cir. 1980) (finding that the Commission had a reasonable basis for changing its policy so as to treat transmission agreement schedules as changed rates subject to the Commission's suspension and refund powers, in light of previously existing interchange agreements, rather than initial rates not subject to such powers).

[28] 39 FERC ¶ 61,099, at 61,293 (1987) (*Southwestern*).

[29] *Id.* (citing *Town of Alexandria* v. *FPC,* 555 F.2d 1020, 1028 (D.C. Cir. 1977); *Municipal Light Boards v. FPC,* 450 F.2d 1341, 1348 (D.C. Cir. 1971); *Atlantic Refining Co.* v. *Public Service Commission of New York,* 360 U.S. 378, 388 (1959); *FPC* v. *Hope Natural Gas Co.,* 320 U.S. 591, 610 (1944)).

[30] The Commission recognizes that section 206 of the FPA has been modified since the issuance of *Southwestern.* While the new section 206 has eliminated some of the differences underlying the finding in *Southwestern,* a fundamental difference still exists between the refund protection provided under section 205 of the FPA (suspension and refund protection for the entire period the filed rate is collected prior to issuance of a final Commission order) and section 206 (refund protection limited to a 15-month period). Thus, the Commission reaffirms its definitions of initial and changed rates in order to carry out the primary purpose of the statute, i.e., to protect customers from excessive rates and charges. *See, e.g., Southwestern,* 39 FERC ¶ 61,099.

[31] *Id.*

[32] *Niagara Mohawk Power Corp.* v. *FPC,* 379 F.2d 153, 159 (D.C. Cir. 1967) (breadth of Commission discretion is at its zenith when fashioning remedies).

[33] *Black Oak Energy, LLC* v. *FERC,* 725 F.3d 230 (D.C. Cir. 2013).

[34] *Cf. Transmission Agency of Northern California* v. *FERC,* 495 F.3d 663 (2007).

[35] The Commission also clarifies that it does not intend to exercise its authority to impose enforcement sanctions for a jurisdictional entity's failure, prior to this order, to have a rate schedule on file for the provision of reactive power service without compensation. However, jurisdictional entities are reminded that they must submit filings on a timely basis in the future or face possible sanctions by the Commission.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–3–000]

Notice of Request Under Blanket Authorization; Petal Gas Storage, LLC.

Take notice that on October 9, 2013, Petal Gas Storage, L.L.C. (Petal), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP14–3–000, a prior notice request pursuant to sections 157.205 and 157.214 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, requesting authorization to increase its maximum storage capacity in the Petal Salt Dome's Cavern 12A, located in Forrest County, Mississippi, from 8.2 Bcf to 9.26 Bcf, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to J. Kyle Stephens, Vice President, Regulatory Affairs or M.L. Gutierrez, Director, Regulatory Affairs, by telephone at (713) 479–8252, by facsimile at (713) 479–1745, or by email at *Kyle.Stephens@bwpmlp.com* or *Nell.Gutierrez@bwpmlp.com*.

Any person or the Commission's staff may, within 60 days after 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 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 filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time 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 commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: October 16, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–24741 Filed 10–22–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9901–90–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2045.05; NESHAP for Automobile and Light-duty Truck Surface Coating; 40 CFR part 63 subparts A and IIII; was approved on 09/09/2013; OMB Number 2060–0550; expires on 09/30/2016; Approved without change.

EPA ICR Number 1967.05; NESHAP for Stationary Combustion Turbines; 40 CFR part 63 subparts A and YYYY; was approved on 09/09/2013; OMB Number 2060–0540; expires on 09/30/2016; Approved without change.

EPA ICR Number 1759.06; Pesticide Worker Protection Standard Training and Notification; 40 CFR part 170; was approved on 09/12/2013; OMB Number 2070–0148; expires on 09/30/2016; Approved with change.

EPA ICR Number 1031.10; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment (TSCA Section 8(c)); 40 CFR part 717; was approved on 09/12/2013; OMB Number 2070–0017; expires on 09/30/2016; Approved with change.

EPA ICR Number 2456.01; Willingness to Pay for Improved Water Quality in the Chesapeake Bay (New); was approved on 09/17/2013; OMB Number 2010–0043; expires on 09/30/2015; Approved with change.

EPA ICR Number 1664.09; National Oil and Hazardous Substances Pollution Contingency Plans (Renewal); 40 CFR 300.900; was approved on 09/23/2013; OMB Number 2050–0141; expires on 09/30/2016; Approved without change.

EPA ICR Number 1086.11; NSPS for Onshore Natural Gas Processing Plants; 40 CFR part 60 subparts A, KKK, LLL; was approved on 09/23/2013; OMB Number 2060–0120; expires on 03/31/2014; Approved without change.

EPA ICR Number 2127.03; Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes (Final Rule); 40 CFR 261.4(a)(26) and 261.4(b)(18); was approved on 09/23/2013; OMB Number 2050–0209; expires on 09/30/2016; Approved without change.

EPA ICR Number 2358.04; Nitrogen Oxides Ambient Air Monitoring (Renewal); 40 CFR part 58; was approved on 09/25/2013; OMB Number 2060–0638; expires on 09/30/2016; Approved without change.

EPA ICR Number 1659.08; NESHAP for Gasoline Distribution Facilities; 40 CFR part 63 subparts A and R; was approved on 09/25/2013; OMB Number 2060–0325; expires on 09/30/2016; Approved without change.

EPA ICR Number 1696.08; Fuels and Fuel Additives: Health-Effects Research Requirements for Manufacturers; 40 CFR part 79 subpart F; was approved on 09/30/2013; OMB Number 2060–0297;

expires on 09/30/2016; Approved without change.

Comment Filed

EPA ICR Number 2468.01; NPDES Electronic Reporting (Proposed Rule); in 40 CFR parts 122, 123, 127, 403, 501, and 503; OMB filed comment on 09/09/2013.

EPA ICR Number 2170.05; Air Emissions Reporting Requirements (AERR) (Proposed Rule for Revisions to Lead (Pb) Reporting Threshold and Clarifications to Technical Reporting Details); in 40 CFR part 51; OMB filed comment on 09/25/2013.

Withdrawn and Continue

EPA ICR Number 2367.02; Consumer Research through Focus Groups to Develop Improved Labeling for Pesticide Products; Withdrawn from OMB on 09/11/2013.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2013–24789 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2013–0405, FRL–9901–88–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Information Requirements for Boilers and Industrial Furnaces (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Information Requirements for Boilers and Industrial Furnaces (Renewal)'' (EPA ICR No. ICR No. 1361.16, OMB Control No. 2050–0073) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2013. Public comments were previously requested via the **Federal Register** (78 *FR* 38713) on June 27, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 22, 2013.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2013–0405, to: (1) EPA, either online using *www.regulations.gov* (our preferred method), or by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Office of Resource Conservation and Recovery (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA regulates the burning of hazardous waste in boilers, incinerators, and industrial furnaces (BIFs) under 40 CFR parts 63, 264, 265, 266 and 270. This ICR describes the paperwork requirements that apply to the owners and operators of BIFs. This includes the requirements under the comparable/syngas fuel specification at 40 CFR 261.38; the general facility requirements at 40 CFR parts 264 and 265, subparts B thru H; the requirements applicable to BIF units at 40 CFR part 266; and the RCRA Part B permit application and modification requirements at 40 CFR part 270.

Form Numbers: None.

Respondents/affected entities: Businesses or other for-profits.

Respondent's obligation to respond: Mandatory (per 40 CFR 264, 265, and 270).

Estimated number of respondents: 114.

Frequency of response: On occasion.

Total estimated burden: 291,757 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $39,476,994 (per year), includes $9,839,942 annualized capital $11,164,608 operation & maintenance costs.

Changes in the Estimates: There is an increase of 52,972 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an increase in universe size.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–24791 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0340; FRL–9901–67–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Stationary Reciprocating Internal Combustion Engines (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Stationary Reciprocating Internal Combustion Engines (Renewal)'' (EPA ICR No. 1975.09, OMB Control No. 2060–0548) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2013. Public comments were previously requested via the **Federal Register** (78 FR 33409) on June 4, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 22, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0340, to: (1) EPA online, using *www.regulations.gov* (our preferred method), by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The respondents to this information collection are owners or operators of existing spark ignition (SI) engines that have a site rating of less than or equal to 500 brake hp and located at major sources of hazardous air pollutants (HAP) and existing stationary SI engines located at area sources of HAP emissions. The information is requested by the Agency to determine compliance with the rule. The information will then be used by enforcement agencies to verify that sources subject to the standards are meeting the emission reductions mandated by the Clean Air Act (CAA). Other sizes/types of stationary reciprocating internal combustion engines (RICE) have been regulated under previous actions. Thus, this final action fulfills the requirements of section 112 of the CAA, which requires EPA to promulgate standards for stationary RICE, by adding requirements for the remaining engines.

Form Numbers: None.

Respondents/affected entities: Owners or operators of stationary reciprocating internal combustion engines (RICE).

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart ZZZZ).

Estimated number of respondents: 902,791 (total).

Frequency of response: Initially, quarterly, semiannually, and annually.

Total estimated burden: 3,427,264 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $424,877,556 (per year), includes $27,854,429 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. The decrease is a result of merging the reporting and recordkeeping requirements for the initial and amendment NESHAP and removing any duplicative burden items. This ICR combines the original final rule and the 2006, 2008, and 2010 amendments, which were previously covered under EPA ICR Number 1975.04, 1975.05, 1975.06, 1975.07, and 1975.08. In addition, this ICR incorporates the requirements for emergency engines as set forth in the January 2013 Final Rule amendment. This resulted in several changes in the total estimated burden and costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–24793 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0120; FRL–9901–87–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (EPA ICR No. 1765.07, OMB Control No. 2060–0353), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2013. Public comments were previously requested via the **Federal Register** (78 FR 31921) on May 28, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 22, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OAR–2003–0120, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Mail Code 22821T, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

FOR FURTHER INFORMATION CONTACT: Kim Teal, Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–5580; fax number: (919) 541–3470; email address: *teal.kim@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The EPA is required under section 183(e) of the Clean Air Act to regulate volatile organic compound emissions from the use of consumer and commercial products. Pursuant to

section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Automobile refinish coatings were included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart B. The reports required under the standards enable EPA to identify all coating and coating component manufacturers and importers in the United States and to determine which coatings and coating components are subject to the standards, based on dates of manufacture.

Form Numbers: None.

Respondents/affected entities: Manufacturers and importers of automobile refinish coatings and coating components.

Respondent's obligation to respond: Mandatory under 40 CFR part 59, subpart B.

Estimated number of respondents: 4.

Frequency of response: On occasion.

Total annual hour burden: 14. Burden is defined at 5 CFR 1320.03(b).

Total annual cost: $924, which includes $0 annualized capital or O&M costs.

Changes in the Estimates: There are no changes in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–24792 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0402; FRL–9901–89–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Mobile Air Conditioner Retrofitting Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Mobile Air Conditioner Retrofitting Program (EPA ICR No. 1774.06, OMB Control No. 2060–0450), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through October 31, 2013. Public comments were previously requested via the **Federal Register** (78 FR 37220) on June 20, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 22, 2013.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2013–0402, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Rebecca von dem Hagen, Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, MC 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9445; fax number: (202) 343–2362; email address: *vondemhagen.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC Federal Building West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For further information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA's Significant New Alternatives Policy (SNAP) program implements Section 612 of the 1990 Clean Air Act (CAA) Amendments, which authorized the Agency to establish regulatory requirements to ensure that ozone-depleting substances (ODS) are replaced by alternatives that reduce overall risks to human health and the environment, and to promote an expedited transition to safe substitutes. To promote this transition, CAA specified that EPA establish an information clearinghouse of available alternatives, and coordinate with other Federal agencies and the public on research, procurement practices, and information and technology transfers.

Since the program's inception in 1994, SNAP has reviewed over 400 new chemicals and alternative manufacturing processes for a wide range of consumer, industrial, space exploration, and national security applications. Roughly 90% of alternatives submitted to EPA for review have been listed as acceptable for a specific use, typically with some condition or limit to minimize risks to human health and the environment.

Regulations promulgated under SNAP require that Motor Vehicle Air Conditioners (MVACs) retrofitted to use a SNAP substitute refrigerant include basic information on a label to be affixed to the air conditioner. The label includes the name of the substitute refrigerant, when and by whom the retrofit was performed, environmental and safety information about the substitute refrigerant, and other information. This information is needed so that subsequent technicians working on the MVAC system will be able to service the equipment properly, decreasing the likelihood of significant refrigerant cross-contamination and potential failure of air conditioning systems and recovery/recycling equipment.

Form Numbers: None.

Respondents/affected entities: New and used car dealers, gas service stations, top and body repair shops, general automotive repair shops, automotive repair shops not elsewhere classified, including air conditioning and radiator specialty shops.

Respondent's obligation to respond: Mandatory under 40 CFR part 82, subpart G.

Estimated number of respondents: 294 (total).

Frequency of response: Once per retrofit of a motor vehicle air conditioner.

Total estimated burden: 8 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $570 (per year), which includes $10 (per year) annualized capital or operation & maintenance costs.

Changes in Estimates: There is decrease of 1,492 hours in the total estimated respondent burden compared with the ICR currently approved by OMB (per year). This decrease is based on the decline of CFC–12 MVACs in service today. EPA estimated that the total percent of CFC–12 MVACs retrofitted in 2003 was 1.5%, which equals an estimated 500,000 CFC–12 MVACs retrofitted to R–134a. The number of MVACs originally designed to use CFC–12 as well as the number of those retrofitted to R–134a has been decreasing every year and EPA estimates a continued reduction in the number of CFC–12 MVACs retrofits will occur during the next three years. EPA estimates that currently, in 2013, there are 330,000 MVACs originally designed to use CFC–12 operating in the U.S. EPA estimates that in 2014, 2015 and 2016 the number of cars originally designed to use CFC–12 will decrease to 170,000, 84,000 and 40,000, respectively. Of these, EPA estimates that 0.1% will be retrofitted annually to use alternative refrigerants between October 2013 and September 2016. Therefore, EPA estimates that in 2014, 2015 and 2016 the numbers of MVACs to be retrofitted are 170, 84 and 40, respectively; resulting in a total of 294 MVAC retrofits over the three years of this ICR. These reductions are due to the decrease of CFC–12 MVACs available on the road for retrofitting.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–24790 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9901–78–Region 3]

Delegation of Authority to the Commonwealth of Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On March 13, 2013, EPA sent the Commonwealth of Virginia (Virginia) a letter acknowledging that Virginia's delegation of authority to implement and enforce National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public of Virginia's updated delegation of authority to implement and enforce NESHAP and NSPS, EPA is making available a copy of EPA's letter to Virginia through this notice.

DATES: On March 13, 2013, EPA sent Virginia a letter acknowledging that Virginia's delegation of authority to implement and enforce NESHAP and NSPS had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of Virginia's submittal are also available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of Virginia's notice to EPA that Virginia has updated its incorporation by reference of Federal NESHAP and NSPS, and of EPA's response, may also be found posted on EPA Region III's Web site at: *http://www.epa.gov/reg3artd/airregulations/delegate/vadelegation.htm.*

FOR FURTHER INFORMATION CONTACT: Ray Chalmers, (215) 814–2061, or by email at *chalmers.ray@epa.gov*.

SUPPLEMENTARY INFORMATION: On February 14, 2013, Virginia notified EPA that Virginia has updated its incorporation by reference of Federal NESHAP and NSPS to include many such standards, as they were published in final form in the Code of Federal Regulations dated July 1, 2012. On March 13, 2013, EPA sent Virginia a letter acknowledging that Virginia now has the authority to implement and enforce the NESHAP and NSPS as specified by Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports and other correspondence required pursuant to the delegated NESHAP and NSPS must be submitted to both the US EPA Region III and to the Virginia Department of Environmental Quality, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the Virginia Department of Environmental Quality. A copy of EPA's letter to Virginia follows:

Michael G. Dowd, Director
Air Division
Virginia Department of Environmental Quality
629 East Main Street
P.O. Box 1105
Richmond, Virginia 23218

Dear Mr. Dowd: The United States Environmental Protection Agency (EPA) has previously delegated to the Commonwealth of Virginia (Virginia) the authority to implement and enforce various federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS), which are found at 40 CFR Parts 60, 61 and 63.[1] In those actions, EPA also delegated to Virginia the authority to implement and enforce any future EPA NESHAP or NSPS on the condition that Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated February 14, 2013, Virginia informed EPA that Virginia had updated its incorporation by reference of federal NESHAP and NSPS to include many such standards, as they were published in final form in the Code of Federal Regulations dated July 1, 2012. Virginia noted that its intent in updating its incorporation by reference of the NESHAP and NSPS was to retain the authority to enforce all standards included in the revisions, as per the provisions of EPA's previous delegation actions. Virginia committed to enforcing the federal standards in conformance with the terms of EPA's previous delegations of authority. Virginia made only allowed wording changes.

Virginia provided copies of its revised regulations specifying the NESHAP and NSPS which Virginia has adopted by reference. These revised regulations are entitled 9 VAC 5–50 ''New and Modified Stationary Sources,'' and 9 VAC 5–60 ''Hazardous Air Pollutant Sources.'' These revised regulations have an effective date of February 13, 2013.

Accordingly, EPA acknowledges that Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP and NSPS standards which Virginia has adopted by reference in Virginia's revised regulations 9 VAC 5–50 and 9 VAC 5–60, both effective on February 13, 2013.

Please note that on December 19, 2008, in *Sierra Club* v. *EPA*,[2] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR Part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued a mandate vacating these SSM exemption provisions, which are found at 40 CFR § 63.6(f)(1) and (h)(1).

Accordingly, EPA no longer allows sources the SSM exemption as provided for in the vacated provisions at 40 CFR § 63.6(f)(1) and (h)(1), even though EPA has not yet formally removed these SSM exemption provisions from the General Provisions of 40 CFR Part

[1] EPA has posted copies of these actions at: *http://www.epa.gov/reg3artd/airregulations/delegate/vadelegation.htm.*

[2] *Sierra Club* v. *EPA,* 551 F.3rd 1019 (D.C. Cir. 2008).

63. Because Virginia incorporated 40 CFR Part 63 by reference, Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR Part 63 due to the Court's ruling in *Sierra Club* vs. *EPA.*

EPA appreciates Virginia's continuing NESHAP and NSPS enforcement efforts, and also Virginia's decision to take automatic delegation of additional and more recent NESHAP and NSPS by adopting them by reference.

Sincerely,

Diana Esher,

Director, Air Protection Division.

This notice acknowledges the update of Virginia's delegation of authority to implement and enforce NESHAP and NSPS.

Dated: September 18, 2013.

Diana Esher,

Director, Air Protection Division, Region III.

[FR Doc. 2013–24880 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9901–74–Region 5]

Public Hearing and Request for Comments on Proposed Revisions to Michigan's Clean Water Act (CWA) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed revisions to Michigan's CWA Section 404 program, public hearing and request for comments.

SUMMARY: EPA requests comments on proposed revisions to Michigan's CWA Section 404 permitting program resulting from the recent enactment of Michigan Public Act 98 (PA 98). EPA will hold a public hearing in Lansing, Michigan, on December 11, 2013, to take comments on the proposed program revisions. Under Section 404 of the CWA, permits are required for activities involving discharges of dredged or fill material to waters of the United States, including wetlands, lakes and streams. In 1984, Michigan assumed Section 404 permitting authority for its inland waters and wetlands. PA 98 amended the wetlands and the inland lakes and streams provisions of the Michigan's Natural Resources and Environmental Protection Act to address areas, as identified by EPA in a 2008 program review, where the state's Section 404 program did not comply with CWA requirements. In addition to changes to address issues identified in EPA's program review, PA 98 included: (1) Changes to the definition of contiguous wetlands regulated by Michigan's Section 404 program; (2) the addition of new exemptions from permitting; and (3) changes to the requirements for mitigating the effects of filling wetlands and other waters of the United States. Under federal regulations, substantial changes to state CWA Section 404 programs do not become effective until program revisions are approved by EPA. Information about PA 98, the resulting proposed revisions to Michigan's Section 404 program, the public hearing, and procedures for submitting comments is available at: *www.regulations.gov/* (insert: EPA–HQ–OW–2013–0710 in the search field).

DATES AND LOCATION: On December 11, 2013, at 7:00 p.m. EST, EPA will hold a public hearing to take oral and written comments at the Crowne Plaza Lansing West (formerly known as the Lexington Lansing Hotel), 925 South Creyts Road, Lansing, Michigan 48917. The formal hearing will be preceded by an informational session at 6:00 p.m. EST. Written comments will also be accepted until December 18, 2013.

ADDRESSES: Submit comments, referencing Docket ID No. EPA–HQ–OW–2013–0710, online using *www.regulations.gov* (the preferred method); by email to *ow-docket@epa.gov;* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. All comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information, or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: For further information, call toll-free, 800–621–8431, weekdays, 8:30 a.m. to 4:30 p.m., central time, or contact Sue Elston, at the EPA Docket Center address noted above.

Dated: September 27, 2013.

Timothy C. Henry,

Acting Director, Water Division, EPA Region 5.

[FR Doc. 2013–24841 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2012–0072; FRL–9901–86–OSWER]

Waste Management System; Testing and Monitoring Activities; Update V of SW–846

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is providing notice of the availability of ''Update V'' to the Third Edition of EPA publication SW–846, ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.'' Update V contains 23 new and revised analytical methods that the Agency has evaluated, and determined to be appropriate and which may be used for monitoring or complying with the Resource Conservation and Recovery Act (RCRA) hazardous and non-hazardous waste regulations. Because the analytical methods contained in Update V are not required by the RCRA hazardous waste regulations, EPA is issuing this update as guidance. In addition, the Agency is also taking comment on revisions to Chapters One through Five of EPA publication SW–846, an ORCR Policy Statement, and other guidance. The Agency is seeking public comment on Update V, and after consideration of the public comments, will place these new and revised methods, guidance, and chapters in the SW–846 methods compendium.

DATES: Comments must be received on or before January 21, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2012–0072, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: RCRA-docket@epa.gov,* Attention Docket ID No. EPA–HQ–RCRA–2012–0072.
- *Fax:* Fax comments to: 202–566–9744, Attention Docket ID No. EPA–HQ–RCRA–2012–0072.
- *Mail:* Send comments to: OSWER Docket, EPA Docket Center, Mail Code 28221T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2012–0072. Please include two copies of your comments.
- *Hand Delivery:* Deliver two copies of your comments to: Environmental Protection Agency, EPA Docket Center,

Room 3334, 1301 Constitution Avenue NW., Washington DC, Attention Docket ID No. EPA–HQ–RCRA–2012–0072. 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 EPA–HQ–RCRA–2012–0072. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *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 OSWER Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OSWER Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Kim Kirkland, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, Office of Solid Waste and Emergency Response (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–8855; fax number: 703–308–0522; email address: *kirkland.kim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This notice is directed to the public in general. It may, however, be of particular interest to you if you conduct waste sampling and analysis for RCRA-related activities. This might include any entity that generates, treats, stores, or disposes of hazardous or nonhazardous solid waste and is subject to RCRA subtitle C or D sampling and analysis requirements, and might also include any laboratory that conducts waste sampling and analyses for such entities.

B. 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 on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2.

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

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. How can I get copies of Update V and the Third Edition of SW–846 as amended by its Final Updates?

Update V is available in the RCRA docket and the final version will be available on-line after all comments have been addressed. The Third Edition of SW–846, as amended by Final Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, and IVB, is available in portable document format (PDF) on EPA's Office of Resource Conservation and Recovery (ORCR) Web page at: *http://www.epa.gov/SW-846.*

D. How is the rest of this notice organized?

The rest of this Notice includes the following sections:

II. What is the subject and purpose of this notice?

III. Why is the Agency releasing Update V to SW–846?

IV. What does Update V contain?

A. OSWER/ORCR Policy Statement

B. Changes to QA/QC Guidance

V. Summary

II. What is the subject and purpose of this notice?

The Agency is announcing the availability of and inviting public comment on Update V to ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'', EPA Publication SW–846. Update V of SW–846 contains analytical methods that the Agency has evaluated, and/or revised and determined to be appropriate and may be used for monitoring or complying with the RCRA hazardous waste regulations. Because the analytical methods contained in Update V are not required by the RCRA hazardous waste regulations, EPA is issuing this update as guidance. This guidance does not add or change the RCRA regulations, and does not have any impact on existing rulemakings associated with the RCRA

program. To date, the Agency has finalized Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, and IVB to the SW–846 manual, which can be found on the EPA's ORCR Web page at: *http://www.epa.gov/SW-846.*

III. Why is the Agency releasing Update V to SW–846?

The Agency revises the content of SW–846 over time as new information and data become available. We continually review advances in analytical instrumentation and techniques and periodically incorporate such advances into SW–846 as method updates by adding new methods to the manual, and replacing existing methods with revised versions of the same method. These updates improve analytical method performance and cost effectiveness. Since the publication of the Methods Innovation Rule (MIR) (70 FR 34537, June 14, 2005), the Agency no longer needs to use a rulemaking process for publication of an update to SW–846, as long as the update does not contain a method required by the RCRA regulations (e.g., Method-Defined Parameter (MDP), such as the Toxicity Characteristic Leaching Procedure (TCLP) (Method 1311)), see 40 CFR 260.11. The Agency instead can make an
SW–846 update available to the public more efficiently through a **Federal Register** notice announcing its availability and inviting public comment on the update.

In addition, the MIR allows flexibility in method selection and use for meeting the analytical needs of the RCRA program, with the exception of those methods specifically required by the RCRA regulations. This approach is consistent with the Agency's commitment to fully implement a performance-based measurement system (PBMS), whereby the analytical focus is on measurement objectives and performance rather than specific measurement technologies. Furthermore, the Agency's PBMS approach has evolved resulting in the Agency adopting the new ''Flexible Approaches to Environmental Measurement—The Evolution of the Performance Approach'' as developed by the Forum on Environmental Measurements (FEM) at the direction of EPA's Science Policy Council (i.e., now the Science and Technology Policy Council (STPC)). One of the main goals of the Performance Approach is to increase flexibility in choosing sampling and analytical approaches to meet regulatory requirements for measurements. For more information on the Performance Approach, see: *http://www.epa.gov/fem/approach.htm.*

In using the SW–846 methods, the regulated entity need only demonstrate that an analytical method generates data that meet the project-specific data quality objectives (DQOs) and performance acceptance criteria. The Agency finds this flexible approach to be particularly useful, and sufficient in most cases, during the characterization of the complex matrices of RCRA-related wastes. Thus, a method user can modify an SW–846 method (provided it is not one specifically required by regulation, e.g., 40 CFR 260.11), in order to best meet a waste matrix-specific analytical need, as long as the modifications meet the project-specific DQOs and performance acceptance criteria. The public should note that in some cases the method established certain requirements (e.g., conducting a calibration curve, using specific reagents, analyzing a Quality Control (QC) check sample to demonstrate precision and accuracy). While these standard principles are not regulatory requirements, they are necessary to yield data of acceptable quality as intended and are called for by sound science. (The public can obtain more information about the MIR and PBMS at the Agency's Web site dedicated to SW–846 and the testing of RCRA-regulated wastes: *http://www.epa.gov/SW-846.*)

The subject of today's notice, Update V to SW–846, contains 23 new and revised analytical methods and revises Chapters One through Five of SW–846. After the comment period, and based on the Agency's evaluation of the comments received, the new and revised methods and revised chapters will be formally included in the SW–846 methods compendium. Most of the Update V methods previously resided under the heading ''New Methods'' at EPA's SW–846 Web site as either revised versions of existing SW–846 methods or as new methods that the Agency planned to add to SW–846. Although these methods were not yet part of an official update to any edition of the SW–846 manual at the time of their posting on the Web site, the Agency wanted to make these Agency-evaluated methods available for use and comment as soon as possible. The Agency believed that public access to these new and revised methods, for guidance purposes, would assure that reliable and innovative methods are provided to the regulated community in a timely and cost-effective manner. Therefore, these methods could be used for any RCRA applications, other than one specifically required by regulation, for which their performance could be demonstrated to be appropriate and meet project-specific DQOs, and thus be consistent with implementation and promotion of a flexible and performance-based approach to RCRA-related analyses.

The Agency is also responding to concerns expressed by the Environmental Laboratory Advisory Board (ELAB), a Federal Advisory Committee Act (FACA) committee that advises the Agency on measurement, monitoring, and laboratory science issues, who contacted EPA's FEM with several issues regarding the use of SW–846. The ELAB specifically contacted EPA regarding which version of a revised method is recommended. Historically, as noted above, the Agency has posted new and revised methods on the SW–846 Web site under the ''New Test Methods Online'' (at: *http://www.epa.gov/epawaste/hazard/testmethods/sw846/new_meth.htm*), for use by the laboratory community, the States, and the regulated community pending publication of these methods in the **Federal Register**. The Agency was subsequently contacted by the ELAB, who identified several concerns regarding the process for updating and posting updates on the ''New Test Methods Online'' link on the SW–846 Web site.

ELAB requested that EPA clarify those issues that caused some confusion with some entities of the user community. Specifically, confusion existed when a method had multiple versions available on the web. For example, Method 8000C, on the ''New Test Methods Online'' link has quality control (QC) guidelines that differ from Method 8000B (the official version) in the SW–846 compendium. The public was confused by the difference in QC guidelines in the two available versions of the method. The Agency subsequently decided that the revisions to Method 8000C were more significant than those previously posted, and has decided to replace Method 8000C with Method 8000D, and is issuing Method 8000D as part of Update V.

In response to ELAB's concerns, ORCR prepared a Policy Statement that identifies the status of methods (e.g., validated methods, final methods, etc.), and provides the rationale for identifying when changes to methods are significant, through a letter designation and by noting the date the method was revised by ORCR. For more information on the ORCR Policy Statement, see section IV of this Notice.

Finally, the Agency is requesting public comment on the Update V methods and the other relevant updated materials presented in this Notice for

inclusion in the SW–846 manual (i.e., Table of Contents and Chapters One through Five). See the **ADDRESSES** section of this notice for the procedure for submitting comments. The Agency will consider public comments submitted on or before the comment period deadline and subsequently finalize Update V as an official part of SW–846. In addition, the EPA SW–846 Web site contains an updated version of the ''Method Status Table for SW–846,'' which identifies the update history for each document in SW–846.

The Agency strongly recommends the use of the latest version of an SW–846 method, especially for new analyte monitoring situations. The Agency, however, is not imposing restrictions on the use of earlier versions of non-required SW–846 methods or precluding the use of previous guidance, if such use is appropriate. For example, earlier versions of an SW–846 method may be more appropriate for regulatory purposes (e.g., for compliance with an existing permit or consent decree), or when new method versions may be more costly than necessary for meeting project-specific objectives. In the future, the Agency plans to make electronic copies of earlier versions of SW–846 methods available through a separate hyperlink from the SW–846 Web site.

The Agency hopes that the posting of this information on the Web site for immediate public access will mitigate any remaining confusion regarding the use of SW–846 methods. In addition, the public can also access the Methods Information Communication Exchange (MICE) for answers to their questions or concerns regarding SW–846 methods. MICE can be accessed by phone at (703) 818–3238, by fax at (703) 818–8813, or by email at *mice@techlawinc.com.*

IV. What does Update V contain?

Update V contains 23 new and revised analytical methods, revised versions of Chapters One through Five of EPA publication SW–846, the ORCR Policy Statement, and other guidance (e.g., quality assurance/quality control (QA/QC) guidance on lower limit of quantitation (LLOQ), relative standard error (RSE), initial demonstration of proficiency (IDP), etc.), each dated October 2012 and identified as ''Update V'' in the document footer. For the convenience of the reader, EPA has identified key areas of interest in the sections below, but all the methods and other information for which the Agency is seeking comments are contained in the docket for this Notice. Table 1 (included at the end of this Notice) provides a listing of the five revised chapters and twenty-three methods (eight new and fifteen revised methods) in Update V. After consideration of comments received from publication of this Notice, Update V, including the revised versions of Chapters One through Five, will be incorporated into the SW–846 methods compendium.

A. OSWER/ORCR Policy Statement

In 2008, ELAB requested that ORCR describe their plan for releasing Updates to SW–846, as well as clarify the status of deleted, obsolete, previous versions or revised methods, and a statement regarding the status of previous versions of methods. In addition, ELAB raised the following additional concerns and suggestions:

- Clarification is needed regarding which method is the final version in SW–846.
- Many states are not adopting the final version of new methods.
- States may not have the resources to certify multiple versions of final methods.
- Some of the regulated community doesn't know how the method revision varied.

EPA has engaged in several face-to-face meetings with the ELAB at national conferences to address their requests and resolve their concerns and suggestions. As a result of those meetings, ORCR developed a policy statement intended to clarify the basic terminology used in SW–846 regarding the status of methods and how the SW–846 Methods program develops and releases methods to the public. That policy statement, entitled ''USEPA Office of Resource Conservation and Recovery Policy on the Use of *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW–846)'' provides background on SW–846, general guidance on the procedures for adopting methods into SW–846, and defines key terms used to identify the status of methods in SW–846. Below is the ORCR Policy Statement, a copy of which has also been placed in the docket associated with this **Federal Register** Notice:

USEPA Office of Solid Waste and Emergency Response/Office of Resource Conservation and Recovery Policy on the Use of ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'' (SW–846)

The United States Environmental Protection Agency's (EPA) Office of Resource Conservation and Recovery (ORCR) provides analytical and sampling methods to assist the regulated and regulatory community and others in implementing the Resource Conservation and Recovery Act (RCRA). These methods are published in the *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW–846) and are available on the ORCR Web site (*www.epa.gov./epawaste/hazard/testmethods/index.htm*). With the exception of those particular methods which are promulgated in the regulations to implement RCRA (see 40 CFR 260.11), the remaining methods are considered guidance, and users may select any scientifically appropriate method when conducting analyses to comply with the RCRA regulatory program.

The Methods Innovation Rule (MIR) published on June 14, 2005 (70 FR 34538), reemphasized the flexible approach in method selection, when appropriate, when testing for compliance, under RCRA. Since the publication of this rule, ORCR no longer uses a formal rulemaking process for publication of method updates to SW–846. EPA informs the regulated and regulatory community of new methods and updates to SW–846 and solicits comments on them through a Notice of Availability published in the **Federal Register**. This approach is consistent with ORCR's commitment to fully implement the Agency's performance-based measurement system (PBMS) approach to regulation.

A *new* effort was developed and approved to reinvigorate the goals of PBMS with the versatility of each of our program's needs. It is called the Flexible Approaches to Environmental Measurements—The Evolution of the Performance Approach which the Science and Technology Policy Council (STPC) approved on February 15, 2008. In 2009, ORCR subsequently adopted the new ''Performance Approach'' as defined by the Forum on Environmental Measurements (FEM). The FEM is a standing committee of senior EPA Environmental Protection managers established to develop policies to guide the Agency's measurement community in: validating and disseminating methods for sample collection and analysis; for ensuring that monitoring studies are scientifically rigorous, statistically sound, and yield representative measurements; and for employing a quality systems approach that ensures that the data gathered and used by the Agency are of known and documented quality.

After shortening the name of the PBMS effort to the ''Performance Approach,'' the FEM's Performance Approach Action Team took a look at the issues surrounding the lack of the program's progress with the ultimate conclusion that the ''one size fits all''

approach does not work for the diversely different programs and authorities each of our major program offices (i.e., air, pesticides, waste, and water) has in carrying out their work. To avoid the proliferation of terminology, ORCR has adopted the ''Flexible Approach'' which is consistent with ORCR's approach to environmental management, based on the goals and statutes of EPA program offices.

Under the PBMS approach for RCRA, when labs conducted regulatory required monitoring, the regulated community had to either employ a scientifically appropriate method published in SW–846 or use any other scientifically appropriate method from another reliable source. This is still true under the Flexible Approach. However, when choosing a reliable alternative source, the focus should be on measurement objectives, rather than on measurement technologies. In all cases, the user must demonstrate the method selected generates data that are appropriate for the intended use. Although both approaches are applicable for RCRA, ORCR had dropped the term PBMS, and strongly supports the use of the new Flexible Approach to be consistent with the Agency's new guidance that allows each program to determine program specific flexibility when addressing waste analysis issues.

ORCR strongly recommends that persons use the latest version of a SW–846 method whenever possible, especially in new monitoring situations, since updated versions of the methods EPA publishes generally are in the Agency's view less subject to misinterpretation, yield improved precision and/or bias, or provide for the use of newer and, often, more cost-effective technologies. In situations where it may not be appropriate to use the latest method in SW–846, earlier versions may be used. These situations may include, but are not limited to, those where an earlier version of a method is required for existing permits, consent decrees, waste analysis plans or sampling analysis plans. In addition, laboratories, especially small laboratories, may find a previous version of a SW–846 method appropriate if it is more cost-effective in meeting the project-specific objectives. The Agency is not imposing restrictions on the use of earlier versions of non-required methods contained in SW–846 or precluding the use of previous guidance. Nonetheless, the adoption of the latest method version is recommended and should be accomplished as soon as possible, as appropriate. When methods are employed, it is the responsibility of the user to ensure that the method yields data of a quality appropriate for the particular application for which it is being used.

EPA views the methods in the SW–846 compendium as tools for the user to employ in developing individual standard operating procedures to meet the goals and objectives of specific projects. This approach enables the user to optimize and modify methods for effective performance on unique projects. The SW–846 methods are for most applications considered as guidance with the exception of those methods required by the RCRA regulations (i.e., Method-Defined Parameters (MDPs), see 40 CFR 260.11).

In situations where the user is not certain whether the selected method or method modification is appropriate, EPA recommends regulated entities contact and seek approval as needed from the appropriate regulatory agency (e.g., Federal or State/local government) before applying any method on a specific project, including situations where the method is used verbatim.

EPA may publish new methods, revise existing methods, or withdraw methods from the SW–846 compendium whenever it deems it appropriate. For example, methods may be updated in order to reflect new advancements in technology, to reflect the addition of new performance data, or to clarify areas of the procedure that experience indicates may be misunderstood. Methods may also be revised to reflect new EPA policy regarding the use of certain chemicals and reagents. In other cases, methods are removed if the technology is no longer available or applicable. ORCR has developed specific procedures for releasing updates, revisions, or withdrawing methods, which are designed to minimize disruption to regulatory processes. Specific definitions for the terms associated with a method's status, which support the change procedures, have been developed and provided below.

The Agency will only post the most recent version of a final SW–846 method on the ORCR Web page as part of the SW–846 methods compendium (*www.epa.gov./epawaste/hazard/testmethods/index.htm*). Prior versions of methods formerly contained in SW–846 and still considered appropriate for use will be available through a separate hyperlink in the future. EPA's objective is to identify and make available on the Agency's SW–846 Web site the latest information regarding the methodologies that generate effective data at minimum costs in response to new technological or scientific advancements, while, at the same time, making available earlier versions for those situations where such methods may be needed or appropriate (e.g., to determine how a particular analysis had been performed, to determine how to comply with a specific permit requirement, etc.).

SW–846 Methods Status Definitions

Analytical methods are officially made a part of the SW–846 manual through a rigorous process of technical evaluation both within the Agency and through external review. Methods are also revised as needed after a formal evaluation process by analytical experts (e.g., SW–846 work and focus groups) and an announcement of method availability and request for public comment in the **Federal Register** as a Notice of Availability. During the method development/evaluation process, the methods go through various stages of review and revision. The methods are officially included as part of an update to the most current edition of SW–846 at the conclusion of this process.

ORCR employs a specific naming convention (i.e., method number and letter suffix) when publishing methods. The naming convention is intended to minimize confusion within the user community regarding a method's developmental status. The method number designates the underlying technology (e.g., 8000 series methods designate determinative procedures for organic compounds). A revision to a method where the underlying technology does not change is indicated by continued use of the same method number and letter, but with a new issuance date. If the revision retains the underlying technology, but does not affect the precision and/or accuracy of the data, the revision is considered to be minor or nonsignificant and the method number and letter is not changed or sequenced.

If, on the other hand, the revision retains the underlying technology, but changes the precision and/or accuracy of the data, the change is considered to be significant and is indicated by a subsequent letter suffix (e.g., changes from 8270C to 8270D) and a new issuance date. For example, if the quality control recommendations are changed in a manner that improves the bias or precision of the method, but does not change the underlying technology (e.g., a tightening of the calibration acceptance criteria), the method number stays the same, but the letter suffix is sequenced to the next letter. The differences between the

earlier and later versions of a method are detailed in the method summary section of the revised version regardless of the type of change.

Examples of changes that may be considered minor or nonsignificant include, but are not limited to: Language added to a method to provide increased clarity or guidance; expansion of lists of acceptable instrumentation, applicability of the method to a matrix not previously referenced, adding new compounds to the list of applicable compounds, or changes to instrument specifications which do not result in an existing acceptable instrument being rendered unacceptable; or formatting and editorial changes that are designed to improve readability or correct spelling or grammatical errors.

ORCR has defined a ''significant change'' as a change that results in improved analytical results (e.g., changes that result in reducing analytical bias or improving data precision). Examples of significant changes may include, but are not limited to: a change in the operating parameter which reduces analytical flexibility; a change in instrumentation specification which minimizes interference and/or optimizes instrument performance (if the use of such interference reduction technique or performance enhancement is required); a change in calibration guidance which results in more restrictive recommendations; a change that institutes tighter QC recommendations; or a change in the reagents that are required by the method.

ORCR understands revisions are sometimes necessary to either enhance the performance of the method or to allow flexibilities due to the complexity of sample matrices. In situations where the user is not certain whether the selected method, method modification or modification to their plan is appropriate, EPA recommends the regulated community seek approval from the appropriate regulatory agency (e.g., Federal or State/local government, client) before their use of a revised method; amend their plan (e.g., Project Plan, Quality Assurance Project Plan (QAPP), Sampling and Analysis Plan (SAP), Standard Operating Procedure (SOP)); and properly document the change when reporting analytical results.

The following method status definitions reflect the current method development process and have been developed to add clarity for the method users. ORCR uses these definitions and the terms may vary for other program offices.

Final Method—A method that has been formally adopted into the most recent version of the SW–846 compendium. Before a method becomes final, the validated version would have been made available for public review and comment in a Notice of Availability (NOA) or a proposed rulemaking, as appropriate.

Validated Method—A method that has undergone development and technical review by EPA, but has not been formally adopted into the SW–846 method compendium and published through a **Federal Register** Notice. Since this review includes technical work group approval and/or inter-laboratory validation, validated methods are included on the Agency Web site for evaluation and use by the public and as a means of soliciting comment from the broader scientific community. The public may use a validated method prior to its inclusion in the SW–846 compendium, provided that the users demonstrate that it generates data that are appropriate for the intended use.

Revised Method—A method included in SW–846 that has been updated to reflect changes that may be editorial in nature and do not impact data or performance comparability, that broaden the method to introduce new technologies that may increase productivity, but do not change the fundamental technology, or that change the quality control requirements to increase bias or precision.

The number of a method that has been revised does not change, but the method may receive a subsequent letter suffix. If the revision is a significant one (as defined above) then both the letter suffix and the issuance date are updated. If, on the other hand, the revision is editorial in nature, or consists of the addition of new performance data, then only the issuance date is changed. Previous versions are not precluded from being used provided that the users demonstrate that it generates data that are appropriate for the intended use.

Draft Method—A new method that is being evaluated for possible inclusion into SW–846. It represents the latest innovative technological advancements in scientific methodology, but has not completed technical review by EPA nor been subject to notice and comment in the **Federal Register**.

Superseded Method—A superseded method is an earlier version of an SW–846 method or other guidance that is no longer included in the SW–846 compendium and has been replaced by a newer version. Revised versions of *Superseded* methods should be viewed as the preferred method. Methods in this category are removed from the compendium, but remain available on line and are not precluded for use where required for existing projects or where an adequate justification for use exists. The term ''*Superseded''* is documented in the method title as listed on the EPA Web site for prior versions of final methods followed by the date it was superseded.

Withdrawn Method—A method or other guidance that EPA strongly recommends not be used, (e.g., cyanide and sulfide reactivity guidance withdrawn, June 14, 2005). EPA has determined that such procedures or methods, for the use or technical objectives for which they were originally published, are technically inadequate and/or no longer meet such use or technical objectives. This does not mean, however, that there would be no situations under which the procedures or methods may be appropriate. In any situation in which a person may believe that the withdrawn method is appropriate, we strongly encourage consultation with applicable regulatory agencies at the state or federal level. The prospective user of the method will need to demonstrate the old method is, indeed, appropriate. Any use of these methods, without any such consultation and demonstration, will be done at the user's risk.

The Agency understands that earlier versions of the SW–846 methods that aren't required may still be in use to meet project specific criteria (e.g., permits, sampling plans, Consent Decrees, etc.). Permits and other plans formally approved by regulatory authorities that specify the use of particular methods for required analysis continue in effect unless they are changed. However, the Agency encourages the regulated community to use the *latest version* of SW–846, when applicable. EPA will continue to update the Methods Status Table to inform the public as to the status of methods in SW–846 and the Policy Statement will be added to the SW–846 methods compendium when the Update V package is finalized.

[end of policy statement]

B. Changes to Chapters One Through Five and QA/QC Guidance (Chapter One and Individual Methods) in SW–846

In general, EPA's revisions to Chapters One through Five to EPA publication SW–846 reflects the new method style guide format and added all the Update V methods and new letters/version to the appropriate related method sections. Specifically:

• Chapter One of SW–846 was revised to make it more user friendly and to be more consistent with the Agency's official guidance on QA/QC implementation and procedures (e.g., Quality Assurance Project Plans (QAPPS), Data Quality Objectives (DQOs), and the Flexible Approach to Environmental Measurement).

• Chapter Two now includes a Table of Contents to make finding the information easier. In addition, a typographical error was found for bis(2-chloroisopropyl) ether and was corrected to bis(2-chloro-1-methylethyl) ether in Tables 2–1, 2–4, 2–15, 2–22, and 2–34. Furthermore, Table 2–40(A) was revised to reflect the current sample preservation guidance for styrene and vinyl chloride in aqueous samples (i.e., deletion of previously recommended practice of collecting a second set of samples without acid preservatives and analyze immediately, if styrene and vinyl chloride are analytes of interest) and Table 2–40(B) was revised to include Mercury Speciation hold times in addition to totals.

• Chapter Three was revised so that the definition for instrument detection limit (IDL) is consistent with the revised methods 6010D and 6020B. In addition, the term ''accuracy'' was replaced by ''bias'' where appropriate; the definition for linear range was revised to be consistent with methods 6010D and 6020B; the definition of interference check sample (ICS) was replaced with the spectral interference check (SIC) solution to be consistent with methods 6010D and 6020B; and the definition of ''laboratory control sample'' was revised to recommend the use of a spiking solution from the same source as the calibration standards. Also, the collision/reaction cell technology was added to Sections 3.6 and 3.7 as an effective method for removing isobaric interferences when analyzing by ICP–MS and a minimum collection mass of 100 g was added to Table 3–2 for solid samples collected for sulfide analysis.

• Chapter Four (see Table 4–1) was reformatted and updated by removing the recommendation to collect a second set of samples without adding an acid preservative and analyze in a shorter time frame if vinyl chloride and styrene are analytes of concern for aqueous samples.

• Chapter 5 had no significant changes outside of general ones specified above (e.g., updated format changes and method reference to chapters).

In addition, EPA is incorporating three new and revised QC features in Chapter One and the Update V methods, where appropriate, for RCRA compliance monitoring which warrant further discussion here. A summary of changes to chapters in SW–846 are provided in Appendix A of each chapter.

The new and revised features that have been added to Chapter One *(Quality Control)* and individual methods (where appropriate) are:

• *Lower Limit of Quantitation (LLOQ)*—References to the Method Detection Limit (MDL) have been replaced with the LLOQ. It is recommended to establish the LLOQ as the lowest point of quantitation, which, in most cases, is the concentration of the lowest calibration standard in the calibration curve that has been adjusted for the preparation mass and/or volume. The LLOQ value is a function of both the analytical method and the sample being evaluated.

Why is MDL removed and replaced by LLOQ for SW–846?

ORCR has removed references to the MDL procedure (i.e., 40 CFR 136, Appendix B) beginning with Update IV and from the revised and new Update V methods and has recommended establishing the LLOQ. We continue to refine the procedure for establishing the LLOQ. The refined procedure considers sample matrix effects; provides a provision to verify the reasonableness of the reported quantitation limit (QL); and recommends a frequency of LLOQ verification (found in Chapter One and each method) to be balanced between rigor and practicality. (Note: The agency understands that previous versions of methods published in SW–846 may contain the MDL reference. However, as methods are updated, EPA will remove the reference to the MDL, and will remove the reference in older methods that have not yet been updated, as time and resources allow. Therefore, ORCR recommends that LLOQ be used, as appropriate, for the methods that have not yet been updated. See the Section 9.8 in Method 6020B for inorganic analytes and Section 9.7 in Method 8000 for organic analytes on LLOQ for further information on implementation.)

ORCR understands that other EPA programs may continue to use MDLs to meet their program use and needs (e.g., the National Pollutant Discharge Elimination System (NPDES) permit program). However, ORCR has found that the procedure in 40 CFR 136, Appendix B, for the determination of MDLs, developed for the Clean Water Act (CWA) program uses a clean matrix (e.g., reagent water for preparing ''spiked'' samples, or samples with known constituent concentrations). Analytical laboratories often have difficulty demonstrating they can meet the MDL established using Part 136 when evaluating complex matrices, such as wastes. The procedure outlined in Part 136 is generally not suitable for RCRA wastes or materials because the MDL approach generally yields unrealistic and/or unachievable method detection limits for the complex matrices (e.g., soils, sludges, wipes, and spent materials) encountered under the RCRA program. The MDLs are normally calculated from analysis of a sample that does not cause matrix interferences (typically determined using spiked reagent water). However, most wastes evaluated for compliance with RCRA consist of complex matrices. The LLOQ considers the effect of sample matrix (e.g., components of a sample other than the analyte) by taking the sample through the entire analytical process, including sample preparation, clean up (to remove sample interferences), and determinative procedures. Also, if method users choose, the LLOQ sample can be included at the end of the run to see if it meets the established acceptance criteria. Lastly, results above the LLOQ are quantifiable within an acceptable precision and bias. Thus, the LLOQ approach better suits the needs of the RCRA program, because it provides reliable and defensible results, especially at the lower level of quantitation, and can be reported with a known level of confidence for the complex matrices being evaluated.

SW–846 methods are being used by various programs in implementing various statutes, including RCRA, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Toxic Substances Control Act (TSCA), and Homeland Security Presidential Directives, for waste and materials characterization, compliance testing, site/incident characterization and risk assessment for protection of human health and the environment, and better management and use of wastes and materials, for a wide range of difficult matrices. ORCR believes that the LLOQ approach is an important improvement, and supports the essential need to provide data that are verified to meet the precision and accuracy requirements of the Agency's program needs.

Establishing LLOQ for Inorganic analytes: When performing methods for *inorganic* analyses, the LLOQ should be verified by the analysis of at least seven replicate samples (prepared in a clean matrix or control material) and spiked at the LLOQ and processed through all preparation and analysis steps of the method. The mean recovery and relative standard deviation (RSD) of these

samples provide an initial statement of precision and bias at the LLOQ. In most cases, the mean recovery should be ±35% of the true value and the RSD should be ≤20%. Ongoing LLOQ verification, at a minimum, is on a quarterly basis to validate quantitation capability at low analyte concentration levels. This verification may be accomplished either with clean control material (e.g., reagent water, method blanks, Ottawa sand, diatomaceous earth, etc.) or a representative sample matrix free of target compounds. Optimally, the LLOQ should be less than the desired regulatory action levels based on the stated project-specific requirements. For more information, please see the individual methods (e.g., Methods 6010 and 6020) and Chapter One of SW–846.

Establishing LLOQ for organic analytes: When performing methods for *organic* analyses, the LLOQ should be verified using either a clean control material (e.g., reagent water, method blanks, Ottawa sand, diatomaceous earth, etc.) or a representative sample matrix free of target compounds. Optimally, the LLOQ should be less than the desired regulatory action levels based on the stated project-specific requirements.

For *organic* analyses, the acceptable recovery ranges of target analytes will vary more than for other types of analyses, such as inorganics. The recovery of target analytes in the LLOQ check sample should be within established limits, or other such project-required acceptance limits, for precision and bias to verify the data reporting limits. Until the laboratory has sufficient data to determine acceptance limits statistically, a limit of 20% +/− the Laboratory Control Sample (LCS) criteria may be used for the LLOQ acceptance criteria. This approach acknowledges the poorer overall response at the low end of the calibration curve. Historically based LLOQ acceptance criteria should be determined as soon as practical once sufficient data points have been acquired.

In-house limits for bias (e.g., % Recovery) and precision (e.g., Relative Percent Difference, %RPD) of the LLOQ for a particular sample matrix may be calculated when sufficient data points exist. The laboratory should have a documented procedure for establishing its in-house acceptance ranges. Sometimes the laboratory instrument and/or analyst performance vary or test samples cause problems with the detector (e.g., samples may have interferences; may clog the instruments cells, wall or tube; may cause contamination; etc.). Therefore, the limits of acceptance (for precision and bias) are established by a lab with sufficient data to demonstrate that they can report down to the LLOQ with a certain level of confidence. The acceptance limits (for precision and bias) for LLOQ may be established by the laboratory or at the project level through the data quality objectives in a quality assurance project plan. The frequency of the LLOQ check is not specified for organic analytes.

Note: The LLOQ check sample should be spiked with the analytes of interest at the predicted LLOQ concentration levels and carried through the same preparation and analysis procedures as environmental samples and other QC samples. For more information, please see individual methods (e.g., Method 8000) and Chapter One of SW–846.

How is LLOQ used?

The RCRA program deals with complex wastes and materials that are managed or used in many different ways (e.g., landfilling, land application, incineration, recycling). The thresholds (e.g., action or remediation levels) for data users (e.g., engineers or risk assessors) to make their decisions, therefore, vary. Method users will need to properly plan their analytical strategy to ensure the LLOQs for targeted analytes are lower than the thresholds needed to generate data used to determine how waste or materials can be properly managed or used.

• *Initial Demonstration of Performance (IDP)*—The laboratory must make an initial demonstration of ability to generate results with acceptable accuracy and precision for each preparation and determinative method they perform. This demonstration should be performed prior to independently analyzing real sample matrices by each analytical method and should be repeated if other changes occur (e.g., significant change in procedure, new staff are trained, etc.). Documentation of the IDP should be maintained by the Quality Assurance Manager. Each laboratory should have a training program documenting that a new analyst is capable of performing the method or portion of the method for which the analyst is responsible. This demonstration should document that the new analyst is capable of successfully following the standard operating procedure (SOP) based on the laboratory's IDP policy.

For Update V, changes to the IDP have been specified in the individual Update V methods where appropriate (e.g., screening method where there is not a quantitative reporting limit such as a bioassay method). The IDP changes allow laboratories to use their time and resources effectively, especially for the organic analyses.

Key Changes in the IDP for the Determination of Organic Analytes:

The IDP section was expanded to describe two situations:

When a significant change to instrumentation or procedure occurs: Reliable performance of the methods is dependent on careful adherence to the instructions in the written method, and aspects of the method are mandatory to ensure that the method performs as intended. Therefore, if a major change to the sample preparation procedure is made (e.g., a change of solvent), the IDP must be repeated for that preparation procedure to demonstrate the laboratory technician's continued ability to reliably perform the method. EPA considers conducting IDPs as part of good laboratory practice procedures and has already included these procedures in EPA's laboratories practices.

Alterations in instrumental procedures only (e.g., changing Gas Chromatograph (GC) temperature programs or High Performance Liquid Chromatography (HPLC) mobile phases or the detector interface), require a new calibration, but not a new IDP because the preparation procedure is unchanged.

When new staff members are trained: A new analyst needs to be capable of performing the method, or portion of the method, for which the analyst is responsible. For example, when analysts are trained for a subset of analytes for an 8000 series method, the new sample preparation analyst should prepare reference samples for a representative set of analytes (e.g., the primary analyte mix for Method 8270, or a mix of Aroclor 1016 and 1260 for Method 8082) for each preparation method the analyst will be performing. The instrument analyst being trained will need to analyze prepared samples (e.g., semi-volatile extracts).

• *Relative Standard Error (RSE)*—ORCR evaluated and included, as the analytical community recommended, RSE as an option (in addition to calculation of the % error) in SW–846 for the determination of the acceptability for a linear or non-linear calibration curve. RSE refits the calibration data back to the calibration model and evaluates the difference between the measured and the true amounts or concentrations used to create the model.

Calculation of Relative Standard Error (RSE-expressed as %)

$$RSE = 100 \times \sqrt{\sum_{i=1}^{n}\left[\frac{x_i' - x_i}{x_i}\right]^2 / (n-p)}$$

Where:

x_i = True amount of analyte in calibration level *i,* in mass or concentration units.

x'_i = Measured amount of analyte in calibration level *i,* in mass or concentration units.

p = Number of terms in the fitting equation (average = 1, linear = 2, quadratic = 3, cubic = 4).

n = Number of calibration points.

The RSE acceptance limit criterion for the calibration model is the same as the RSD limit in the determinative method. If the RSD limit is not defined in the determinative method, the RSE limit should be set at ≤20% for good performing compounds and ≤30% for poor performing compounds.

V. Summary

EPA believes that these changes in Update V will assist the method users to demonstrate method competency and generate better quality data. For the convenience of the analytical community, the Agency will revise the OSWER Methods' Team homepage on EPA's Web site with updated information to better communicate new policy and analytical procedures, and will include Update V and selected documents at that Web site after Update V is finalized.

Please see the Web site: *http://www.epa.gov/epawaste/hazard/testmethods/index.htm* for more information. Table 1 provides a listing of the five chapters and twenty-three methods (eight new and fifteen revised methods) in Update V.

TABLE 1—UPDATE V (METHODS, CHAPTERS AND GUIDANCE)

Analytical method No.	Method or chapter title
	Table of Contents.
	Chapter One—Quality Control.
	Chapter Two—Choosing the Correct Procedure.
	Chapter Three—Inorganic Analytes.
	Chapter Four—Organic Analytes.
	Chapter Five—Miscellaneous Test Methods.
	Methods Status Table.
1030	Ignitability of Solids.
3200*	Mercury Species Fractionation and Quantification by Microwave-Assisted Extraction, Selective Solvent Extraction and/or Solid Phase Extraction.
3511*	Organic Compounds in Water by Microextraction.
3572*	Extraction of Wipe Samples for Chemical Agents.
3620C	Florisil Cleanup.
4025*	Screening for Polychlorinated Dibenzodioxins and Polychlorinated Dibenzofurans (PCDD/Fs) by Immunoassay.
4430*	Screening for Polychlorinated Dibenzo-p-Dioxins and Furans (PCDD/Fs) by Aryl Hydrocarbon Receptor PCR Assay.
4435*	Method for Toxic Equivalent (TEQS) Determination for Dioxin-Like Chemical Activity With the CALUX® Bioassay.
5021A	Volatile Organic Compounds in Various Sample Matrices Using Equilibrium Headspace Analysis.
6010D	Inductively Coupled Plasma-Atomic Emission Spectrometry.
6020B	Inductively Coupled Plasma-Mass Spectrometry.
6800	Elemental and Speciated Isotope Dilution Mass Spectrometry.
8000D	Determinative Chromatographic Separations.
8021B	Aromatic and Halogenated Volatiles by Gas Chromatography Using Photoionization and/or Electrolytic Conductivity Detectors.
8111	Haloethers by Gas Chromatography.
8270D	Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry.
8276*	Toxaphene and Toxaphene Congeners by Gas Chromatography/Negative Ion Chemical Ionization Mass Spectrometry (GC–NICI/MS).
8410	Gas Chromatography/Fourier Transform Infrared Spectrometry for Semivolatile Organics: Capillary Column.
8430	Analysis of Bis (2-Chloroethyl) Ether and Hydrolysis Products by Direct Aqueous Injection.
9013A	Cyanide Extraction Procedure for Solids and Oils.
9014	Titrimetric and Manual Spectrophotometric Determinative Methods for Cyanide.
9015*	Metal Cyanide Complexes by Anion Exchange Chromatography and UV Detection.
9320	Radium 228.

* New Methods.

Dated: September 27, 2013.

Barnes Johnson,

Acting Director, Office of Resource Conservation and Recovery.

[FR Doc. 2013–24852 Filed 10–22–13; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 10, 2013,

from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- September 12, 2012

B. New Business

- Farmer Mac Liquidity Management—Final Rule
- Flood Insurance—Proposed Rule

Dated: October 18, 2013.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2013–25061 Filed 10–21–13; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 23, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0800.

Title: FCC Application for Assignments of Authorization and Transfers of Control: Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau.

Form No.: FCC Form 603.

Type of Review: Revision to a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 2,447 respondents; 2,447 responses.

Estimated Time per Response: 0.5–1.75 hours.

Frequency of Response: Recordkeeping requirement; occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 4(i), 154(i), 303(r) and 309(j).

Total Annual Burden: 2,754 hours.

Total Annual Cost: $366,975.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Privacy Act Impact Assessment: Yes.

Needs and Uses: FCC Form 603 is a multi-purpose form used to apply for approval of assignment or transfer of control of licenses in the wireless services. The data collected on this form is used by the FCC to determine whether the public interest would be served by approval of the requested assignment or transfer. This form is also used to notify the Commission of consummated assignments and transfers of wireless and/or public safety licenses that have previously been consented to by the Commission or for which notification but not prior consent is required. This form is used by applicants/licensees in the Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Broadband Radio Services, Educational Radio Services, Fixed Microwave Services, Maritime Services (excluding ships), and Aviation Services (excluding aircraft).

The purpose of this form is to obtain information sufficient to identify the parties to the proposed assignment or transfer, establish the parties basic eligibility and qualifications, classify the filing, and determine the nature of the proposed service. Various technical schedules are required along with the main form applicable to Auctioned Services, Partitioning and Disaggregation, Undefined Geographical Area Partitioning, Notification of Consummation or Request for Extension of Time for Consummation.

The form 603 is being revised to add a National Security Certification that is applicable to applicants for licenses issued as a result of the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act). Section 6004 of the 2012 Spectrum Act, 47 U.S.C. 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the 2012 Spectrum Act.

On June 27, 2013, the Commission released a Report and Order (R&O), FCC

13–88, WT Docket No. 12–357, in which it established service rules and competitive bidding procedures for the 1915–1920 MHz and 1995–2000 MHz bands. See Service Rules for the Advanced Wireless Services H Block-Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands, *Report and Order,* FCC 13–88, 28 FCC Rcd 9483 (2013). The R&O also implemented Section 6004 by requiring that a party seeking to participate in any auction conducted pursuant to the 2012 Spectrum Act certify in its application, under penalty of perjury, the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant and thus statutorily prohibited from participating in such a Commission auction or being issued a license. In addition, the R&O determined that the National Security Certification required by Section 6004 extends to transfers, assignments, and other secondary market mechanisms involving licenses granted pursuant to the 2012 Spectrum Act. See H Block R&O, 28 FCC Rcd at 9555 ¶ 187. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 603 to include this additional certification. The revised collection will enable the Commission to determine whether an applicant's request for a license pursuant to the 2012 Spectrum Act is consistent with Section 6004.

Additionally, the form 603 is being revised to update the Alien Ownership certifications pursuant to the Second Report and Order, FCC 13–50, IB Docket 11–133, Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended.

The addition of the National Security Certification and the revision to the Alien Ownership certification result in no change in burden for the revised collection. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time for respondents to complete FCC Form 603 across the range of applicants or for Commission staff to review the applications.

OMB Control No.: 3060–1058.

Title: FCC Application or Notification for Spectrum Leasing Arrangement: Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau.

Form No.: FCC Form 608.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 991 respondents; 991 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 158, 161, 301, 303(r), 308, 309, 310, 332 and 503.

Total Annual Burden: 991 hours.

Annual Cost Burden: $1,282,075.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Privacy Act Impact Assessment: Not applicable.

Needs and Uses: FCC Form 608 is a multipurpose form. It is used to provide notification or request approval for any spectrum leasing arrangement ('Leases') entered into between an existing licensee ('Licensee') in certain wireless services and a spectrum lessee ('Lessee'). This form also is required to notify or request approval for any spectrum subleasing arrangement ('Sublease'). The data collected on the form is used by the FCC to determine whether the public interest would be served by the Lease or Sublease. The form is also used to provide notification for any Private Commons Arrangement entered into between a Licensee, Lessee, or Sublessee and a class of third-party users (as defined in Section 1.9080 of the Commission's Rules).

The form 608 is being revised to add a National Security Certification that is applicable to applicants for licenses issued as a result of the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act). Section 6004 of the 2012 Spectrum Act, 47 U.S.C. 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the 2012 Spectrum Act.

On June 27, 2013, the Commission released a Report and Order (R&O), FCC 13–88, WT Docket No. 12–357, in which it established service rules and competitive bidding procedures for the 1915–1920 MHz and 1995–2000 MHz bands. See Service Rules for the Advanced Wireless Services H Block-Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands, *Report and Order,* FCC 13–88, 28 FCC Rcd 9483 (2013). The R&O also implemented Section 6004 by requiring that a party seeking to participate in any auction conducted pursuant to the 2012 Spectrum Act certify in its application, under penalty of perjury, the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant and thus statutorily prohibited from participating in such a Commission auction or being issued a license. In addition, the R&O determined that the National Security Certification required by Section 6004 extends to transfers, assignments, and other secondary market mechanisms involving licenses granted pursuant to the 2012 Spectrum Act. See H Block R&O, 28 FCC Rcd at 9555 ¶ 187. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 608 to include this additional certification. The revised collection will enable the Commission to determine whether an applicant's request for a license pursuant to the 2012 Spectrum Act is consistent with Section 6004.

Additionally, the form 608 is being revised to update the Alien Ownership certifications pursuant to the Second Report and Order, FCC 13–50, IB Docket 11–133, Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended.

The addition of the National Security Certification and the revision to the Alien Ownership certification result in no change in burden for the revised collection. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time for respondents to complete FCC Form 608 across the range of applicants or for Commission staff to review the applications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–24758 Filed 10–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Monday, October, 28, 2013

October 17, 2013.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Monday, October 28, 2013, which is scheduled to commence at 11:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC. The Commission is waving the sunshine period prohibition contained in section 1.1203 of the Commission's rules, 47 CFR 1.1203, until 12 noon on Thursday, October 24, 2013. Thus, presentations with respect to the items listed below will be permitted until that time.

Item No.	Bureau	Subject
1	WIRELINE COMPETITION	TITLE: Rural Call Completion (WC Docket No. 13–39) SUMMARY: The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking to address problems associated with completion of long distance calls to rural areas.
2	WIRELESS TELECOMMUNICATIONS	TITLE: Promoting Interoperability in the 700 MHz Commercial Spectrum (WT Docket No. 12–69); Requests for Waiver and Extension of Lower 700 MHz Band Interim Construction Benchmark Deadlines (WT Docket No. 12–332) SUMMARY: The Commission will consider a Report and Order that implements an industry solution to provide interoperable service in the lower 700 MHz band.
3	PUBLIC SAFETY AND HOMELAND SECURITY.	TITLE: Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (PS Docket No. 12–94); Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band (PS Docket No. 06–229); Service Rules for the 698–746, 747–762 and 777–792 MHz Bands (WT Docket No. 06–150) SUMMARY: The Commission will consider a Second Report and Order adopting technical rules for the 700 MHz broadband spectrum licensed to the First Responder Network Authority.

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 Audrey Spivack or David Fiske, 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. 2013–24949 Filed 10–21–13; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

AGENCY: Federal Communications Commission (FCC, Commission, or the Agency).

ACTION: Notice; one altered Privacy Act system of records; one new routine use.

SUMMARY: Under subsection (e)(4) of the *Privacy Act of 1974,* as amended (''Privacy Act''), 5 U.S.C. 552a, the FCC proposes to change the name and alter one system of records, FCC/OMD–3, ''Federal Advisory Committee Act (FACA) Membership Files'' (formerly FCC/OMD–3, ''Federal Advisory Committee (FACA) Membership Files''). The FCC will alter the security classification; the system location(s); the categories of individuals; the categories of records; the authority for maintenance of the system; the purposes for which the information is maintained; three routine uses (and add routine use (7)); the storage, retrievability, safeguards, and retention and disposal procedures; the system manager and address; the notification, record access, and contesting record procedures; the record source categories; and make other edits and revisions as necessary to update the information and to comply with the requirements of the Privacy Act, as amended (5 U.S.C. 552a), and the regulations and requirements of the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA).

DATES: In accordance with subsections (e)(4) and (e)(11) of the Privacy Act, any interested person may submit written comments concerning the alteration of this system of records on or before November 22, 2013. The Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act to review the system of records, and Congress may submit comments on or before December 2, 2013. The proposed altered system of records will become effective on December 2, 2013 unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary. As

required by 5 U.S.C. 552a(r) of the Privacy Act, the FCC is submitting reports on this proposed altered system to OMB and to both Houses of Congress.

ADDRESSES: Address comments to Leslie F. Smith, Privacy Analyst, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov mail to: Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION: As required by the *Privacy Act of 1974,* as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed alteration of one system of records maintained by the FCC, the revision of three routine uses, and the addition of one new routine use (7). The FCC previously gave complete notice of this system of records (formerly FCC/OMD–3, ''Federal Advisory Committee Membership Files (FACA)'') covered under this Notice by publication in the **Federal Register** on April 5, 2006 (71 FR 17234, 17249). This notice is a summary of the more detailed information about the proposed altered system of records, which may be obtained or viewed under the contact and location information given above in the **ADDRESSES** section. The purposes for altering FCC/OMD–3, ''Federal Advisory Committee Act Membership Files (FACA),'' are to change the title of the system of records to be consistent with the title of the Act creating these advisory committees (*i.e.,* FCC/OMD–3, ''Federal Advisory Committee Act (FACA) Membership Files''); to revise the security classification; to revise the system location(s); to revise the categories of individuals; to revise the categories of records; to revise the purposes for which the information is maintained; to revise Routine Uses (2), (5), and (6) and to add one new Routine Use (7); to revise the storage, retrievability, safeguards, and retention and disposal procedures; to revise the system manager and address; to revise the notification, record access, and contesting record procedures; to revise the record source categories; and to make other edits and revisions as necessary to update the information and to comply with the requirements of the Privacy Act, as amended (5 U.S.C. 552a), and the regulations and requirements of the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA).

The FCC will achieve these purposes by altering this system of records with these changes:

Revision of language in the security classification, for clarity and to note that [t]he FCC's Security Operations Center (SOC) has not assigned a security classification to this system of records;

Revision of the language in the system location(s), for clarity and: (1) To update information concerning the General Files, Financial Disclosure Files, and Committee-specific Files:

1. General Files: Associate Managing Director-Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; (202) 418–2178.

2. Financial Disclosure Files (*i.e.,* OGE Form 450 and FCC Form A54A): Office of General Counsel (OGC), Federal Communication Commission (FCC), 445 12th Street SW., Washington, DC 20554; (202) 418–1720;

3. Committee-specific Files: Information concerning the FCC's current FACA Committees may be found at: *http://www.fcc.gov/encyclopedia/advisory-committees-fcc*

Revision of the language regarding the Categories of Individuals Covered by the System, for clarity and to note that [t]he categories of individuals in this system include, but are not limited to those individuals who are:

1. Members of Federal Advisory Committee Act (FACA) committees (''advisory committee'' or ''committee'') sponsored or co-sponsored by the Federal Communications Commission (FCC);

2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee); and

3. Administrative Assistant(s) or other similar contact(s) within the organization that an advisory committee member represents.

Revision of the language regarding the Categories of Records in the System, for clarity and to note that [t]he categories of records include, but are not limited to:

1. FACA Committee Members:

Member's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (*e.g.,* which includes, but is not limited to the reference's name, address, telephone numbers(s), email address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee):

Participant's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (*e.g.,* which includes, but is not limited to the reference's name, address, telephone numbers(s), email address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

3. Committee Members' assistant(s) or organizational contact(s):

Assistant/organizational contact's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which are kept with the member's respective advisory committee.

4. Originals or copies of the financial disclosure form, OGE Form 450, which the FACA committee members may be required to file in accordance with the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, and E.O. 12674, as modified.

Revision of the Authority for Maintenance of the System to correct an inaccuracy in the citation for the *Federal Advisory Committee Act* (FACA), 5 U.S.C., Appendix 2; but to expand the authorities to include 5 U.S.C. App. (''Ethics in Government Act''); and Executive Order (E.O.) 12674 (as modified by E.O. 12731).

Revision of the language regarding the Purpose(s) for which the information in the system is maintained, for clarity and to note that [t]his system covers the personally identifiable information (PII) that is contained in the information about the members of the FCC's FACA committees, which includes, but is not limited to their contact data. The FCC's uses for this information include, but are not limited to:

1. Communicating effectively and promptly with these individuals (*i.e.,* FCC's FACA committee members and alternatives);

2. Completing mandatory reports to the Congress and the General Services Administration (GSA) about FACA committee matters; and

3. Ensuring compliance with all ethical and conflict-of-interest requirements concerning the members of the FCC's FACA committees, including the requirements in OGE Form 450.

Revision of the language in Routine Use (2) ''Public Access'' to note that [t]he public can access information about the FCC's Federal Advisory Committee Act (FACA) committees at: *http://www.fcc.gov/encyclopedia/advisory-committee-fcc,* as well as in the searchable database found on the General Services Administration's (GSA) Web site at *http://www.fido.gov/facadatabase/;*

Revision of the language in Routine Use (5) ''Congressional Inquiries'' to note that a record from this system may be disclosed [w]hen requested by a Congressional office in response to an inquiry by an individual made to the Congressional office for the individual's own records;

Revision of the language in Routine Use (6) ''Government-wide Program Management and Oversight'' to note that a record from this system may be disclosed [w]hen requested by the General Services Administration (GSA), the National Archives and Records Administration (NARA), and/or the Government Accountability Office (GAO) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906 (such disclosure(s) shall not be used to make a determination about individuals); when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or when the Office of Management and Budget (OMB) is contacted in order to obtain that office's advice regarding obligations under the Privacy Act; and

Addition of Routine Use (7) to address any ''breach of Federal data'' situation(s) to comply with OMB Memorandum M–07–16 (May 22, 2007), as follows:

Routine Use (7) ''Breach Notification''—A record from this system may be disclosed to appropriate agencies, entities, and persons when: (1) The Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Revision of the language regarding the Storage procedures for information in the system, for clarity and to note that the information in this system includes:

1. Paper documents, reports, and files (except OGE Form 450 files) that are maintained in file folders in file cabinets in the office suites of the Performance Evaluation and Records Management (PERM) and the Designated Federal Officers (DFOs) in the Bureaus and Offices (B/Os);

2. Electronic data, records, and files that are stored in the FCC's computer network databases; and

3. Original and any copies (paper format) of OGE Form 450 files, documents, and records are maintained in file folders in file cabinets in the OGC office suite.

Revision of the language regarding the Retrievability of information in the system, for clarity and to note that:

1. The FACA records (except OGE Form 450 files) are grouped primarily by the name of the FACA committee or subcommittee. Under this filing hierarchy, records can then be retrieved by the name of the committee member; and

2. OGE Form 450 files are retrieved by the individual's name or other programmatic identifier assigned to the individual on whom they are maintained.

Revision of the language regarding the Safeguards for information in the system, for clarity and to note that:

1. FACA paper records documents, records, and files (except OGE Form 450 files) are maintained in file cabinets in the office suites of PERM and the DFO's Bureau or Office (B/O). These file cabinets are locked at the end of each business day. Access to each office suite is through a card-coded main door. Access to these files is restricted to the PERM supervisors and staff and to the DFO's authorized supervisors and staff in each Bureau or Office;

2. Paper copies of OGE Form 450 files, documents, and records are maintained in file cabinets in the OGC office suite. These file cabinets are locked at the end of each business day. Access to the OGC office suite is through a card-coded main door. Access to these files is restricted to OGC supervisors and staff; and

3. Access to the FACA electronic records, files, and data, which are housed in the FCC's computer network databases, is restricted to authorized PERM supervisors and staff; to the supervisors and staff in each DFO's Bureau/Office; to the OGC supervisors and staff for OGE Form 450 files; and to the Information Technology Center (ITC) staff and contractors, who maintain the FCC's computer network. Other FCC employees and contractors may be granted access only on a ''need-to-know'' basis. The FCC's computer network databases are protected by the FCC's security protocols, which include controlled access, passwords, and other IT safety and security features. Information resident on the FACA database servers is backed-up routinely onto magnetic media. Back-up tapes are stored on-site and at a secured, off-site location.

Revision of the language regarding the Retention and Disposal of information in the system, for clarity and to note that [t]he FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), ''Temporary Commissions, Boards, Councils and Committees,'' issued by the National Archives and Records Administration (NARA). Under the GRS 26:

The FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), ''Temporary Commissions, Boards, Councils and Committees,'' issued by the National Archives and Records Administration (NARA). Under the GRS 26:

1. (a) FACA files documenting the Commission's establishment, membership, policy, organization, deliberations, findings, and recommendations (except OGE Form 450 files) are transferred to the National Archives on termination of the Commission. Earlier periodic transfers are authorized for committees operating for three years or longer (N1–GRS–07–5 item). These files include such records as:

- Other materials that document the organization and functions of the Commission and original charter, renewal and amended charters, organization charts, functional statements, directives or memorandums to staff concerning their responsibilities, and its components;
- Agendas, briefing books, minutes, testimony, and transcripts of meetings and hearings as well as audiotapes and/or videotapes of meetings and hearings which were not fully transcribed;
- One copy each of reports, studies, pamphlets, posters (2 copies) and other publications produced by or for the commission as well as news releases, commissioners' speeches, formal photographs and other significant public affairs files;
- Correspondence, subject and other files maintained by key commission staff, such as the chair, executive director, and legal counsel, documenting the functions of the commission;
- Substantive records relating to research studies and other projects, including unpublished studies and reports and substantive research materials (may include electronic data);
- Questionnaires, surveys and other raw data accumulated in connection with research studies and other projects where the information has been consolidated or aggregated in analyses, reports, or studies covered by Item 2(a) (may include data maintained electronically);
- Records created to comply with the provisions of the Government in the Sunshine Act, annual reports to Congress describing the agency's compliance with the act;
- Documentation of subcommittees, working groups, or other subgroups of advisory committees, that support their reports and recommendations to the full or parent committee. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records; and
- Documentation of formally designated subcommittees and working groups. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records.

(b) FACA files (paper and electronic formats) that relate to day-to-day advisory committee activities and/or do not contain unique information of historical value are destroyed or deleted when three years old (N1–GRS–07–1 item 2b). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure. These files include such records as:

- Correspondence, reference and working files of Commission staff (excluding files covered by Item 2(a));
- Audiotapes and videotapes of Commission meetings and hearings that have been fully transcribed, informal still photographs and slides of Commission members and staff, meetings, hearings, and other events;
- Other routine records, such as public mail, requests for information, consultant personnel files, records relating to logistical aspects of Commission meetings and hearings, etc.; and
- Extra copies of records described in Item 2(a), *e.g.,* copies of meeting agenda and minutes distributed to commission members and staff, files accumulated by agencies on interagency bodies other than the secretariat or sponsor.

Notes: Prior to destruction/deletion, NARA, in consultation with FCC staff, will review these records and may identify files that warrant permanent retention. Such records will be transferred to the National Archives at the time that related permanent records are transferred (N1–GRS–07–1 item 2b Note).

2. Copies of FACA commission records, *e.g.,* agendas, meeting minutes, final reports, and related records created by or documenting the accomplishments of boards and commissions are destroyed when three years old (N1–GRS–04–1 item 3). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.

3. Records that are maintained by FACA committee management officers that pertain to a FACA committee's establishment, appointment of members, and operation and termination, etc., are destroyed when six years old (N1–GRS–04–1 item 4). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.

4. OGE Form 450 files, documents, and records (including both paper and electronic formats) are generally retained for six years after filing following dissolution of the FACA Committee (except when filed by or with respect to a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed. In such cases, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation). The paper records are destroyed by shredding. The electronic records are destroyed by electronic deletion or erasure.

Revision of the language regarding the System Manager(s) and Address of the system, for clarity and to note that the system manager is the Assistant Managing Director, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

Revision of the Notification, Record Access, and Contesting Record Procedures for the system, for clarity and to note that individuals seeking information about themselves in this system should address their inquiries to the Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, or *http://transition.fcc.gov/omd/privacyact/request.html.*

Revision of the language regarding the Record Source Categories for the system, for clarity and to note that [i]nformation in this system includes, but is not limited to the information that is obtained from the FACA committee members, including their OGE Form 450; the Designated Federal Officer (DFO) reporting on FACA committee membership and activities; and the results of the work of the advisory committees.

Revision of, updating, or otherwise changing the information in the SORN, as necessary, to make it conform to the way the FCC's bureaus and offices manage the membership, functions, and activities of their FACA committees.

This notice meets the requirement documenting the changes to the system of records that the FCC maintains, and provides the public, Congress, and the Office of Management and Budget (OMB) an opportunity to comment.

FCC/OMD–3

SYSTEM NAME: FEDERAL ADVISORY COMMITTEE ACT (FACA) MEMBERSHIP FILES.

SECURITY CLASSIFICATION:

The FCC's Security Operations Center (SOC) has not assigned a security classification to this system of records.

SYSTEM LOCATION:

1. General Files: Associate Managing Director—Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; (202) 418–2178.

2. Financial Disclosure Files (*i.e.,* OGE Form 450 and FCC Form A54A): Office of General Counsel (OGC), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554; (202) 418–1720.

3. Committee-Specific Files: Information concerning the FCC's current FACA Committees may be found at: *http://www.fcc.gov/encyclopedia/advisory-committees-fcc.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include, but are not limited to those individuals who are:

1. Members of Federal Advisory Committee Act (FACA) committees (''advisory committee'' or ''committee'') sponsored or co-sponsored by the Federal Communications Commission (FCC);

2. Individual participants in FACA working groups/subcommittees (who are not necessarily appointed members of the advisory committee); and

3. Administrative Assistant(s) or other similar contact(s) within the organization that an advisory committee member represents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in this system include, but are not limited to:

1. FACA Committee Members:

Member's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (*e.g.,* which includes, but is not limited to the reference's name, address, telephone numbers(s), email address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

2. Individual participants in FACA working groups/subcommittees (who are not necessarily members of the advisory committee):

Participant's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), work experience, educational attainment, and references), nominee's qualifications statement, and/or letters of recommendation (*e.g.,* which includes, but is not limited to the reference's name, address, telephone numbers(s), email address(es), and personal evaluation/recommendation of their colleague's job performance, skills, abilities, and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which, are kept with the member's respective advisory committee.

3. Committee Members' assistants or organizational contacts:

Assistant/organizational contact's full name, home address(es), organization represented, home email address(es), home telephone and personal cellphone number(s), fax number(s), resume (*e.g.,* which includes, but is not limited to the full name, home address, home, cell, and other telephone numbers, home fax number(s), home email address(es), and related information), Federal lobbyist status (yes/no), area(s) of expertise, and occupation (or title), and tribal, (non-English speaking) linguistic, disability, elderly, and related group affiliation(s), which are kept with the member's respective advisory committee.

4. Originals or copies of the financial disclosure form, OGE Form 450, which the FACA committee members may be required to file in accordance with the requirements of the *Ethics in Government Act of 1978* and the *Ethics Reform Act of 1989,* as amended, and E.O. 12674, as modified.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2; 5 U.S.C. App. (''Ethics in Government Act''); and Executive Order (E.O.) 12674 (as modified by E.O. 12731).

PURPOSE(S):

This system covers the personally identifiable information (PII) that is contained in the information about the members of the FCC's Federal Advisory Committee Act (FACA) committees, which includes, but is not limited to their contact data. The FCC's uses for this information include, but are not limited to:

1. Communicating effectively and promptly with these individuals (*i.e.,* FCC's FACA committee members);

2. Completing mandatory reports to the Congress and the General Services Administration (GSA) about FACA advisory committee matters; and

3. Ensuring compliance with all ethical and conflict-of-interest requirements concerning the members of the FCC's FACA advisory committees, including the requirements in OGE Form 450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals in this system of records may routinely be disclosed under the following conditions:

1. Committee Communication and Reporting—A record in this system may be disclosed to the Chair (or Vice Chair) of the Advisory Committee for purposes of determining membership on appropriate subcommittees or assignment of tasks to achieve the committee's goals, and/or used to distribute information to the FACA committee members for the purposes of conducting meetings, general committee business, and/or preparing reports on the membership and work of the committee;

2. Public Access—The public can access information about the FCC's Federal Advisory Committee Act (FACA) committees at: *http://www.fcc.gov/encyclopedia/advisory-committee-fcc,* as well as in the searchable database found on the General Services Administration's (GSA) Web site at *http://www.fido.gov/facadatabase/;*

3. Adjudication and Litigation—Where by careful review, the agency determines that the records are both relevant and necessary to litigation and the use of such records is deemed by the Agency to be for a purpose that is compatible with the purpose for which

the Agency collected the records, these records may be used by a court or adjudicative body in a proceeding when: (a) The Agency or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation;

4. Law Enforcement and Investigation—Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be shared with appropriate Federal, State, or local authorities either for purposes of obtaining additional information relevant to a FCC decision or for referring the record for investigation, enforcement, or prosecution by another agency;

5. Congressional Inquiries—When requested by a Congressional office in response to an inquiry by an individual made to the Congressional office for the individual's own records;

6. Government-wide Program Management and Oversight—When requested by the General Services Administration (GSA), the National Archives and Records Administration (NARA), and/or the Government Accountability Office (GAO) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906 (such disclosure(s) shall not be used to make a determination about individuals); when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or when the Office of Management and Budget is contacted in order to obtain that office's advice regarding obligations under the Privacy Act; and

7. Breach Notification—A record from this system may be disclosed to appropriate agencies, entities, and persons when: (1) The Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

The information in this system includes:

1. Paper documents, records, and files (except OGE Form 450 files) that are maintained in file folders in file cabinets in the office suites of the Performance Evaluation and Records Management (PERM) and the Designated Federal Officers (DFOs) in the Bureaus and Offices (B/Os);

2. Electronic data, records, and files that are stored in the FCC's computer network databases; and

3. Original and any copies (paper format) of OGE Form 450 files, documents, and records are maintained in file folders in file cabinets in the OGC office suite.

RETRIEVABILITY:

1. The FACA records (except OGE Form 450 files) are grouped primarily by the name of the FACA committee or subcommittee. Under this filing hierarchy, records can then be retrieved by the name of the committee member; and

2. OGE Form 450 files are retrieved by the individual's name or other programmatic identifier assigned to the individual on whom they are maintained.

SAFEGUARDS:

1. FACA paper records documents, records, and files (except OGE Form 450 files) are maintained in file cabinets in the office suites of PERM and the DFO's Bureau or Office (B/O). These file cabinets are locked at the end of each business day. Access to each office suite is through a card-coded main door. Access to these files is restricted to the PERM supervisors and staff and to the DFO's authorized supervisors and staff in each Bureau or Office;

2. Paper copies of OGE Form 450 files, documents, and records are maintained in file cabinets in the OGC office suite. These file cabinets are locked at the end of each business day. Access to the OCG OGC office suite is through a card-coded main door. Access to these files is restricted to OGC supervisors and staff; and

3. Access to the FACA electronic records, files, and data, which are housed in the FCC's computer network databases, is restricted to authorized PERM supervisors and staff; to the supervisors and staff in each DFO's Bureau/Office; to the OGC supervisors and staff for OGE Form 450 files; and to the Information Technology Center (ITC) staff and contractors, who maintain the FCC's computer network. Other FCC employees and contractors may be granted access only on a ''need-to-know'' basis. The FCC's computer network databases are protected by the FCC's security protocols, which include controlled access, passwords, and other IT safety and security features. Information resident on the FACA database servers is backed-up routinely onto magnetic media. Back-up tapes are stored on-site and at a secured, off-site location.

RETENTION AND DISPOSAL:

The FCC maintains and disposes of these records in accordance with General Records Schedule 26 (GRS 26), ''Temporary Commissions, Boards, Councils and Committees,'' issued by the National Archives and Records Administration (NARA). Under the GRS 26:

1. (a) FACA files documenting the Commission's establishment, membership, policy, organization, deliberations, findings, and recommendations (except OGE Form 450 files) are transferred to the National Archives on termination of the Commission. Earlier periodic transfers are authorized for committees operating for three years or longer (N1–GRS–07–5 item). These files include such records as:

- Other materials that document the organization and functions of the Commission and original charter, renewal and amended charters, organization charts, functional statements, directives or memorandums to staff concerning their responsibilities, and its components;
- Agendas, briefing books, minutes, testimony, and transcripts of meetings and hearings as well as audiotapes and/or videotapes of meetings and hearings which were not fully transcribed;
- One copy each of reports, studies, pamphlets, posters (2 copies) and other publications produced by or for the commission as well as news releases, commissioners' speeches, formal photographs and other significant public affairs files;

• Correspondence, subject and other files maintained by key commission staff, such as the chair, executive director, and legal counsel, documenting the functions of the commission;

• Substantive records relating to research studies and other projects, including unpublished studies and reports and substantive research materials (may include electronic data);

• Questionnaires, surveys and other raw data accumulated in connection with research studies and other projects where the information has been consolidated or aggregated in analyses, reports, or studies covered by Item 2(a) (may include data maintained electronically);

• Records created to comply with the provisions of the Government in the Sunshine Act, annual reports to Congress describing the agency's compliance with the act;

• Documentation of subcommittees, working groups, or other subgroups of advisory committees, that support their reports and recommendations to the full or parent committee. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records; and

• Documentation of formally designated subcommittees and working groups. This documentation may include, but is not limited to minutes, transcripts, reports, correspondence, briefing materials, and other related records.

(b) FACA files (paper and electronic formats) that relate to day-to-day advisory committee activities and/or do not contain unique information of historical value are destroyed or deleted when three years old (N1–GRS–07–1 item 2b). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure. These files include such records as:

• Correspondence, reference and working files of Commission staff (excluding files covered by Item 2(a));

• Audiotapes and videotapes of Commission meetings and hearings that have been fully transcribed, informal still photographs and slides of Commission members and staff, meetings, hearings, and other events;

• Other routine records, such as public mail, requests for information, consultant personnel files, records relating to logistical aspects of Commission meetings and hearings, etc.; and

• Extra copies of records described in Item 2(a), e.g., copies of meeting agenda and minutes distributed to commission members and staff, files accumulated by agencies on interagency bodies other than the secretariat or sponsor.

Notes: Prior to destruction/deletion, NARA, in consultation with FCC staff, will review these records and may identify files that warrant permanent retention. Such records will be transferred to the National Archives at the time that related permanent records are transferred (N1–GRS–07–1 item 2b Note).

2. Copies of FACA commission records, *e.g.,* agendas, meeting minutes, final reports, and related records created by or documenting the accomplishments of boards and commissions are destroyed when three years old (N1–GRS–04–1 item 3). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.

3. Records that are maintained by FACA committee management officers that pertain to a FACA committee's establishment, appointment of members, and operation and termination, etc., are destroyed when six years old (N1–GRS–04–1 item 4). The paper records are destroyed by shredding. The electronic files are deleted by electronic erasure.

4. OGE Form 450 files, documents, and records (including both paper and electronic formats) are generally retained for six years after filing following dissolution of the FACA Committee (except when filed by or with respect to a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed. In such cases, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation). The paper records are destroyed by shredding. The electronic records are destroyed by electronic deletion or erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Managing Director, Performance Evaluation and Records Management (PERM), Office of Managing Director (OMD), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, or *http://transition.fcc.gov/omd/privacyact/request.html.*

RECORD ACCESS PROCEDURES:

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, or *http://transition.fcc.gov/omd/privacyact/request.html.*

CONTESTING RECORD PROCEDURES:

Privacy Analyst, Performance Evaluation and Records Management (PERM), Federal Communications Commission (FCC), 445 12th Street SW., Washington, DC 20554, or *http://transition.fcc.gov/omd/privacyact/request.html.*

RECORD SOURCE CATEGORIES:

Information in this system includes, but is not limited to the information that is obtained from the FACA committee members, including their OGE Form 450 filings; the Designated Federal Officer (DFO) reporting on FACA committee membership and activities; and the results of the work of the advisory committees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–24757 Filed 10–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, October 22, 2013 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed To The Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2013–25083 Filed 10–21–13; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2013–14]

Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission

AGENCY: Federal Election Commission.

ACTION: Policy statement.

SUMMARY: The Federal Election Commission (''Commission'') adopted a program on August 1, 2011, providing for a means by which persons and entities may have a legal question considered by the Commission earlier in both the report review process and the audit process. This new policy is identical to that August 1, 2011 program, except that it provides an alternative electronic means to file a request with the Commission.

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Lorenzo Holloway, Assistant General Counsel, or Margaret Forman, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On August 1, 2011, the Commission adopted a program providing for a means by which persons and entities may have a legal question considered by the Commission earlier in both the report review process and the audit process. Specifically, when the Office of Compliance (''OC'') (which includes the Reports Analysis Division and the Audit Division) requests that a person or entity take corrective action during the report review or audit process, if the person or entity disagrees with the request based upon a material dispute on a question of law, the person or entity may seek Commission consideration of the issue pursuant to this procedure. This Commission is now revising this program. As revised, the program is identical to that August 1, 2011 program, except that it provides alternative means to file a request with the Commission. This change was made to address and clarify timeliness issues due to delays in the processing and receipt of requests mailed to the Commission, by encouraging requests to be filed electronically by email. Processing delays can result in an untimely submission of a request under the program. Persons and entities making such a request may not be aware that these processing delays can occur when documents are sent via first class mail to a federal government agency. The policy statement regarding this program is reprinted in its entirety, below. It includes the revisions outlined above, which appear in the third paragraph of the ''Procedures'' section, below.

I. Procedures

Within 15 business days of a determination by the Reports Analysis Division or Audit Division that a person or entity remains obligated to take corrective action to resolve an issue that has arisen during the report review or audit process, the person or entity may seek Commission consideration if a material dispute on a question of law exists with respect to the recommended corrective action.[1] A ''determination'' for purposes of triggering the 15 business days is either: (1) Notification to the person or entity of legal guidance prepared by the Office of General Counsel (''OGC'') at the request of the Reports Analysis Division recommending the corrective action; or (2) the end of the Committee's Audit Exit Conference response period.

Any request for consideration by a Committee during the report review process or the audit process shall be limited to questions of law on material issues, when: (1) The legal issue is novel, complex, or pertains to an unsettled question of law; (2) there has been intervening legislation, rulemaking, or litigation since the Commission last considered the issue; or (3) the request to take corrective action is contrary to or otherwise inconsistent with prior Commission matters dealing with the same issue. The request must specify the question of law at issue and why it is subject to Commission consideration. It should discuss, when appropriate, prior Commission matters raising the same issue, relevant court decisions, and any other analysis of the issue that may assist the Commission in its decision making. The Commission will not consider factual disputes under this procedure, and any requests for consideration other than on questions of law on material issues will not be granted.

All requests, including any extension requests, must be received by the Commission within 15 business days of the determination of corrective action. All requests should be directed to the attention of the Commission Secretary. Requestors may submit requests electronically via email to *LegalRequestProgram@fec.gov.* Requestors are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, requests may be submitted in paper form. Paper requests must be sent to the Federal Election Commission, Attn.: Commission Secretary, 999 E Street NW., Washington, DC, 20463. Upon receipt of a request, the Commission Secretary shall forward a copy of any request to each Commissioner, the General Counsel, and the Staff Director.

Any request for an extension of time to file will be considered on a case-by-case basis and will only be granted if good cause is shown, and the Commission approves the extension request by four affirmative votes within five business days of receipt of the extension request. Within five business days of notification to the Commissioners of a request for consideration of a legal question, if two or more Commissioners agree that the Commission should consider the request, OGC will prepare a recommendation and, within 15 business days thereafter, circulate the recommendation in accordance with all applicable Commission directives.

After the recommendation is circulated for a Commission vote, in the event of an objection, the matter shall be automatically placed on the next meeting agenda consistent with the Sunshine Act, 5 U.S.C. 552b(g), and applicable Commission regulations, 11 CFR part 2. However, if within 60 business days of the filing of a request for consideration, the Commission has not resolved the issue or provided guidance on how to proceed with the matter by the affirmative vote of four or more Commissioners, the OC may proceed with the matter. After the 60 business days has elapsed, any requestor will be provided a copy of OGC's recommendation memorandum and an accompanying vote certification, or if no such certification exists, a cover page stating the disposition of the memoranda. Confidential information will be redacted as necessary.

After the request review process has concluded, or a Final Audit Report has been approved, a copy of the request for consideration, as well as the recommendation memorandum and accompanying vote certification or disposition memorandum, will be placed with the Committee's filings or audit documents on the Commission's Web site within 30 days. These materials will also be placed on the Commission's Web page dedicated to legal questions considered by the Commission under this program.

This procedure is not intended to circumvent or supplant the Advisory Opinion process provided under 2

[1] Many disputes involving corrective action requests hinge on questions of fact rather than questions of law, and thus are not appropriate for this procedure.

U.S.C. 437f and 11 CFR part 112. Accordingly, any legal issues that qualify for consideration under the Advisory Opinion process are not appropriate for consideration under this new procedure. Additionally, this policy statement does not supersede the procedures regarding eligibility and entitlement to public funds set forth in Commission Directive 24 and 11 CFR 9005.1, 9033.4, 9033.6 or 9033.10.

II. Annual Review

No later than July 1 of each year, the OC and OGC shall jointly prepare and distribute to the Commission a written report containing a summary of the requests made under the program over the previous year and a summary of the Commission's consideration of those requests and any action taken thereon. The annual report shall also include the Chief Compliance Officer's and the General Counsel's assessment of whether, and to what extent, the program has promoted efficiency and fairness in both the Commission's report review process and in the audit process, as well as their recommendations, if any, for modifications to the program.

The Commission may terminate or modify this program through additional policy statements at any time by an affirmative vote of four of its members.

On behalf of the Commission,

Dated: September 30, 2013.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2013–24317 Filed 10–22–13; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2013–N–12]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 30-day Notice of Submission of Information Collection for Approval from the Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is seeking public comments concerning the information collection known as ''Capital Requirements for the Federal Home Loan Banks,'' which has been assigned control number 2590–0002 by the Office of Management and Budget (OMB). FHFA will submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on October 31, 2013.

DATES: Interested persons may submit comments on or before November 22, 2013.

Comments: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: 202–395–6974, Email: *OIRA_Submisson@omb.eop.gov.* Please also submit comments to FHFA using any one of the following methods:

- *Email: RegComments@fhfa.gov.* Please include Proposed Collection; Comment Request: ''Capital Requirements for the Federal Home Loan Banks, (No. 2013–N–12)'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024, ATTENTION: Public Comments/Proposed Collection; Comment Request: ''Capital Requirements for the Federal Home Loan Banks, (No. 2013–N–12).''

We will post all public comments we receive without change, including any personal information you provide, such as your name, address, email address, and telephone number, on the FHFA Web site at *http://www.fhfa.gov*. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at 202–649–3804.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Financial Analyst, Division of Federal Home Loan Bank Regulation, at 202–649–3321 (not a toll free number), *Jonathan.Curtis@fhfa.gov*, or by regular mail at the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of the Information Collection

Each of the twelve regional Federal Home Loan Banks (Banks) is structured as a member-owned cooperative. An institution that is eligible for membership in a particular Bank must purchase and hold a prescribed minimum amount of the Bank's capital stock in order to become and remain a member of that Bank.[1] With few exceptions, only an institution that is a member of a Bank may obtain access to secured loans, known as advances, or other products provided by that Bank.

Section 6 of the Federal Home Loan Bank Act (Bank Act) establishes the capital structure for the Banks and requires FHFA to issue regulations prescribing uniform capital standards applicable to all of the Banks.[2] These implementing regulations are set forth in 12 CFR parts 930, 931, 932, and 933: part 930 contains definitions applicable to the capital regulations; part 931 establishes the requirements for the Banks' capital stock; part 932 establishes risk-based and total capital requirements for the Banks; and part 933 sets forth the requirements for the Banks' ''capital structure plans'' under which each Bank establishes its own capital structure within the parameters of the statute and FHFA's implementing regulations.

Both the Bank Act and FHFA's regulations state that a Bank's capital structure plan must require its members to maintain a minimum investment in the Bank's capital stock, which is to be determined for each member in a manner prescribed by the board of directors of the Bank and reflected in the Bank's capital structure plan.[3] Although each Bank's capital structure plan establishes a slightly different method for calculating the required minimum stock investment for its members, each Bank's method is tied to some degree to both the level of assets held by the member institution (typically referred to as a ''membership stock purchase requirement'') and the amount of advances or other business engaged in between the member and the Bank (typically referred to as an ''activity-based stock purchase requirement'').

The Banks use this information collection to determine the amount of capital stock a member must purchase to maintain membership in and to obtain services from the Bank under its capital structure plan, and to confirm that its members are complying with the

[1] *See* 12 U.S.C. 1426(c)(1); 12 CFR 931.3, 1263.20.

[2] *See* 12 U.S.C. 1426.

[3] *See* 12 U.S.C. 1426(c)(1); 12 CFR 933.2(a).

Bank's stock purchase requirements. Although the required information and the precise method through which it is collected differ from Bank to Bank, there are for each Bank typically two components to the information collection. First, in order to calculate and monitor compliance with its membership stock purchase requirement, a Bank typically requires each member to provide and/or confirm a quarterly or annual report on the amount and types of assets held by that institution. Second, at the time it engages in a business transaction with a member, each Bank typically confirms with the member the amount of additional Bank capital stock, if any, the member must acquire in order to satisfy the Bank's activity-based stock purchase requirement and the method through which the member will acquire that stock.

The OMB number for the information collection is 2590–0002, which is due to expire on October 31, 2013. The likely respondents include Bank members.

B. Burden Estimate

FHFA has analyzed the cost and hour burden for the two facets of this information collection: the membership stock purchase requirement and the activity-based stock purchase requirement.

FHFA estimates the total annual average number of ''membership stock purchase requirement'' respondents at 30,416 (7,604 respondents x 4 quarterly responses per respondent). The estimate for the average hours per response is 0.71 hours. The estimate for the annual hour burden for ''membership stock purchase requirement'' respondents is 21,595 hours (7,604 respondents x 4 responses per respondent x 0.71 hours per response). The estimate for the annual cost burden is $1,390,924.

FHFA estimates the total annual average number of ''activity-based stock purchase requirement'' respondents at 81,120 (312 daily transactions x 260 working days), with 1 response per respondent. The estimate for the average hours per response is 0.16 hours. The estimate for the annual hour burden for ''activity-based stock purchase requirement'' respondents is 12,979 hours (81,120 average daily borrower responses x 0.16 average hours per response). The estimate for the annual cost burden for member respondents is $856,627.

The estimated total annual hour burden on Bank members from this information collection is 34,574 hours. The aggregate total annual cost to Bank members is $2,247,551. The estimated total annual number of submissions is 111,536.

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on July 1, 2013. *See* 78 FR 39293 (July 1, 2013). The 60-day comment period closed on August 30, 2013. No public comments were received.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: September 30, 2013.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2013–24734 Filed 10–22–13; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2013–N–13]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 30-day Notice of Submission of Information Collection for Approval from the Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is seeking public comments concerning the information collection known as ''Members of the Banks,'' which has been assigned control number 2590–0003 by the Office of Management and Budget (OMB). FHFA will submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on October 31, 2013.

DATES: Interested persons may submit comments on or before November 22, 2013.

Comments: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: 202–395–6974, Email: *OIRA_Submisson@omb.eop.gov.* Please also submit comments to FHFA using any one of the following methods:

- *Email: RegComments@fhfa.gov.* Please include Proposed Collection; Comment Request: ''Members of the Banks, (No. 2013–N–13)'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024, ATTENTION: Public Comments/Proposed Collection; Comment Request: ''Members of the Banks, (No. 2013–N–13).''

We will post all public comments we receive without change, including any personal information you provide, such as your name, address, email address, and telephone number, on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at 202–649–3804.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Financial Analyst, Division of Federal Home Loan Bank Regulation, at 202–649–3321 (not a toll free number), *Jonathan.Curtis@fhfa.gov,* or by regular mail at the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of the Information Collection

Section 4 of the Federal Home Loan Bank Act (Bank Act) establishes the eligibility requirements an institution must meet in order to become a member of a Federal Home Loan Bank (Bank).[1] FHFA's Bank membership regulation, located at 12 CFR part 1263, implements

[1] *See* 12 U.S.C. 1424.

section 4 of the Bank Act by providing uniform requirements an applicant must meet to be approved for Bank membership and review criteria a Bank must apply to determine if an applicant satisfies the statutory and regulatory membership eligibility requirements, and by specifying the information and materials an institution must submit as part of its application.[2] Although the membership regulation authorizes the Banks to approve or deny applications for membership, it also provides institutions that have been denied membership in a Bank the option of appealing the decision to FHFA.[3] The membership regulation also addresses the requirements for withdrawal from Bank membership and for the transfer of an institution's membership from one Bank to another.[4]

This information collection may require four different types of submissions by Bank members or by institutions wishing to become a Bank member: (I) Applications for membership and supporting materials; (II) notices of appeal to FHFA by institutions that have been denied membership by a Bank; (III) requests to withdraw from Bank membership; and (IV) applications for transfer of membership to a different Bank and supporting materials. The information collection is necessary to enable a Bank to determine whether prospective and current Bank members, or transferring members of other Banks, satisfy the statutory and regulatory requirements to be certified initially and maintain their status as members eligible to obtain Bank advances. The collection is also necessary to inform a Bank of when to initiate the withdrawal process where a member so desires. On appeals, FHFA uses the information collection to determine whether to uphold or overrule a Bank's decision to deny Bank membership to an applicant.

The OMB control number for the information collection is 2590–0003, which is due to expire on October 31, 2013. The likely respondents are institutions that want to be certified as or are members of a Bank seeking continued certification.

B. Burden Estimate

FHFA has analyzed the cost and hour burden for the four facets of the information collection: (I) membership application process; (II) appeal of membership denial; (III) membership withdrawals, and (IV) transfer of membership to another Bank district. The estimate for the total annual hour burden for all respondents is 2,261 hours. The estimate for the total annual cost burden is $175,613. These estimates are based on the following:

I. Membership Application

FHFA estimates the total annual average number of applicants at 157, with 1 response per applicant. The estimate for the average hours per application is 11.7 hours. The estimate for the annual hour burden for applicants is 1,837 hours (157 applicants × 1 response per applicant × 11.7 hours per response). The estimate for the total annual cost burden to applicants for the membership application process is $135,365.

II. Appeal of Membership Denial

FHFA estimates the total annual average number of appellants at 1, with 1 response per appellant. The estimate for the average hours per application for appeal is 10 hours. The estimate for the annual hour burden for appellants is 10 hours (10 appellants × 1 response per appellant × 10 hours per response). The estimate for the total annual cost burden to applicants for the appeal of membership denial process is $950.

III. Withdrawals From Membership

FHFA estimates the total annual average number of membership withdrawals at 275, with 1 response per applicant. The estimate for the average hours per application is 1.5 hours. The estimate for the annual hour burden for applicants is 413 hours (275 withdrawals × 1 response per applicant × 1.5 hours per response). The estimate for the total annual cost burden to members for withdrawals from membership is $39,188.

IV. Transfer of Membership

FHFA estimates the total annual average number of membership transfer requests at 1, with 1 response per applicant. The estimate for the average hours per application is 1.5 hours. The estimate for the annual hour burden for applicants is 1.5 hours (1 transfer × 1 response per applicant × 1.5 hours per response). The estimate for the total annual cost burden to member respondents of the transfer of membership process is $110.

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on July 1, 2013. *See* 78 FR 39293 (July 1, 2013). The 60-day comment period closed on August 30, 2013. No public comments were received.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of the FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: September 30, 2013.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2013–24735 Filed 10–22–13; 8:45 am]

BILLING CODE 8070–01–P

[2] *See* 12 CFR part 1263.

[3] *See* 12 CFR 1263.5.

[4] *See* 12 CFR 1263.26; 1263.18(d), (e).

GOVERNMENT ACCOUNTABILITY OFFICE

Vacancy on Board of Governors of the Patient-Centered Outcomes Research Institute (PCORI)

AGENCY: Government Accountability Office (GAO).

ACTION: Notice on letters of nomination.

SUMMARY: The Patient Protection and Affordable Care Act gave the Comptroller General of the United States responsibility for appointing 19 members to the Board of Governors of the Patient-Centered Outcomes Research Institute and for filling vacancies that may occur. Board members must meet the qualifications listed in Section 6301 of the Act. Due to the resignation of a physician representative on the board, I am announcing the following: letters of nomination and resumes should be submitted by November 15, 2013 to ensure adequate opportunity for review and consideration of nominees prior to appointment. Letters of nomination and resumes can be sent to either the email or mailing address listed below.

ADDRESSES: Nominations can be submitted by either of the following: Email: *PCORI@gao.gov,* Mail: GAO Health Care, Attention: Patient Centered Outcomes Research Institute, 441 G Street NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: GAO: Office of Public Affairs, (202) 512–4800. [Sec. 6301, Pub. L. 111–148]

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2013–24699 Filed 10–22–13; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Special Emphasis Panel; Meeting

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Special Emphasis Panel (SEP) meeting on *''AHRQ RFA–HS–13–010, Closing the Gap in Healthcare Disparities through Dissemination and Implementation of Patient Centered Outcomes Research (U18)''.* Each SEP meeting will commence in open session before closing to the public for the duration of the meeting.

DATES: November 6, 2013 (*Open on November 6 from 8:00 a.m. to 8:30 a.m. and closed for the remainder of the meeting*).

ADDRESSES: Hyatt Regency Hotel Bethesda, One Metro Center, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone: (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 25, 2013.

Richard Kronick,

Director.

[FR Doc. 2013–24179 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14AC]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Application of a Web-based Health Survey Tool in Schools—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, Public Law 91–596 (section 20[a] [1]), authorizes NIOSH to conduct research to advance the health and safety of workers. NIOSH is proposing to conduct a health questionnaire of employees in 50 elementary schools in a large school district in the Northeastern United States.

According to the 2012 Bureau of Labor Statistics survey, the educational services sector employs approximately 12.9 million workers, with 8.4 million working in elementary and secondary schools. A 2010 analysis of data on U.S. working adults indicated that the educational services sector had one of the highest prevalence's of current asthma at 13.1%.

In 1995, the Government Accounting Office reported that about 33% of schools in the U.S. needed extensive repair or replacement of one or more buildings, which includes problems related to dampness and mold. A better understanding of school building conditions related to dampness and mold, as well as associated health effects, is essential for the prevention of work-related illness in school staff.

NIOSH requests OMB approval to administer an internet-based questionnaire to collect health information on staff from 50 schools within this school district. The survey will be conducted concurrently with a field-based environmental survey using a dampness and mold assessment tool, which was developed by NIOSH to collect information on dampness and mold in buildings. NIOSH will collaborate with the school district and local teachers union to recruit a broad range of school staff as participants, including teachers, administrative staff, facilities and maintenance staff, nurses and counselors, and kitchen staff for this study. Results will be used to determine possible relationships between health outcomes and environmental conditions, specifically conditions related to dampness and mold. Results will also help to validate the dampness and mold assessment tool.

Overall results will benefit many stakeholders, including school-affiliated and general administrative personnel, facilities and maintenance representatives, building owners, and safety and health professionals charged with the prevention, identification, and

remediation of environmental issues when occupant health concerns are raised.

NIOSH anticipates that the internet-based questionnaire will begin in the spring of 2014. All participants will be asked to complete the same questionnaire, which will take approximately 20 minutes to complete. The total estimated burden for this one-time collection of data is 1,567 hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Elementary School Employees	Elementary School Staff Questionnaire.	4,700	1	20/60	1,567
Total	.....	.....	.....	.....	1,567

LeRoy 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. 2013–24824 Filed 10–22–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

UPDATE—Meeting of the Community Preventive Services Task Force (Task Force)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Update to notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC) announces an update to the meeting of the Community Preventive Services Task Force (Task Force). The in-person Task Force meeting is being replaced by an abbreviated conference call as a result of the lapse in the FY 2014 appropriation, which limited CDC's ability to complete the necessary scientific and logistical support for the meeting. The Task Force is an independent, nonfederal, and uncompensated panel. Its members represent a broad range of research, practice, and policy expertise in prevention, wellness, health promotion, and public health, and are appointed by the CDC Director. The Task Force was convened in 1996 by the Department of Health and Human Services (HHS) to identify community preventive programs, services, and policies that increase healthy longevity, save lives and dollars and improve Americans' quality of life. CDC is mandated to provide ongoing administrative, research, and technical support for the operations of the Task Force. During its meetings, the Task Force considers the findings of systematic reviews on existing research, and issues recommendations. These recommendations provide evidence-based options from which decision makers in communities, companies, health departments, health plans and healthcare systems, non-governmental organizations, and at all levels of government can choose what best meets the needs, preferences, available resources, and constraints of their constituents. The Task Force's recommendations, along with the systematic reviews of the scientific evidence on which they are based, are compiled in the *Guide to Community Preventive Services (Community Guide).*

DATES: The meeting will be held by conference call on Wednesday, October 23, 2013, from 12 p.m. to 5:30 p.m. EDT.

Meeting Accessibility: This meeting is open to the public. If you RSVPed to the original notice by the requested date, October 9, 2013, additional information will be provided on how to access the meeting.

FOR FURTHER INFORMATION CONTACT: Andrea Baeder, The Community Guide Branch; Division of Epidemiology, Analysis, and Library Services; Center for Surveillance, Epidemiology and Laboratory Services; Office of Public Health Scientific Services, Centers for Disease Control and Prevention, 1600 Clifton Road, MS–E–69, Atlanta, GA 30333, phone: (404) 498–6876, email: *CPSTF@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The purpose of the meeting is for the Task Force to consider the findings of systematic reviews and issue findings and recommendations to help inform decision making about policy, practice, and research in a wide range of U.S. settings.

Matters to be discussed: motor vehicle-related injury prevention and health equity.

Dated: October 18, 2013.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2013–24928 Filed 10–21–13; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–40B, CMS–2088–92, CMS–10260, and CMS–L564 and CMS–10501]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: the necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of

information technology to minimize the information collection burden.

DATES: Comments must be received by December 23, 2013.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–40B Application for Enrollment in Medicare the Medical Insurance Program

CMS–2088–92 Outpatient Rehabilitation Facility, Community Mental Health Center Cost Report and Supporting Regulations

CMS–10260 Medicare Advantage and Prescription Drug Program: Final Marketing Provisions

CMS–L564 Request for Employment Information

CMS–10501 Healthcare Fraud Prevention Partnership (HFPP): Data Sharing and Information Exchange

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Application for Enrollment in Medicare the Medical Insurance Program; *Use:* Form CMS–40B is used to establish entitlement to and enrollment in supplementary medical insurance for beneficiaries who already have Part A, but not Part B. The form solicits information that is used to determine enrollment for individuals who meet the requirements in section 1836 of the Social Security Act as well as the entitlement of the applicant or a spouse regarding a benefit or annuity paid by the Social Security Administration or the Office of Personnel Management for premium deduction purposes. The Social Security Administration will use the collected information to establish Part B enrollment. *Form Number:* CMS–40B (OCN: 0938-New); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 200,000; *Total Annual Responses:* 200,000; *Total Annual Hours:* 50,000. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Outpatient Rehabilitation Facility, Community Mental Health Center Cost Report and Supporting Regulations; *Use:* The cost reports are required to be filed with the provider's Medicare Administrative Contractor (MAC). The MAC uses the cost report to calculate the provider's cost to charge ratios which are used to compute outlier payments and to determine a provider's final cost settlement by comparing the provider's interim payments received to the reasonable cost for the fiscal period covered by the cost report.

The collection of data is a secondary function of the cost report. We use the data to support program operations, payment refinement activities, and to make Medicare Trust Fund projections. The data is also used by CMS and other stakeholders to analyze a myriad of health care measures on a national level. Stakeholders include the Office of Management and Budget, the Congressional Budget Office, Medicare Payment Advisory Commission, Congress, researchers, universities, and other interested parties. *Form Number:* CMS–2088–92 (OCN: 0938–0037); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 540; *Total Annual Responses:* 540; *Total Annual Hours:* 54,000. (For policy questions regarding this collection contact Jill Keplinger at 410–786–4550.)

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Medicare Advantage and Prescription Drug Program: Final Marketing Provisions; *Use:* We require that Medicare Advantage (MA) organizations and Part D sponsors use standardized documents to satisfy disclosure requirements mandated by section 1851(d)(3)(A) of the Social Security Act (Act) and 42 CFR 422.111(b) for MA organizations, and section 1860D–1(c) of the Act and 42 CFR 423.128(a)(3) for Part D sponsors. The regulatory provisions require that MA organizations and Part D sponsors disclose plan information, including: service area, benefits, access, grievance and appeals procedures, and quality improvement and quality assurance requirements by September 30th of each year. The MA organizations and Part D sponsors use the information to comply with the disclosure requirements. We will use the approved standardized documents to ensure that correct information is disclosed to current and potential enrollees. *Form Number:* CMS–10260 (OCN: 0938–1051); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 770; *Total Annual Responses:* 770; *Total Annual Hours:* 9,240. (For policy questions regarding this collection contact Timothy Roe at 410–786–2006.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Use:* Section 1837(i) of the Social Security Act provides for a special enrollment period for individuals who delay enrolling in Medicare Part B because they are covered by a group health plan based on their own or a spouse's current employment status. Disabled individuals with Medicare may also delay enrollment because they have large group health plan coverage based on their own or a family member's current employment status. When these individuals apply for Medicare Part B, they must provide proof that the group health plan coverage is (or was) based on current employment status. *Form Number:* CMS–L564 (OCN: 0938–0787); *Frequency:* Once; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 15,000; *Total Annual Responses:* 15,000; *Total Annual Hours:* 5,000. (For policy questions regarding this collection contact Lindsay Smith at 410–786–6843)

5. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Healthcare Fraud Prevention Partnership (HFPP): Data Sharing and Information Exchange; *Use:* Section 1128C(a)(2) of the Social Security Act (42 U.S.C. § 1320a–7c(a)(2)) authorizes the Secretary and the Attorney General to consult with, and arrange for the sharing of data with representatives of health plans to establish a Fraud and Abuse Control Program as specified in Section 1128(C)(a)(1) of the Social Security Act. This is known as the Healthcare Fraud Prevention Partnership (HFPP). It was officially established by a Charter in fall 2012 and signed by HHS Secretary Sibelius and U.S. Attorney General Holder. The HFPP is a joint initiative established by the Department of Health and Human Services (HHS) and Department of Justice (DOJ) to detect and prevent the prevalence of healthcare fraud through data and information-sharing and applying analytic capabilities by the public and private sectors. The HFPP collaboration provides a unique opportunity to transition from traditional ''pay and chase'' approaches for fraud detection and recovery towards a data-driven model for identifying and predicting aberrant activity. A central goal of the HFPP is to identify the optimal way to coordinate nationwide sharing of health care claims information, including aggregating claims and payment information from large public healthcare programs and private insurance payers. In addition to sharing data and information, the HFPP is focused on advancing analytics, training, outreach, education to support anti-fraud efforts and achieving its objectives, primarily through goal-oriented, well-designed fraud studies. *Form Number:* CMS–10501 (OCN: 0938-New); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 75; *Total Annual Responses:* 75; *Total Annual Hours:* 180,000. (For policy questions regarding this collection contact Johnalyn Lyles at 410–786–8410.)

Dated: October 18, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–24854 Filed 10–22–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–240]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *November 22, 2013.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 or Email: *OIRA_submission@omb.eop.gov*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Prospective Payments for Hospital Outpatient Services and Supporting Regulations;

Use: The Secretary is required to establish a prospective payment system (PPS) for hospital outpatient services. Successful implementation of an outpatient PPS (OPPS) requires that we distinguish facilities or organizations that function as departments of hospitals from those that are freestanding. In this regard, we will be able to determine: Which services should be paid under the OPPS, the clinical laboratory fee schedule, or other payment provisions applicable to services furnished to hospital outpatients. Information from 42 CFR 413.65(b)(3) and (c) reports is needed to make these determinations. Additionally, hospitals and other providers are authorized to impose deductible and coinsurance charges for facility services, but it does not allow such charges by facilities or organizations which are not provider-based. This provision requires that we collect information from the required reports so it can determine which facilities are provider-based. *Form Number:* CMS–R–240 (OCN: 0938–0798); *Frequency:* Occasionally; *Affected Public:* Private sector (business or other for-profits and not-for-profit institutions); *Number of Respondents:* 905; *Total Annual Responses:* 500,405; *Total Annual Hours:* 26,563. (For policy questions regarding this collection contact Daniel Schroder at 410–786–7452.)

Dated: October 18, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–24851 Filed 10–22–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of an Altered CMS System of Records Notice

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Altered System of Records Notice (SORN).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), CMS proposes several alterations to the existing system of records titled, ''Health Insurance Exchanges (HIX) Program'' (No. 09–70–0560), published at 78 FR 8538 (February 6, 2013) and amended and published at 78 FR 32256 (May 29, 2013). The alterations affect the ''Purposes of the System'', ''Categories of Individuals Covered by the System'', ''Categories of Records in the System'', ''Authority for Maintenance of the System'', ''System Location'', ''Retention and Disposal'', ''System Manager and Address'', ''Routine Uses of Records Maintained in the System'', and ''Record Source Categories'' sections of the accompanying System of Records Notice, as more fully explained in the Supplementary Information section.

DATES: The proposed modifications will be effective immediately, with exception of the new and revised Routine Uses which will be effective 30 days after publication of this notice in the **Federal Register** unless comments received on or before that date result in revisions to this notice.

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 Information on Health Insurance Exchanges Contact: Karen Mandelbaum, JD, MHA, Office of Health Insurance Exchanges, Exchange Policy and Operations Group, Center for Consumer Information and Insurance Oversight, 7210 Ambassador Road, Baltimore, MD 21244, Office Phone: (410) 786–1762, Facsimile: (301) 492–4353, Email: *karen.mandelbaum@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Proposed Alterations

By way of background, this system of records was established to be a global system of records to cover all data activities in support of the HIX Program at the Federal level. The Health Insurance Exchanges (HIX) Program is a new way to find health insurance coverage for people who do not currently have coverage or who want to find options for health insurance coverage. The HIX Program includes Federally-facilitated Exchanges (FFEs) operated by CMS, CMS support and services provided to all Exchanges and state agencies administering Medicaid programs, Children's Health Insurance Programs (CHIPs) and Basic Health Programs (BHPs), and CMS administration of advance payments of the premium tax credit and cost-sharing reductions associated with enrollment in QHPs through an Exchange. The system stores personal, financial, employment and demographic information about individuals who participate in or are involved with the HIX Program. The proposed modifications to the system of records and the affected sections of the System of Records Notice are identified and described below.

Use Limitations on Federal Tax Return Information

CMS proposes to amend item No. 1 in the Categories of Records section to clarify that Federal tax return information may be used or disclosed only as authorized by 26 U.S.C. 6103.

Discussion of Reporting

CMS proposes to amend the Purpose of the System section to explicitly mention the oversight and reporting functions required by the Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), collectively referred to as the Affordable Care Act.

Individuals Providing Consumer Assistance

CMS proposes to include, in the Purpose and Categories of Records sections, a description of the information resulting from registering, training and/or certifying individuals who will assist consumers, applicants and enrollees in states where an FFE and/or an FF–SHOP will operate. Such individuals include Navigators (as defined by 45 CFR155.210), non-Navigator Assistance Personnel (as allowed for under 45 CFR155.205; also known as In-Person Assisters), Certified application counselors (as defined by 45 CFR155.225), Agents and Brokers, and any other individuals that are required to register with an Exchange prior to assisting qualified individuals, employees and employers to enroll in QHPs through the Exchange. Upon completing the registration form and successfully completing the training and testing program and certification process, CMS will certify these individuals to provide consumers, applicants, and enrollees with outreach, education, and assistance in obtaining access to health care coverage through an FFE or FF–SHOP.

CMS proposes to amend Routine Use No. 2 to clarify that CMS may disclosure information about Navigators, non-Navigator Assistance Personnel, Certified application counselors, and

Agents and Brokers to the appropriate state agency or agencies in the state in which they have registered and will provide outreach, education and assistance to consumers, applicants and enrollees through the FFE or FF–SHOP.

Additionally, CMS proposes a new Routine Use, Number 11, specifically related to the information of Agents and Brokers who have completed registration and training. Pursuant to 45 CFR 155.220(b), CMS proposes Routine Use number 11 so that CMS may display on the FFE and FF–SHOP Web sites information regarding these Agents and Brokers who have completed registration and training for the convenience of consumers looking for assistance from an Agent or Broker that is familiar with the Exchange policies and application process.

Identity Proofing

CMS proposes to include a description of the identity proofing process within the Purpose of the System section. Identity proofing refers to a process through which the Exchange, state Medicaid agency, or state CHIP agency obtains a level of assurance through a third party data verification source regarding an individual's identity that is sufficient to allow access to electronic systems that include sensitive state and Federal data. This process will be performed at the time (A) an application for an eligibility determination in the individual market and Small Business Health Options Program (SHOP) is submitted to an Exchange and (B) an Agent or Broker registers with the Federally-facilitated Exchange (FFE) and completes the FFE training and certification processes.

Identity proofing must be completed by several categories of individuals. Each adult application filer (as defined at 45 CFR 155.20) submitting either an on-line application or a telephonic application for an eligibility determination or enrollment in a QHP through an Exchange in the individual market, advance payments of the premium tax credit, cost-sharing reductions, Medicaid and CHIP must complete the identity proofing process. The adult application filer is required to complete identity proofing prior to filing an on-line or telephonic application and prior to the disclosure of any information covered under this system of records back to the application filer. Application filers submitting paper applications regardless of type (including exemptions) will be identity proofed only if they elect to move into an electronic process. In addition, for the FF–SHOP Employer applications, the primary employer contact must complete identity proofing and if a secondary employer contacts is identified on the application, the secondary employer contact may have to complete identity proofing as well. Identity proofing will also be performed on Agents and Brokers when they register with the FFE to become certified to assist consumers, individuals, applicants and enrollees in the individual market Marketplace and SHOP Marketplace in a state in which the Agent or Broker is licensed to sell health insurance.

Clarification of Meanings of Terms

CMS also proposes to clarify the intended meaning of the term ''application filer'' as it is used in the current version of the SORN. CMS also proposes to add a new Category of Records describing the information maintained about this group of individuals. As used in the existing Category of Records and Routine Use Number 8, this terms was intended to be inclusive of the following: an application filer, as defined by 45 CFR155.20 (which includes authorized representatives); individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR155.700; Agents and Brokers; and QHP issuers performing application assistance functions.

To ensure clarity of the meaning of terms used with the SORN, beginning with this version of the SORN, CMS proposes to align the use of terms with the definitions provided within HIX program regulations. Therefore, CMS is proposing changes to the Categories of Records and Routine Use number 8 to itemize all of the populations included within the meaning of the current use of the term application filer. In general, additional small wording adjustments have been made throughout all sections to provide consistent use of terms and more specificity throughout the SORN.

Health Insurance Casework System (HICS)

CMS proposes to update the Purpose of the System, the Authority for Maintenance of the System, and Categories of Records sections and add a new Routine Use to include a description of the consumer complaint tracking system known as the Health Insurance Casework System (HICS). Section 1311(c)(3) of the Affordable Care Act requires HHS to ''develop a rating system that would rate qualified health plans offered through an Exchange in each benefits level on the basis of the relative quality and price.'' Additionally, Section 1321(c) of the Affordable Care Act authorizes HHS to ensure that states with Exchanges are substantially enforcing the federal standards to be set for the Exchanges. Sections 2723 and 2761 of the Public Health Service Act (PHS Act) authorize HHS to enforce PHS Act provisions that apply to non-Federal governmental plans and to enforce PHS Act provisions that apply to other health insurance coverage in states that HHS has determined are not substantially enforcing those provisions. By collecting consumer complaint information, HICS will help HHS carry out all of the above mentioned functions.

Routine Uses

CMS proposes the following Routine Use modifications.

■ Routine Use No. 2: Modify to permit CMS to disclose information to an Appeals Entity as defined under 45 CFR 155.500 in the event that an applicant or enrollee exercises his or her appeal right under 45 CFR 155.505. Modify to permit CMS to disclose information about Navigators, non-Navigator Assistance Personnel, Certified application counselors, and Agents and Brokers who have been trained and certified by CMS to provide consumer assistance to the appropriate state agency or agencies for oversight and monitoring of these individuals.

■ Routine Use No. 4: Modify to remove unnecessary example related to contractors.

■ Routine Use No. 8: Modify to clarify the meaning intended with the use of term application filer to allow information about applicants and Relevant Individuals to be disclosed to Agents, Brokers, and QHP issuers.

■ Routine Use No. 9: Modify to expand the disclosure of information to QHP issuers to include the disclosure of (A) applicant/enrollee and Relevant Individual information as necessary for individuals to be enrolled in a QHP, regardless of eligibility for advance payments of the premium tax credit or cost-sharing reductions and (B) consumer information for those that contact CMS to file a complaint or to seek resolution of an issue with the QHP issuer.

CMS proposes adding the following Routine Uses.

■ Routine Use No. 10: Provide for disclosures of employee information to employers when an employee submitting an application for an eligibility determination has been determined eligible for advance payments of the premium tax credit and cost-sharing reductions, or as needed to

verify whether an applicant is enrolled in an eligible employer sponsored plan.

- Routine Use No.11: Permit the public disclosure of information to the appropriate state agency, and members of the public, about Agents and Brokers that have registered with, successfully completed CMS training, and are certified by an FFE or FF–SHOP, and to disclose Agent and Broker information to the appropriate state agency to assist states with oversight, monitoring and enforcement activities over agents and brokers and allow states to provide outreach and education resources to consumers about obtaining health care coverage in their states.
- Routine Use No. 12: Permit the disclosure of information from the HICS system to other government agencies for the purposes of resolving complaints and assisting states with issuer oversight and monitoring.
- Routine Use No. 13: To assist a CMS contractor that is engaged to perform a function or provide administrative, technical or physical support to the FFEs (including FF–SHOPs) or to a grantee of a CMS-administered grant program, when the disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

II. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the United States Government collects, maintains, and uses PII in a system of records. A ''system of records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them).

SYSTEM NUMBER:

09–70–0560.

SYSTEM NAME:

Health Insurance Exchanges (HIX) Program, HHS/CMS/CCIIO.

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850, Health Insurance Exchanges Program (HIX) locations, and at various contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain personally identifiable information (PII) about the following categories of individuals who participate in or are involved with the CMS Health Insurance Exchanges (HIX) Program: (1) Any applicant/enrollee who applies and any application filer (an application filer, as defined by 45 CFR155.20 (which includes authorized representatives); individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR155.700; Agents and Brokers; and QHP issuers performing application assistance functions) who files an application on behalf of an applicant/enrollee, for an eligibility determination for enrollment in a qualified health plan (QHP) through an Exchange, for one or more insurance affordability programs, for a certificate of exemption from the shared responsibility requirement, or an appeal; (2) Navigators, non-Navigator Assistance Personnel (also known as In-Person Assisters), Certified application counselors, Agents and Brokers, and all other individuals or entities that are required to register with an Exchange prior to assisting qualified individuals, employees and employers to enroll in QHPs through the Exchange; (3) officers, employees and contractors of the Exchange; (4) employees and contractors of CMS (e.g. eligibility support workers, appeals staff, etc.); (5) contact information and business identifying information of representatives, officers, agents, and employees of QHPs seeking certification; (6) persons employed by or contracted with an Exchange organization who provide home or personal contact information; (7) any qualified employer and the qualified employees whose enrollment in a QHP is facilitated through a Small Business Health Options Program (SHOP), including authorized representatives of such individuals; and (8) Individuals, including non-applicant household members/family members, non-applicant tax payers or tax filers, and spouses and parents of applicants, who are listed on the application and whose PII may bear upon a determination of the eligibility of an individual for an insurance affordability program and for certifications of exemption from the individual responsibility requirement. Such individuals will hereafter be referred to as ''Relevant Individual(s)''.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information maintained in this system for individual applicant/enrollees includes, but may not be limited to, the applicant's first name, last name, middle initial, mailing address or permanent residential address (if different from the mailing address), date of birth, Social Security Number (if the applicant/enrollee has one), taxpayer status, gender, ethnicity, residency, email address, telephone number, employment status and employer if applicable. The system will also maintain information from the verification process of the information provided by the applicant/enrollee or by the application filer (an application filer, as defined by 45 CFR 155.20 (which includes authorized representatives); individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR 155.700; Agents and Brokers; and QHP issuers performing application assistance functions) on behalf of the applicant that will enable a determination about the applicant's or enrollee's eligibility. The system will collect and maintain information that the applicant/enrollee or the application filer (an application filer, as defined by 45 CFR 155.20 (which includes authorized representatives); individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR 155.700; Agents and Brokers; and QHP issuers performing application assistance functions) on behalf of the applicant submits, information that is obtained from other federal agencies through the computer matching programs verifying applicant information and information obtained from federal and state sources through the Information Exchange Agreements with IRS and State Medicaid and CHIP agencies and State-based Exchanges pertaining to (1) the applicant or enrollee's citizenship or immigration status, because only individuals who are citizens or nationals of the U.S. or lawfully present are eligible to enroll; (2) enrollment in Federally funded minimum essential health coverage (e.g. Medicare, Medicaid, Federal Employees Health Benefit Program (FEHBP), Veterans Health Administration (Champ VA), Children's Health Insurance Program (CHIP), Department of Defense

(TRICARE), Peace Corps); (3) incarceration status; (4) Indian status; (5) enrollment in employer-sponsored coverage; (6) requests for and accompanying documentation to justify receipt of individual responsibility exemptions, including membership in a certain type of recognized religious sect or health care sharing ministry; (7) employer information; (8) status as a veteran; (9) pregnancy status; (10) blindness and/or disability status; (11) smoking status; and (12) household income, including tax return information from the IRS, income information from the Social Security Administration, and financial information from other third party sources. Federal tax return information can only be used or disclosed as authorized by 26 U.S.C. 6103.

Information will also be maintained with respect to the applicant's enrollment in a QHP through the Exchange, the premium amounts and payment history. The system will collect and maintain information pertaining to Relevant Individual(s) that includes the following: First name, last name, middle initial, permanent residential address, date of birth, SSN (if the Relevant Individual has one or is required to provide it as specified in 45 CFR 155.305(f)(6)), taxpayer status, gender, residency, relationship to applicant, employer information, and household income, including tax information from the IRS, income information from the Social Security Administration, and financial information from other third party sources. Additionally, should an applicant file an appeal, information related to the appeal and any associated documentation and decision will be maintained in the system.

With respect to qualified employers and qualified employees utilizing the SHOP, the information maintained in the system includes but may not be limited to the name and address of the employer, number of employees, Employer Identification Number (EIN), and list of qualified employees and their Social Security Numbers.

Information maintained in this system for application filers (an application filer, as defined by 45 CFR 155.20 (which includes authorized representatives); individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR 155.700; Agents and Brokers; and QHP issuers performing application assistance functions) may include, but not be limited to, the individual's first name, middle name, last name, address, city, state, zip code, telephone number, organization name, identification number, and association with or relationship to an applicant.

Information maintained in this system for Agents and Brokers includes, but may not be limited to, the Agent or Broker's log-in ID, password, first name, middle name, last name, email address, user type, National Producer Number, occupation type, organization type, job title, manager, primary language, region, time zone, state, zip code, phone number. Information maintained in this system for assisters such as Navigators, non-Navigator Assistance Personnel (including In-Person Assisters), and Certified application counselors, includes, but may not be limited to, the assister individual's or entity's user name (user name/ID), first name, last name, email address, phone number, state, zip code, user type, employer or grantee organization (if applicable).

Information in the Health Insurance Casework System (HICS) includes but is not limited to, complainant's contact information, such as, name, telephone number, email address, state of residence, zip code; demographic information, such as, age, gender, ethnicity, family status, employment status, income level, veteran's status and health insurance status, health insurance background and recent history, and available health insurance options. The PII in HICS will include but not be limited to, the consumers, applicants/enrollees, and/or their authorized representatives that have contacted CMS to file a complaint about a QHP offered through the FFE or the issuer of such a QHP, or to seek resolution of a particular issue with such a QHP or issuer. Therefore, we anticipate that in addition to the PII listed above, to the extent complainants share health information with CMS as part of their complaints, PHI may also be included in HICS. Any HICS data published will be in aggregate form and will not contain any personally identifiable data elements.

Information maintained in this system for (i) officers, employees and contractors of the Exchange; (ii) employees and contractors of CMS; (iii) representatives, officers, agents, and employees of QHPs seeking certification; and (iv) persons employed by or contracted with an Exchange organization will include contact and identifying information (such as first and last name, address, telephone number, email address, employer, or similar information), relationship to the Exchange or CMS (such as status as contractor, employee, etc.), and, as applicable, log-in IDs and passwords.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The HIX program implements health care reform provisions of the Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) collectively referred to as the Affordable Care Act. Title 42 U.S.C. 18031, 18041, 18081, 18083, and sections 2723, 2761 of the Public Health Service Act (PHS Act).

PURPOSE(S) OF THE SYSTEM:

Health Insurance Exchanges are established by the Patient Protection and Affordable Care Act of 2010 as amended by the Health Care and Education Reconciliation Act of 2010. They provide competitive marketplaces for individuals and small employers to directly compare available private health insurance options on the basis of price, quality, and other factors. The Exchanges will help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing clout as large businesses.

The purpose of this system is to collect, create, use and disclose PII about individuals who apply for eligibility determinations or appeal eligibility determinations for enrollment in a QHP, including stand-alone dental plans, through an Exchange, for insurance affordability programs, and for certifications of exemption from the individual responsibility requirement. The purpose of this system is also to collect, create, use and disclose PII about Relevant Individual(s) whose PII may bear upon a determination of the eligibility of an individual for an insurance affordability program or for certifications of exemption from the individual responsibility requirement. An additional purpose of the system is to collect, create, use and disclose PII for the identity proofing of application filers as defined in 45 CFR 155.20, primary and secondary employer contacts filing applications to a FF–SHOP, and Agents and Brokers registering with the FFE.

The system will collect, create, use and disclose PII about individuals and entities that register with and are certified by CMS. The CMS-registered and -certified individuals include, but are not limited to, Agents and Brokers, Navigators, non-Navigator Assistance personnel (also known as In-Person Assisters), and Certified application counselors. CMS may display the contact information of Agents and Brokers that register, and successfully complete the CMS training and are

certified by CMS, on the FFE and on the FF–SHOP Web sites for the convenience of consumers looking for an agent or broker that is familiar with the FFE policies, the QHPs being offered, the eligibility determination application process and who are active in the FFE market. Because CMS training is optional for Agents and Brokers offering assistance in the FF–SHOP, only the contact information of those Agents and Brokers who have successfully completed CMS developed training and testing, will be made available to the public (e.g. displayed on a CMS Web site).

Another purpose of the system is tracking and compiling consumer complaints about QHPs offered through an FFE or FF–SHOP or issuers that offer such QHPs. This enables the program to ensure that consumers receive timely assistance and to build a QHP rating system based on complaints. An additional purpose of the system is to perform required legal functions related to oversight and reporting for the HIX Program and its components and to provide necessary analysis and reporting capabilities. The PII described within this SORN will be used for these purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM

A. ENTITIES WHO MAY RECEIVE DISCLOSURES UNDER ROUTINE USES

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the HIX SOR without the affirmative consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are establishing the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or CMS grantees who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this collection and who need to have access to the records in order to assist CMS.

2. To disclose information to another Federal agency, agency of a State government, a non-profit entity operating an Exchange for a State, an agency established by State law, or its fiscal agent, or an Appeals Entity as defined by 45 CFR 155.500 to (A) make eligibility determinations for enrollment in a QHP through an Exchange, insurance affordability programs, certifications of exemption from the individual responsibility requirement, and to coordinate and resolve requests for appeals; (B) to carry out the HIX Program; (C) to perform functions of an Exchange described in 45 CFR 155.200, including notices to employers under section 1411(f) of the Affordable Care Act; and (D) permit the disclosure of Navigator, non-Navigator Assistance Personnel, Certified application counselor, and Agent and Broker information who have completed CMS training, testing and certification to provide consumer assistance to the appropriate state agency or agencies to assist states with oversight, monitoring and enforcement activities, because both CMS and states will be responsible for overseeing, monitoring and regulating these individuals.

3. To disclose information about applicants and Relevant Individual(s) in order to obtain information from other Federal agencies and State agencies and third party data sources that provide information to CMS, pursuant to agreements with CMS, for purposes of determining the eligibility of applicants to enroll in QHPs through an Exchange, in insurance affordability programs, or for a certification of exemption from the individual responsibility requirement.

4. To assist a CMS contractor that assists in the administration of a CMS administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program or to provide oversight of FFE operations.

5. To assist another Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

6. To assist appropriate Federal agencies and CMS contractors and consultants that have a need to know the information for the purpose of assisting CMS' efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided that the information disclosed is relevant and necessary for that assistance.

7. To assist the U.S. Department of Homeland Security (DHS) cyber security personnel, if captured in an intrusion detection system used by HHS and DHS pursuant to the Einstein 2 program.

8. To provide information about applicants, enrollees, appellants, and Relevant Individual(s) to applicants/enrollees, application filers as defined by 45 CFR 155.20, individuals or their authorized representative applying for exemption from the individual shared responsibility payment; a SHOP application filer as defined by 45 CFR 155.700; appellants, Agents Brokers, and QHP issuers who are authorized or certified by CMS to assist applicants/enrollees, when relevant and necessary to determine eligibility for enrollment in a QHP, insurance affordability programs, or a certification of exemption from the individual responsibility requirement through the FFEs.

9. To provide applicant/enrollee and Relevant Individual information to QHP issuers for purposes of enrollment in a qualified health plan and for the administration of the advance payments of premium tax credit and cost-sharing reductions. To provide information about consumers that contact CMS to file a complaint or to seek resolution of a particular issue (that is, to initiate a ''case'') to the issuer of a QHP in an FFE or FF–SHOP, which issuer or which issuer's QHP is the subject of the case.

10. To assist employers identified on applications for eligibility determinations submitted to an Exchange to provide (A) notification to the employer that an employee has been determined eligible for advanced payments of the premium tax credit or cost sharing reductions, (B) notice to the applicant indicating that the Exchange will be contacting any employer identified on the application for the applicant and the members of his or her household, as defined in 26 CFR 1.36B–1(d), to verify whether the applicant is enrolled in an eligible employer-sponsored plan or is eligible for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested, and (C) notice to the employer requesting verification of an employee's eligibility or enrollment in an eligible employer-sponsored plan for the benefit year for which coverage is requested.

11. To permit the public disclosure of information to the appropriate state agency, and members of the public,

about Agents and Brokers that have registered with, successfully completed CMS training, and are certified by an FFE or FF–SHOP to provide outreach and education resources to consumers about obtaining health care coverage in their states,.

12. To provide information regarding complaints to other Federal agencies and agencies of a state government for the purpose of resolving complaints and identifying insurer non-compliance with Federal, state, and other applicable law.

13. To assist a CMS contractor that is engaged to perform a function or provide administrative, technical or physical support to the FFEs (including FF–SHOPs) or to a grantee of a CMS-administered grant program, when the disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Electronic records will be stored on both tape cartridges (magnetic storage media) and in a relational database management environment (DASD data storage media). Any hard copies of program related records containing PII at CMS and contractor locations will be kept in secure hard-copy file folders locked in secure file cabinets during non-duty hours.

RETRIEVABILITY:

The records will be retrieved electronically by a variety of fields, including but not limited to first name, last name, middle initial, date of birth, or Social Security Number (SSN).

SAFEGUARDS:

Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access. Access to records in the HIX Program system will be limited to authorized CMS personnel and contractors through password security, encryption, firewalls, and secured operating system. Any electronic or hard copies of records containing PII at CMS, Exchanges and contractor locations will be kept in secure electronic files or in hard-copy file folders locked in secure file cabinets during non-duty hours.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published records schedules of the Centers for Medicare & Medicaid Services as approved by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Director of Operations, Center for Consumer Information and Insurance Oversight, 7501 Wisconsin Avenue, Bethesda, Maryland 20814.

NOTIFICATION PROCEDURE:

An individual record subject who wishes to know if this system contains records about him or her should write to the system manager who will require the system name, and for verification purposes, the subject individual's name (individual's former name(s) name, if applicable), and SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

An individual seeking access to records about him or her in this system should use the same procedures outlined in Notification Procedures above. The requestor should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

To contest a record, the subject individual should contact the system manager named above, and reasonably identify the record and specify the information being contested. The individual should state the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Personally identifiable information in this database is obtained from the application submitted by or on behalf of applicants, enrollees, and appellants seeking eligibility determinations, from qualified employers and other employers who provide employer-sponsored coverage, from CMS and other Federal and state agencies as part of verifications and information retrievals to make eligibility determinations, from Marketplace assisters facilitating the eligibility and enrollment processes, from QHPs, from State-based Exchanges that provide information to perform the statutory functions, from states participating in State Partnership Exchanges pursuant to Conditional Approval Decision letters, and from third party data sources to determine eligibility as described in this notice.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

Dated: October 18, 2013.

Michelle Snyder,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–24861 Filed 10–22–13; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.508]

Announcing the Award of Four Single-Source Expansion Supplement Grants Under the Tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV), Tribal Early Learning Initiative Program

AGENCY: Office of Child Care, ACF, HHS.

ACTION: Notice of the award of four single-source program expansion supplement grants to Tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) grantee participants in the Tribal Early Learning Initiative.

SUMMARY: This announces the award of single-source program expansion supplement grants to the following Tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) grantees to support their ongoing participation in the Tribal Early Learning Initiative, by the Office of Child Care, a program of the Administration for Children and Families.

Choctaw Nation of Oklahoma	Durant, OK	$25,000
Pueblo of San Felipe	San Felipe, NM	25,000

Confederated Salish and Kootenai Tribes	Pablo, MT	25,000
White Earth Band of Chippewa Indians	White Earth, MN	25,000

The program expansion supplement awards will support expanded services to identify and analyze systems to improve effectiveness and efficiencies across early childhood programs, share action plans to improve outcomes, continue the implementation of and expand the development of concrete community plans, and develop peer learning relationships.

DATES: September 30, 2013–September 29, 2014.

FOR FURTHER INFORMATION CONTACT: Shannon Rudisill, Director, Office of Child Care, 901 D Street SW., Washington, DC 20447. Telephone: (202) 401–6984; Email: *shannon.rudisill@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: One of the stated goals of the Tribal MIECHV program is to support and strengthen cooperation and coordination, and promote linkages among various programs that serve pregnant women, expectant fathers, young children, and families, resulting in the establishment of coordinated and comprehensive early childhood systems in grantee communities.

The activities of the four grantees are expected to result in models for tribal early learning systems that can be replicated in other tribal communities as well as to expand the reach and impact of technical assistance activities for the four participating tribal grantees.

In addition, the supplements will expand the reach and impact of technical assistance efforts by supporting and strengthening existing coordination and collaboration activities and expanding the scope of additional such activities in tribal communities.

Statutory Authority: Awards are supported by section 511(h)(2)(A) of Title V of the Social Security Act, as added by Section 2951 of the Patient Protection and Affordable Care Act, Public Law 111–148, also known as the Affordable Care Act (ACA).

Shannon L. Rudisill,

Director, Office of Child Care.

[FR Doc. 2013–24863 Filed 10–22–13; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0730]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Threshold of Regulation for Substances Used in Food-Contact Articles

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 November 22, 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 0910–0298. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@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.

Threshold of Regulation for Substances Used in Food-Contact Articles—21 CFR 170.39 (OMB Control Number 0910–0298)—Extension

Under section 409(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348(a)), the use of a food additive is deemed unsafe unless one of the following is applicable: (1) It conforms to an exemption for investigational use under section 409(j) of the FD&C Act; (2) it conforms to the terms of a regulation prescribing its use; or (3) in the case of a food additive which meets the definition of a food-contact substance in section 409(h)(6), there is either a regulation authorizing its use in accordance with section 409(a)(3)(A) or an effective notification in accordance with section 409(a)(3)(B).

The regulations in § 170.39 (21 CFR 170.39) established a process that provides the manufacturer with an opportunity to demonstrate that the likelihood or extent of migration to food of a substance used in a food-contact article is so trivial that the use need not be the subject of a food additive listing regulation or an effective notification. The Agency has established two thresholds for the regulation of substances used in food-contact articles. The first exempts those substances used in food-contact articles where the resulting dietary concentration would be at or below 0.5 part per billion (ppb). The second exempts regulated direct food additives for use in food-contact articles where the resulting dietary exposure is 1 percent or less of the acceptable daily intake for these substances.

In order to determine whether the intended use of a substance in a food-contact article meets the threshold criteria, certain information specified in § 170.39(c) must be submitted to FDA. This information includes the following components: (1) The chemical composition of the substance for which the request is made; (2) detailed information on the conditions of use of the substance; (3) a clear statement of the basis for the request for exemption from regulation as a food additive; (4) data that will enable FDA to estimate the daily dietary concentration resulting from the proposed use of the substance; (5) results of a literature search for toxicological data on the substance and its impurities; and (6) information on the environmental impact that would result from the proposed use.

FDA uses this information to determine whether the food-contact article meets the threshold criteria. Respondents to this information collection are individual manufacturers and suppliers of substances used in food-contact articles (i.e., food packaging and food processing equipment) or of the articles themselves.

In the **Federal Register** of June 26, 2013 (78 FR 38349), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR 170.39	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Threshold of regulation for substances used in food-contact articles	7	1	7	48	336

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In compiling these estimates, FDA consulted its records of the number of regulation exemption requests received in the past three years. The annual hours per response reporting estimate of 48 hours is based on information received from representatives of the food packaging and processing industries and Agency records.

FDA estimates that approximately 7 requests per year will be submitted under the threshold of regulation exemption process of § 170.39, for a total of 336 hours. The threshold of regulation process offers one advantage over the premarket notification process for food-contact substances established by section 409(h) (OMB control number 0910–0495) in that the use of a substance exempted by the Agency is not limited to only the manufacturer or supplier who submitted the request for an exemption. Other manufacturers or suppliers may use exempted substances in food-contact articles as long as the conditions of use (e.g., use levels, temperature, type of food contacted, etc.) are those for which the exemption was issued. As a result, the overall burden on both the Agency and the regulated industry would be significantly less in that other manufacturers and suppliers would not have to prepare, and FDA would not have to review, similar submissions for identical components of food-contact articles used under identical conditions. Manufacturers and other interested persons can easily access an up-to-date list of exempted substances which is on display at FDA's Division of Dockets Management and on the Internet at *http://www.fda.gov/Food/IngredientsPackagingLabeling/PackagingFCS/default.htm*. Having the list of exempted substances publicly available decreases the likelihood that a company would submit a food additive petition or a notification for the same type of food-contact application of a substance for which the Agency has previously granted an exemption from the food additive listing regulation requirement.

Dated: October 17, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24804 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1170]

Draft Guidance for Industry on Chronic Hepatitis C Virus Infection: Developing Direct-Acting Antiviral Drugs for Treatment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Chronic Hepatitis C Virus Infection: Developing Direct-Acting Antiviral Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in all phases of development of direct-acting antiviral (DAA) drugs for the treatment of chronic hepatitis C. This guidance revises and replaces a previous draft guidance for industry entitled ''Chronic Hepatitis C Virus Infection: Developing Direct-Acting Antiviral Agents for Treatment'' issued on September 14, 2010.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 23, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jeffrey Murray, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6360, Silver Spring, MD 20993–0002, 301–796–1500.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Chronic Hepatitis C Virus Infection: Developing Direct-Acting Antiviral Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in all phases of development of DAA drugs for the treatment of chronic hepatitis C. This guidance revises the draft guidance for industry entitled ''Chronic Hepatitis C Virus Infection: Developing Direct-Acting Antiviral Agents for Treatment'' issued in September 2010. Significant changes in this revision include:

- Details on phase 2 and phase 3 trial design options for the evaluation of interferon (IFN)-free and IFN-containing regimens in treatment-naïve and treatment-experienced populations, including DAA-experienced populations.
- Revised primary endpoint to sustained virologic response at 12 weeks post-treatment cessation.
- Greater emphasis on DAA drug development in special populations including trial design options for human immunodeficiency virus/hepatitis C virus co-infected patients, patients with decompensated cirrhosis, and patients pre- or post-liver transplant.
- More details on clinical virology considerations for DAA drugs.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on developing DAA drugs for the treatment of chronic hepatitis C virus infection. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014, the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001, and the collections of information referred to in the guidance for industry ''Establishment and Operation of Clinical Trial Data Monitoring Committees'' have been approved under OMB control number 0910–0581.

III. 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 4, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24785 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1156]

International Conference on Harmonisation; Draft Guidance on Elemental Impurities; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Elemental Impurities.'' Prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), this guidance is intended to develop a harmonized approach for the control of elemental impurities that helps industry avoid the uncertainty and duplication of work resulting from differing requirements across ICH regions. It includes the specific elements to be limited and the appropriate limits for impurities, and emphasizes control of supply chains and risk assessments. It is expected to provide appropriate safety-based limits for the control of elemental impurities, consistent expectations for test requirements and regulatory filings, and a global policy for limiting elemental impurities, both qualitatively and quantitatively, in drug products and ingredients.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 23, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance:* John Kauffman, CDER, Food and Drug Administration, 1114 Market St., DPA Facility, suite 1002, St. Louis, MO 63101, 314–539–2135. *Regarding the ICH:* Michelle Limoli, International Programs, CDER, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 3342, Silver Spring, MD 20993–0002, 301–796–8377.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as

observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In June 2013, the ICH Steering Committee agreed that a draft guidance entitled ''Elemental Impurities'' should be made available for public comment. The draft guidance is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Q3D Expert Working Group.

The draft guidance provides guidance on control of elemental impurities and expectations for test requirements for regulatory filings.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: October 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24786 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1181]

Guidance for Industry on Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of new antibacterial drugs to treat acute bacterial skin and skin structure infections (ABSSSI). This guidance finalizes the revised draft guidance of the same name issued on August 27, 2010.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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.

FOR FURTHER INFORMATION CONTACT: Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of new antibacterial drugs for the treatment of ABSSSI.

This guidance describes approaches for entry criteria and trial designs for the evaluation of new drugs for the treatment of ABSSSI. The guidance focuses on the noninferiority trial design and describes an endpoint for which there is a well-defined treatment effect. The guidance also provides the justification for the noninferiority margin. After careful consideration of comments received in response to the draft guidance issued on August 27, 2010, important clarifications about trial populations, designs, and endpoints for ABSSSI were included in this guidance. In addition, this guidance reflects recent developments in scientific information that pertain to drugs being developed for the treatment of ABSSSI.

Issuance of this guidance fulfills a portion of the requirements of Title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to ''. . . review and, as appropriate, revise not fewer than 3 guidance documents per year . . . for the conduct of clinical trials with respect to antibacterial and antifungal drugs . . . .''

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance represents the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that 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 parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 8, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24787 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0241]

Guidance for Industry on Data Elements for Submission of Veterinary Adverse Event Reports to the Center for Veterinary Medicine; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry #188 entitled ''Data Elements for Submission of Veterinary Adverse Event Reports to the Center for Veterinary Medicine.'' The purpose of this guidance is to assist sponsors or non-applicants with filling out Form FDA 1932, ''Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report,'' in both paper and electronic format, as required by FDA regulations.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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.

FOR FURTHER INFORMATION CONTACT: Margarita Brown, Center for Veterinary Medicine (HFV–241), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9048. *margarita.brown@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 25, 2010 (75 FR 29352), FDA published the notice of availability for a draft guidance #188 entitled ''Data Elements for Submission of Veterinary Adverse Event Reports to the Center for Veterinary Medicine,'' giving interested persons until August 9, 2010, to comment on the draft guidance. FDA made changes to the draft document in response to these comments, to clarify the information that we expect to receive, to reflect ongoing International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) activities in which FDA is participating, and to provide direction for voluntary use of CVM internal terms for medication errors. In addition, editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated May 24, 2010.

II. Significance of Guidance

This level 1 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 the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. 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 section 512(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)) have been approved under 0910–0645.

IV. 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*.

V. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov*.

Dated: October 18, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24803 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0343]

International Conference on Harmonisation; Guidance on Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Annex 14 on Bacterial Endotoxins Test General Chapter; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Annex 14: Bacterial Endotoxins Test General Chapter.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance provides the results of the ICH Q4B evaluation of the Bacterial Endotoxins Test General Chapter harmonized text from each of the three pharmacopoeias (United States, European, and Japanese) represented by the Pharmacopoeial Discussion Group (PDG). The guidance conveys recognition of the three pharmacopoeial methods by the three ICH regulatory regions and provides specific information regarding the recognition. The guidance is intended to recognize the interchangeability between the local regional pharmacopoeias, thus avoiding

redundant testing in favor of a common testing strategy in each regulatory region. The guidance is in the form of an annex to the core guidance on the Q4B process entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the ICH Regions (core ICH Q4B guidance).

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Robert King, Sr., Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 4166, Silver Spring, MD 20993–0002, 301–796–1242; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

Regarding the ICH: Michelle Limoli, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 3342, Silver Spring, MD 20993–0002, 301–796–8377.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of July 19, 2010 (75 FR 41871), FDA published a notice announcing the availability of a draft guidance entitled ''Q4B Evaluation and Recommendation of Pharmacopoeial Texts for Use in the International Conference on Harmonisation Regions; Annex 14: Bacterial Endotoxins Test General Chapter.'' The notice gave interested persons an opportunity to submit comments by September 14, 2010.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in October 2012.

The guidance provides the specific evaluation results from the ICH Q4B process for the Bacterial Endotoxins Test General Chapter harmonized text originating from the three-party PDG. This guidance is in the form of an annex to the core ICH Q4B guidance (*http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM073405.pdf*) made available in the **Federal Register** of February 21, 2008 (73 FR 9575). The annex will provide guidance to assist industry and regulators in the implementation of the specific topic evaluated by the ICH Q4B process.

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 this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: October 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24784 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration

(FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 4, 2013, from 1 p.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Caleb Briggs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The recent permanent reauthorization of the Pediatric Research Equity Act (Pub. L. 108–155) and the Best Pharmaceuticals for Children Act (Pub. L. 107–109) and their associated amendments require earlier consideration of pediatric study plans. The need for suitable outcome assessment tools to evaluate treatment benefit of new cancer drugs on how a patient feels and/or functions as well as survives necessitates consideration of the potential challenges to the use of patient reported outcomes (PROs) in the pediatric age group. The 2009 ''FDA Guidance for Industry: Patient-Reported Outcome Measures Use in Medical Product Development to Support Labeling Claims'' does not specifically address the relevance and potential use of such measures in the pediatric development plans of oncology products. The half-day session will provide an opportunity to review the Agency's position on the use of PROs in the pediatric population in general. As well, participants will review the current state of the science of the evaluation of pertinent health-related quality of life measures in children with cancer across the various age and developmental subgroups of children. Participants will discuss potential contexts of use for measuring both observable and unobservable concepts in specific pediatric cancer diagnoses across relevant age groups and defined disease stages using validated tools. No specific drug or biologic products or class of products will be discussed.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 30, 2013. Oral presentations from the public will be scheduled between approximately 2:45 p.m. and 3:45 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 28, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 29, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caleb Briggs at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–24805 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–N–2013–1041]

Fibromyalgia Public Meeting on Patient-Focused Drug Development; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that appeared in the **Federal Register** of September 23, 2013 (78 FR 58313). The document announced a public meeting entitled ''Fibromyalgia Public Meeting on Patient-Focused Drug Development'' and opportunity for public comment. The document published with an incorrect date for submission of electronic and written comments. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Graham Thompson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 1199, Silver Spring, MD 20993, 301–796–5003, FAX: 301–847–8443, email: *graham.thompson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc 2013–23019, appearing on page 58313

in the **Federal Register** of Monday, September 23, 2013, the following corrections are made:

1. On page 58313, in the first column, in the ''Dates'' section, the last sentence is corrected to read ''Submit electronic or written comments by February 10, 2014.''

2. On page 58314, in the second column, in the fourth full paragraph, the last sentence is corrected to read ''Comments may be submitted until February 10, 2014.''

Dated: October 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24782 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 19, 2013, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person For More Information: Karen Abraham-Burrell, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the *Federal Register* about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss biologics license application (BLA) 125460, for Vimizim (elosulfase alfa), manufactured by BioMarin Pharmaceutical, Inc., for the treatment of Mucopolysaccharidosis Type IVA (Morquio A syndrome). Morquio A syndrome is a rare congenital disorder caused by the absence or malfunctioning of an enzyme involved in an important metabolic pathway, leading to problems with bone development, growth, and movement.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 4, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 25, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 28, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Karen Abraham-Burrell at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 18, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–24799 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 5, 2013, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person for More Information: Caleb Briggs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: During the morning session, there will be a presentation and general discussion of the potential applicability of pharmacological and cellular manipulation of the immune system, as a potential therapeutic intervention in various pediatric cancers. The recent, dramatic results of inhibition of the PD–1/PD–L1 axis and checkpoint inhibitors on normal T cells in melanoma and other adult cancers strongly suggest a potential role for such agents in the management of childhood cancer. Information will be presented regarding pediatric development plans for two products that are in late stage development for various adult oncology indications. The subcommittee will consider and discuss issues relating to the development of each product for potential pediatric use and provide guidance to facilitate the formulation of Written Requests for pediatric studies, if appropriate. The two products under consideration are: (1) Nivolumab, application submitted by Bristol-Myers Squibb Co. and (2) MK–3475, application submitted by Merck Sharp & Dohme.

During the afternoon session, information will be presented regarding pediatric development plans for LEE011, application submitted by Novartis Pharmaceuticals Corp., a product in early-stage development for adult and pediatric oncology indications. The subcommittee will consider and discuss issues relating to the development of this product for possible pediatric use and provide guidance to facilitate the formulation of Written Requests for pediatric studies, if appropriate.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person on or before October 30, 2013. Oral presentations from the public will be scheduled between approximately 10:15 a.m. to 10:45 a.m., and 1:20 p.m. to 1:50 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 28, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 29, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caleb Briggs at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–24798 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Ear, Nose and Throat Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ear, Nose and Throat Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 8, 2013, from 8 a.m. to 6 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

For those unable to attend in person, the meeting will also be Webcast. The Webcast will be available at the following link: *https://collaboration.fda.gov/entdevices.*

Contact Person: Natasha Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1544, Silver Spring, MD 20993, 301–796–5290, *Natasha.Facey@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On November 8, 2013, the committee will discuss, make recommendations, and vote on information regarding the premarket approval (PMA) application for the Nucleus® Hybrid™ L24 Implant System sponsored by Cochlear Americas. The proposed Indications for Use for the Nucleus® Hybrid™ L24 Implant System (as stated in the PMA) is as follows:

The Nucleus® Hybrid™ L24 Implant System is intended for patients aged 18 years and older who have residual low-frequency hearing sensitivity and bilateral severe to profound high frequency sensorineural hearing loss, and who obtain limited benefit from bilateral hearing aids.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 31, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 22, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 24, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams at *AnnMarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting. Requests for sign language interpretation or Communication Access Realtime Translation (CART)/captioning must be made 2 weeks in advance of the meeting, no later than October 25, 2013.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 18, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–24832 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1137]

GlaxoSmithKline LLC; Withdrawal of Approval of the Indication for Treatment of Patients With Relapsed or Refractory, Low Grade, Follicular, or Transformed CD20 Positive Non-Hodgkin's Lymphoma Who Have Not Received Prior Rituximab; BEXXAR

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the indication for treatment of patients with relapsed or refractory, low grade, follicular, or transformed CD20 positive non-Hodgkin's lymphoma who have not received prior rituximab, for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection held by GlaxoSmithKline LLP, P.O. Box 5089, 1250 South Collegeville Rd., Collegeville, PA 19426 (Glaxo). Glaxo has voluntarily requested that approval of this indication be withdrawn and has waived its opportunity for a hearing.

DATES: Effective October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: FDA approved BEXXAR on June 27, 2003, for the treatment of patients with CD20 positive, relapsed or refractory, low-grade, follicular, or transformed non-Hodgkin's lymphoma who have progressed during or after rituximab therapy. On December 22, 2004, FDA approved a new indication to include patients who have not received prior rituximab (the rituximab-naïve indication) under the Agency's accelerated approval regulations for biological products, 21 CFR part 601, subpart E.

On December 13, 2011, FDA requested that Glaxo voluntarily withdraw the rituximab-naïve indication for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection because the postmarketing study intended to verify clinical benefit and required as a condition of approval under part 601, subpart E was not completed. Withdrawal of approval of the rituximab-naïve indication does not otherwise affect the approved indication for BEXXAR.

On April 23, 2012, Glaxo submitted a prior approval labeling supplement requesting removal of the rituximab-naïve indication for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection from the package insert. In the cover letter accompanying the supplement, Glaxo requested that FDA withdraw the rituximab-naïve indication for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection from the market and waived its opportunity for a hearing. In a letter dated May 11, 2012, FDA acknowledged receipt of the prior approval labeling supplement and Glaxo's request to withdraw the rituximab-naïve indication for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection. Glaxo's labeling supplement was approved by FDA in a letter dated August 15, 2012. Therefore, under section 506 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 356) and § 601.43, and under authority delegated by the Commissioner to the Director, Center for Drug Evaluation and Research, approval of the rituximab-naïve indication for BEXXAR (tositumomab and iodine I 131 tositumomab) Injection is withdrawn as of October 23, 2013.

Dated: October 18, 2013.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 2013–24840 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0665]

Determination That INTAL (cromolyn sodium) Inhalation Capsule, 20 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that INTAL (cromolyn sodium) Inhalation Capsule, 20 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for cromolyn sodium inhalation capsule, 20 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6250, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, is the subject of NDA 16–990, held by Rhône-Poulenc Rorer Pharmaceuticals, Inc., and initially approved on June 20, 1973. INTAL is indicated for management of patients with bronchial asthma.

In a letter dated August 16, 1999, Rhône-Poulenc Rorer Pharmaceuticals, Inc., notified FDA that INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, had been discontinued in 1995 and requested withdrawal of NDA 16–990 for INTAL. In the **Federal Register** of March 20, 2000 (65 FR 14983), FDA announced that it was withdrawing approval of NDA 16–990, effective April 19, 2000.

Alan G. Minsk and Kelley C. Nduom submitted a citizen petition dated May 23, 2013 (Docket No. FDA–2013–P–0665), under 21 CFR 10.30, requesting that the Agency determine whether INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of this product from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to INTAL (cromolyn sodium) Inhalation Capsule, 20 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24783 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0671]

Determination That PARAFLEX (Chlorzoxazone) Tablets, 250 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that PARAFLEX (Chlorzoxazone) Tablets, 250 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for PARAFLEX (Chlorzoxazone) Tablets, 250 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Kathy Schreier, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6252, Silver Spring, MD 20993–0002, 301–796–3432.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

PARAFLEX (Chlorzoxazone) Tablets, 250 mg, is the subject of NDA 11–300, held by Ortho McNeil Pharm, and was initially approved on December 12, 1958. PARAFLEX is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculoskeletal conditions.

In letters dated April 11, 1997, and April 22, 1997, a former NDA holder, The R.W. Johnson Pharmaceutical Research Institute, notified FDA that PARAFLEX (Chlorzoxazone) Tablets, 250 mg, had been discontinued and requested withdrawal of NDA 11–300, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book. In the **Federal Register** of September 25, 1997 (62 FR 50387), FDA announced that it was withdrawing approval of NDA 11–300, effective September 25, 1997.

Lachman Consultant Services, Inc., submitted a citizen petition dated June 4, 2013 (Docket No. FDA–2013–P–0671), under 21 CFR 10.30, requesting that the Agency determine whether PARAFLEX (Chlorzoxazone) Tablets, 250 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that PARAFLEX (Chlorzoxazone) Tablets, 250 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that PARAFLEX (Chlorzoxazone) Tablets, 250 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of PARAFLEX (Chlorzoxazone) Tablets, 250 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list PARAFLEX (Chlorzoxazone) Tablets, 250 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to PARAFLEX (Chlorzoxazone) Tablets, 250 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24781 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0503]

Determination That Potassium Citrate, 10 Milliequivalents/Packet and 20 Milliequivalents/Packet, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that Potassium Citrate, 10 milliequivalents/packet (mEq/packet) and 20 mEq/packet, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for Potassium Citrate, 10 mEq/packet and 20 mEq/packet, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Linda Jong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6224, Silver Spring, MD 20993–0002, 301–796–3977.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate

versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Potassium Citrate, 10 mEq/packet and 20 mEq/packet, is the subject of NDA 19–647, held by Nova-K LLC, and initially approved on October 13, 1988. Potassium Citrate is indicated for the management of renal tubular acidosis with calcium stones, hypocitraturic calcium oxalate nephrolithiasis of any etiology, and uric acid lithiasis with or without calcium stones.

Potassium Citrate, 10 mEq/packet and 20 mEq/packet, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book. Nomax, Inc., submitted a citizen petition dated April 18, 2013 (Docket No. FDA–2013–P–0503), under 21 CFR 10.30, requesting that the Agency determine whether Potassium Citrate, 10 mEq/packet and 20 mEq/packet, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that Potassium Citrate, 10 mEq/packet and 20 mEq/packet, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that Potassium Citrate, 10 mEq/packet and 20 mEq/packet, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of Potassium Citrate, 10 mEq/packet and 20 mEq/packet, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list Potassium Citrate, 10 mEq/packet and 20 mEq/packet, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to Potassium Citrate, 10 mEq/packet and 20 mEq/packet, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–24780 Filed 10–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Peptide Inhibitor of p38 Mapk Signaling for the Treatment of Inflammatory Autoimmune Diseases and Inflammatory Cancers

Description of Technology: This invention relates to a peptide fragment of GADD45A growth arrest and DNA-damage-inducible, alpha (Gadd45a), a protein involved in the p38 Map kinase signaling pathway. Although the fragment is only 15 amino acids in length, it retains the functionality of Gadd45a by inhibiting enzymatic activity of tyrosine-323-phosphorylaled p38 *in vitro.* The peptide fragment is tagged to render it cell-permeable and, according to *in vitro* studies, it exhibits minimal toxicity. The inventors have found that the fragment readily penetrates T cells to inhibit (a) proliferation in response to T cell receptor-mediated stimulation; (b) skewing of T cells to Th I and Th 17 cells; and (c) inflammatory cytokine production. As a result, this fragment has anti-inflammatory properties and has potential as a therapeutic for inflammatory autoimmune conditions or inflammatory cancers, such as pancreatic cancer.

Potential Commercial Applications: Treatment for inflammatory autoimmune conditions or inflammatory cancers, such as pancreatic cancer.

Competitive Advantages: Minimal cellular toxicity.

Development Stage: In vitro data available.

Inventors: Jonathan D. Ashwell, Mohammed S. Alam, Paul R. Mittelstadt (all of NCI).

Intellectual Property:

- HHS Reference No. E–281–2012/0—US Provisional Application No. 61/728,368 filed 20 Nov 2012.
- HHS Reference No. E–281–2012/1—US Provisional Application No. 61/774,066 filed 07 Mar 2013.

Licensing Contact: Jaime M. Greene; 301–435–5559; *greenejaime@mail.nih.gov*.

Cannabinoid Receptor 1 (CB1) Inverse Agonists for the Treatment of Diabetes, Obesity and Their Complications

Description of Technology: Endocannabinoids are lipid signaling molecules that act on the same cannabinoid receptors—CB1 and CB2—that recognize and mediate the effects of marijuana. Activation of CB1 receptors increases appetite and the biosynthesis and storage of lipids, inhibits the actions of insulin and leptin, and promotes tissue inflammation and fibrosis. This has led to the development of CB1 receptor blocking drugs (inverse agonists) for the treatment of obesity and its metabolic complications, referred to as the metabolic syndrome. However, many CB1 inverse agonists can cross the blood-brain barrier, causing psychiatric side effects.

Researchers at NIH have now developed a novel strategy to structurally modify CB1 inverse agonists with the goals of (1) limiting their brain penetrance without losing their metabolic efficacy due to CB1 inverse agonism, and (2) generating compounds whose primary metabolite directly targets enzymes involved in inflammatory and fibrotic processes associated with metabolic disorders. These modified CB1 inverse agonists can be used to effectively treat metabolic syndrome and its complications without the risk of the psychiatric side effects, and have improved antiinflammatory and antifibrotic efficacy due to acting on more than one molecular target.

Potential Commercial Applications:

- Treatment for obesity
- Treatment for metabolic syndrome
- Treatment of diabetes
- Treatment of fibrosis

Competitive Advantages:

- Inhibits metabolic activity without causing psychiatric side effects
- Offers improved antiinflammatory and antifibrotic efficacy

Development Stage:

- In vitro data available
- In vivo data available (animal)

Inventors: George Kunos (NIAAA), Milliga Iyer (NIAAA), Resat Cinar (NIAAA), Kenner Rice (NIDA)

Intellectual Property: HHS Reference No. E–282–2012/0—US Provisional Application No. 61/725,949 filed 11 Nov 2012.

Licensing Contact: Jaime M. Greene; 301–435–5559; *greenejaime@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute on Alcohol Abuse and Alcoholism, Laboratory of Physiologic Studies, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize peripherally restricted CB1 receptor blockers with improved efficacy. For collaboration opportunities, please contact George Kunos, M.D., Ph.D. at *George.Kunos@nih.gov* or 301–443–2069.

Software Method for 2–D NMR Tissue Compartment Analysis

Description of Technology: The invention pertains to a method for improving the accuracy of compartment characterization using NMR. Conventional methods use Laplace transformation analyzed one dimensional transverse NMR relaxometry to investigate spin-lattice decay of water in diverse body compartments using. This method, although used extensively, is inaccurate and limited by signal-to-noise obscurities and when the materials and compartments to be analyzed vary in size or have disparate relaxation characteristics.

The improved method of this invention utilizes the detection of a 2-dimensional (2–D) NMR signal, created through use of a standard pulse sequence and variations, analysis of the signal using inverse Laplace transform, followed by projection of the resultant 2–D data onto a single axis corresponding to the parameter of original interest. The method can be extended to analyses for 3–D or higher dimensional experiments and inverse Laplace transforms.

Potential Commercial Applications:

- Compartment analysis
- Petroleum discovery
- Multiple sclerosis

Competitive Advantages:

Compartment resolution

Development Stage: Prototype

Inventors: Richard G. Spencer and Hasan Celik (NIA)

Intellectual Property: HHS Reference No. E–734–2013/0—Software. Patent protection is not being pursued for this technology.

Licensing Contact: Michael Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov*

Dated: October 18, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–24819 Filed 10–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a stakeholder meeting hosted by the NIH Scientific Management Review Board (SMRB). Presentations and discussions will address the optimal approaches to assessing the value of biomedical research supported by the NIH and will include input from stakeholders in biomedical research.

The NIH Reform Act of 2006 (Pub. L. 109–482) provides organizational authorities to HHS and NIH officials to: (1) Establish or abolish national research institutes; (2) reorganize the offices within the Office of the Director, NIH including adding, removing, or transferring the functions of such offices or establishing or terminating such offices; and (3) reorganize, divisions, centers, or other administrative units within an NIH national research institute or national center including adding, removing, or transferring the functions of such units, or establishing or terminating such units. The purpose of the SMRB is to advise appropriate HHS and NIH officials on the use of these organizational authorities and identify the reasons underlying the recommendations.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Scientific Management Review Board (SMRB).

Date: October 24–25, 2013.

Time: 9 a.m. on October 24, 2013 to 12:30 p.m. on October 25, 2013.

Agenda: Presentations and discussions will include: 1) an update from the SMRB's Working Group on Approaches to Assess the Value of Biomedical Research Supported by NIH, and 2) presentations that explore approaches to assess the value of biomedical research supported by NIH. Time will be allotted on the agenda for public comment. Sign up for public comments will begin approximately at 7:30 a.m. on October 24, 2013, and will be restricted to one sign-in per person. In the event that time does not allow for all those interested to present oral comments, any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement

should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Place: National Institutes of Health, Building 31, 6th Floor, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Juanita Marner, Office of Science Policy, Office of the Director, NIH, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, *smrb@mail.nih.gov*, (301) 435–1770.

The meeting will also be webcast. The draft meeting agenda and other information about the SMRB, including information about access to the webcast, will be available at *http://smrb.od.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

This notice is being published less than 15 days prior to the meeting due to the U.S. government shutdown.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 18, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–24817 Filed 10–18–13; 4:15 pm]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Osteoporosis Omics.

Date: November 15, 2013.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 18, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–24822 Filed 10–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

Date: November 4, 2013.

Time: 1:30 p.m. to 3:00 p.m.

Agenda: To discuss site visit report.

Place: National Institutes of Health, Conf. Line: 888–282–0367 Code: 13831, One Center Drive, Rm. 160, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael M Gottesman, Deputy Director for Intramural Research, National Institutes of Health, One Center Drive, Rm. 160, Bethesda, MD 20892, (301) 496–1921.

This meeting notice may be published less than 15 days in advance of the meeting due to the October 2013 Government shutdown.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 17, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–24821 Filed 10–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel P20 INBRE Applications.

Date: October 29, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree by Hilton Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892, 301–594–3663, *sidorova@nigms.nih.gov*.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Peer Review of SCORE (SB) Grant Applications.

Date: October 30, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room

3An.18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Saraswathy Seetharam, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12C, Bethesda, MD 20892, 301–594–2763, *seetharams@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 18, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–24823 Filed 10–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0057]

President's National Security Telecommunications Advisory Committee

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management Notice of an Open Federal Advisory Committee Meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Wednesday, November 20, 2013. The meeting will be open to the public.

DATES: The NSTAC will meet on Wednesday, November 20, 2013, from 9:00 a.m. to 2:00 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) facility located at 500 12th Street SW., Washington, DC, 20024. For access to the facility, contact Ms. Suzanne Daage by email at *sue.daage@hq.dhs.gov* or phone at (703)235–5461 by 5:00 p.m. on Wednesday, November 13, 2013. For information on services or facilities for individuals with disabilities or to request special assistance to access the meeting, contact Ms. Suzanne Daage by email at *sue.daage@hq.dhs.gov* or phone at (703) 235–5461.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Supplementary Information'' section below. The documents associated with the topics to be discussed during the meeting will be available at *www.dhs.gov/nstac* for review by Tuesday, November 12, 2013. Written comments must be received by the NSTAC Alternate Designated Federal Officer no later than Monday, November 18, 2013, and may be submitted by any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting written comments.
- *Email: NSTAC@hq.dhs.gov.* Include the docket number in the subject line of the email message.
- *Fax:* (703) 235–5961
- *Mail:* Alternate Designated Federal Officer, Stakeholder Engagement and Cyber Infrastructure Resilience Division, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 3016B, Arlington, VA 20598–0615.

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.

Docket: For access to the docket, including all documents and comments received by the NSTAC, go to *http://www.regulations.gov*.

A public comment period will be held during the meeting on Wednesday, November 20, 2013, from 1:30 p.m. to 2:00 p.m. Speakers who wish to participate in the public comment period must register in advance no later than Wednesday, November 13, 2013, at 5:00 p.m. by emailing Suzanne Daage at *sue.daage@hq.dhs.gov*. Speakers are requested to limit their comments to three minutes and will speak in order of registration as time permits.

Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Echols, NSTAC Alternate Designated Federal Officer, Department of Homeland Security, telephone (703) 235–5469.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act* (FACA), 5 U.S.C. App. (Pub. L. 92–463). The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications policy. During the meeting, the Industrial Internet Subcommittee Co-Chairs will provide the NSTAC members with a status of its work. Next, the NSTAC will receive an update on the status of the Government's progress implementing recommendations from recently completed reports. Next, the Executive Office of the President (EOP) will discuss with members its next tasking on information technology mobilization. Additionally, the members will hear several industry and Government briefings. The first briefing will be on the current threat environment. Next, the Federal Communications Commission will brief members on its cybersecurity activities. Finally, the EOP will facilitate a roundtable discussion with members on the National Institute of Standards and Technology's Cybersecurity Framework.

Dated: September 30, 2013.

Mike Echols,

Alternate Designated Federal Officer for the NSTAC.

[FR Doc. 2013–24887 Filed 10–22–13; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0884]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Teleconference Meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will meet on November 14, 2013 via teleconference, to discuss Task Statement 85, Review of Draft Update to Marine Safety Manual (Volume III), Chapters 20 through 26. This meeting will be open to the public.

DATES: The teleconference meeting will take place on November 14, 2013, from 1 p.m. until 3 p.m. EST. Please note that this meeting may adjourn early if all business is finished.

ADDRESSES: To participate by phone, contact the Alternate Designated Federal Officer (ADFO) listed below in the **FOR FURTHER INFORMATION CONTACT** section to obtain teleconference information. Note the number of teleconference lines is limited and will be available on a first-come, first-served basis. To join those participating in this teleconference from U.S. Coast Guard Headquarters, come to Room 6J07–02, 2703 Martin Luther King

Jr. Ave. SE., Washington, DC 20593–7509. Due to security at the new Headquarters building, members of the public wishing to attend should register with Mr. Gerald Miante, ADFO of MERPAC, at (202) 372–1407 or *gerald.p.miante@uscg.mil* no later than November 7, 2013. All visitors to Coast Guard Headquarters must provide identification in the form of a Government issued picture identification card for access to the facility. Please arrive at least 30 minutes before the planned start of the meeting in order to pass through security.

For information on facilities or services for individuals with disabilities or to request special assistance, contact Mr. Gerald Miante at 202–372–1407 or at *gerald.p.miante@uscg.mil* as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. Written comments for distribution to committee members and inclusion on the MERPAC Web site must be submitted on or before November 7, 2013.

Written comments must be identified by Docket No. USCG–2013–0884 and 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:* 202–493–2251.
- *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://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: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* enter the docket number in the ''Search'' field and follow the instructions on the Web site.

A public oral comment period will be held after the working group report. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time following the last call for comments. Contact Gerald Miante as indicated above no later than November 7, 2013, to register as a speaker. This notice may be viewed in our online docket, USCG–2013–0884, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miante, Alternate Designated Federal Officer (ADFO), telephone 202–372–1407, or at *gerald.p.miante@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 (FACA), Title 5, United States Code (Pub. L. 92–463).

MERPAC is an advisory committee established under the Secretary's authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. 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 Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

A copy of all meeting documentation is available at *https://homeport.uscg.mil* by using these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the Announcements key. Alternatively, you may contact Mr. Miante as noted in the **ADDRESSES** section above.

Agenda

The agenda for the November 14, 2013 committee teleconference meeting is as follows:

(1) Introduction;

(2) Roll call of committee members and determination of a quorum;

(3) Designated Federal Officer (DFO) announcements;

(4) Reports from the Task Statement 85 working group, concerning Review of Draft Update to Marine Safety Manual (Volume III), Chapters 20 through 26.

(5) Public comment period/presentations.

(6) Discussion of working group recommendations. The committee will review the information presented on this issue, deliberate on any recommendations presented by the working group and approve/formulate recommendations for the Department's consideration. Official action on these recommendations may be taken on this date.

(7) Closing remarks.

(8) Adjournment of meeting.

Dated: October 10, 2013.

J. G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–24747 Filed 10–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0886]

National Offshore Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Meeting.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet on November 13 and 14, 2013, in Houston, TX, to discuss various issues related to safety of operations and other matters affecting the oil and gas offshore industry. These meetings are open to the public.

DATES: Subcommittees of NOSAC will meet on Wednesday, November 13, 2013 from 8:30 a.m. to 5 p.m. and the full committee will meet on Thursday, November 14, 2013, from 8:30 a.m. to 4 p.m. Please note that the meetings may close early if the committee has completed its business or be extended based on the level of public comments.

ADDRESSES: The meetings will be held at the offices of Det Norske Veritas (DNV), 1400 Ravello Drive, Katy, TX, 77450, 1–504–522–0083. The November 13th subcommittee meetings will be held in the DNV Conference space. The November 14th full committee meeting will also be held in the DNV Conference space. When arriving, please check in with the DNV receptionist for directions to the Conference space.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** as soon as possible.

To facilitate public participation, we are inviting public comment on the

issues to be considered by the committee prior to the adoption of recommendations as listed in the ''AGENDA'' section below. Comments must be submitted in writing no later than November 7, 2013, and must be identified by USCG–2013–0886 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *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.
- To avoid duplication, please use only one of these methods.

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: For access to the docket to read documents or comments related to this Notice, go to *http://www.regulations.gov,* insert USCG–2013–0886 in the Keyword ID box, press Enter, and then click on the item you are interested in viewing.

A public comment period will be held during the meeting on November 14, 2013, and speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Rob Smith, Designated Federal Official (DFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–1926, or Mr. Scott Hartley, Alternate Designated Federal Official (ADFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1437, fax (202) 372–1926. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). NOSAC provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

Agenda

Day 1

The following NOSAC subcommittees will meet to review, discuss and formulate recommendations:

(1) Standards for Accommodation Service Vessels.

(2) Life Saving and Fire Fighting Voluntary Standards on the Outer Continental Shelf.

(3) Electrical Equipment in Hazardous Areas on Foreign Flag Mobile Offshore Drilling Units.

(4) Safety Impact of Liftboat Sea Service Limitations.

(5) Marine Casualty Reporting/Form CG–2692 Revisions.

(6) Commercial Diving Safety on the OCS.

Subcommittee task statements and additional information are located at the following web address: *https://homeport.uscg.mil/NOSAC.*

Day 2

The NOSAC will meet on November 14, 2013, to review and discuss progress and or final reports and recommendations received from the above listed subcommittees from their deliberations on November 13th. The Committee will then use this information and consider public comments in formulating recommendations to the agency. Public comments or questions will be taken at the discretion of the DFO during the discussion and recommendation portion of the meeting as well as during public comment period, see Agenda item (9).

A complete agenda for November 14th is as follows:

(1) Presentation and discussion of progress reports and or final reports and any recommendations from the subcommittees and subsequent actions on:

(a) Standards for Accommodation Service Vessels;

(b) Life Saving and Fire Fighting Voluntary Standards on the Outer Continental Shelf (OCS);

(c) Electrical Equipment in Hazardous Areas on Foreign Flag Mobile Offshore Drilling Units (MODUs);

(d) Safety Impact of Liftboat Sea Service Limitations;

(e) Marine Casualty Reporting/Form CG–2692 Revisions; and

(f) Commercial Diving Safety on the OCS.

(2) New Business—Introduction of a new Task Statement by the Coast Guard;

(a) Safety and Environmental Management System Requirements for Vessels on the U.S. Outer Continental Shelf.

(3) USCG-Bureau of Safety and Environmental Enforcement Memorandum of Understanding/Memorandum of Agreements presentation;

(4) USCG Outer Continental Shelf National Center of Expertise briefing on OCS safety issues;

(5) International Association of Drilling Contractors discussion on important International and National offshore oil exploration activities;

(6) Safety and Environmental Management System (SEMS)/Safety Management System (SMS) implementation and the use of Ultimate Work Authority presentation;

(7) Hardware in Loop (HIL)/Integrated Software Dependent Systems presentation;

(8) Challenges with using Liquefied Natural Gas as a marine fuel presentation; and

(9) Public comment.

The agenda, new task statements and presentations will be available approximately 7 days prior to the meeting at the *https://www.fido.gov* Web site or by contacting Mr. Scott Hartley. Use ''code 68'' to identify NOSAC when accessing this material through the Web site. Once you have accessed the committee page, click on the meetings tab and then the ''View'' button for the meeting dated November 14, 2013, to access the information for this meeting. Subcommittee reports will be available approximately 10 days after this meeting. Minutes will be available approximately 90 days after this meeting. All of the above listed information can also be found at an alternative site using the following web address: *https://homeport.uscg.mil/NOSAC.*

The meeting will be transcribed. A transcript of the meeting and any material presented at the meeting will be made available through the *https://www.fido.gov* and *https://homeport.uscg.mil/NOSAC* Web sites.

The committee will review the information presented on each issue, deliberate on any recommendations presented in the subcommittees' progress reports, and formulate recommendations for the agency's consideration.

Dated: October 9, 2013.

J. G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–24743 Filed 10–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0522]

Tank Vessel Oil Transfers

AGENCY: Coast Guard, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Coast Guard announces that it is considering new measures to reduce the risks of oil spills in oil transfer operations from or to a tank vessel, and requests public input on measures that can be implemented to reduce these risks. The Coast Guard may use that input to inform future rulemaking efforts.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before November 22, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0522 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 notice, call or email Ken Smith, Vessel and Facility Operating Standards Division (CG–OES–2), U.S. Coast Guard; telephone 202–372–1413, email *Ken.A.Smith@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the topics and questions described in this notice. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2013–0522) 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 telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0522) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this notice. 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 them 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.

Viewing the comments and material in the docket: To view comments and material on the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0522) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Open Docket Folder'' on the line associated with this notice. 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.

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

Background and Purpose

Currently, applicable regulations that address reducing the risk of oil spills exist in 33 CFR subchapter O and in 46 CFR subchapter D. Section 702 of the Coast Guard Authorization Act of 2010 requires the Coast Guard to promulgate additional regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel (Pub. L. 111–281, codified at 46 U.S.C. 3703 Note). In accordance with section 702, the Coast Guard intends to focus on operations that have the highest risks of discharge, including operations at night and in inclement weather. We are considering whether or not to establish new or amend existing regulations for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts; and operational procedures such as manning standards, communication protocols, and restrictions on operations in high-risk areas. We are also taking into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

Request for Comments

We seek public input and assistance in identifying appropriate issues to assist reducing the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. We request input on the following questions:

1. In addition to operations at night and inclement weather, what other oil transfer operations to or from tank vessels have the highest risk of spilling oil?

2. What measures should the Coast Guard implement to reduce the spillage of oil from other high-risk operations conducted during oil transfer operations to or from tank vessels?

3. What measures should the Coast Guard implement to reduce spillage of

oil from oil transfers conducted to or from tank vessels at night?

4. What measures should the Coast Guard implement to reduce spillage of oil from oil transfers conducted to or from tank vessels during periods of inclement weather?

5. What additional equipment should the Coast Guard require to reduce oil spills from oil transfers to or from tank vessels, improve safety for personnel involved in oil transfer operations to or from tank vessels, and protect the marine environment from oil spilled during oil transfers to or from tank vessels; and what requirements should the Coast Guard impose for use of the equipment to help reduce oil spilled during oil transfers to or from tank vessels?

6. What operational requirements (e.g., manning standards, communications protocols, and restrictions on operations in high-risk areas) should the Coast Guard require to reduce oil spills from oil transfers conducted to or from tank vessels?

7. What improvements are needed to ensure the safety of personnel involved in oil transfers conducted to or from tank vessels or in the cleanup of spills associated with oil transfers to or from tank vessels?

8. How effective are the existing procedures and equipment for preventing or mitigating oil spills from oil transferred to or from tank vessels?

9. How do existing federal requirements [1] differ from state requirements for oil transfers conducted to or from tank vessels?

10. Does compliance with any known state oil transfer regulations interfere with existing federal requirements for prevention of pollution of oil transfers for vessels or facilities transfering oil to or from tank vessels?

11. What international and industry consensus standards should the Coast Guard consider incorporating or conforming to, to further prevent oil spills from tank vessels engaged in oil transfer operations?

12. Are there conflicts or areas of improvement with regard to regulations in Title 33 of the Code of Federal Regulations covering waterfront facility oil transfer regulations that will further prevent oil spills from oil transfered to or from tank vessels?

[1] For the purposes of this notice, ''existing federal requirements'' refers to 33 CFR subchapter O and 46 CFR subchapter D.

This notice is issued under authority of 5 U.S.C. 552(a), 33 U.S.C. 1231, and 46 U.S.C. 3703 Note.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–24746 Filed 10–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0082]

Agency Information Collection Activities: Application To Replace Permanent Resident Card, Form Number I–90; Revision of a Currently Approved Collection.

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on May 7, 2013, at 78 FR 26647, allowing for a 60-day public comment period. USCIS received comments in connection with the 60-day notice. A discussion of the comments and USCIS' responses are addressed in item 8 of the supporting statement that can be viewed at: *http://www.regulations.gov.*

USCIS has incorporated the ability to file Form I–90 electronically within USCIS' Electronic Immigration System (USCIS ELIS) in this information collection activity and has provided the ELIS online screenshots for viewing and comment in e-Docket ID number USCIS–USCIS–2009–0002.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 22, 2013. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to DHS, and to the OMB USCIS Desk Officer. Comments may be submitted to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140. Comments may also be submitted to DHS via email at *uscisfrcomment@dhs.gov,* to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov* and via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–USCIS–2009–0002. When submitting comments by email, please make sure to add OMB Control Number 1615–0082 in the subject box.

All submissions received must include the agency name, OMB Control Number and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Application to Replace Permanent Resident Card.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* USCIS Form I–90; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–90 is used by USCIS to determine eligibility to replace a Lawful Permanent Resident Card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

464,283 respondents responding via the paper Form I–90 at an estimated 1 hour and 45 minutes (1.75 hours) per response.

315,440 respondents responding via the Electronic Immigration System (ELIS) requiring an estimated 1 hour and 25 minutes (1.42 hours) per response. This estimated time was previously reported as .50 hours per response.

779,723 respondents requiring Biometric Processing at an estimated 1 hour and 10 minutes (1.17 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,172,696 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: October 18, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–24835 Filed 10–22–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Extension of the Air Cargo Advance Screening (ACAS) Pilot Program and Reopening of Application Period for Participation

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: On October 24, 2012, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** that announced the formalization and expansion of the Air Cargo Advance Screening (ACAS) pilot program that would run for six months. On April 23, 2013, CBP published a notice in the **Federal Register** extending the pilot period for another six months. This document announces that CBP is extending the pilot period for an additional nine months and reopening the application period for new participants for 60 days. The ACAS pilot is a voluntary test in which participants submit a subset of required advance air cargo data to CBP at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States.

DATES: CBP is extending the ACAS pilot program through July 26, 2014, and reopening the application period to accept applications from new ACAS pilot participants through December 23, 2013. Comments concerning any aspect of the announced test may be submitted at any time during the test period.

ADDRESSES: Applications to participate in the ACAS pilot must be submitted via email to *CBPCCS@cbp.dhs.gov.* Written comments concerning program, policy, and technical issues may also be submitted via email to *CBPCCS@cbp.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Regina Park, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at *regina.park@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On October 24, 2012, CBP published a general notice in the **Federal Register** (77 FR 65006, corrected in 77 FR 65395 [1]) announcing that CBP is formalizing and expanding the ACAS pilot to include other eligible participants in the air cargo environment. The notice provides a description of the ACAS pilot, sets forth eligibility requirements for participation, and invites public comments on any aspect of the test. In brief, the ACAS pilot revises the time frame for pilot participants to transmit a subset of mandatory advance electronic information for air cargo. CBP regulations implementing the Trade Act of 2002 specify the required data elements and the time frame for submitting them to CBP. Pursuant to 19 CFR 122.48a, the required advance information for air cargo must be submitted no later than the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations.

The ACAS pilot is a voluntary test in which participants agree to submit a subset of the required 19 CFR 122.48a data elements (ACAS data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. The ACAS data is used to target high-risk air cargo. CBP is considering possible amendments to the regulations regarding advance information for air cargo. The results of the ACAS pilot will help determine the relevant data elements, the time frame within which data must be submitted to permit CBP to effectively target, identify and mitigate any risk with the least impact practicable on trade operations, and any other related procedures and policies.

Extension of the ACAS Pilot Period and Reopening of the Application Period

The October 2012 notice announced that the ACAS pilot would run for six months. The notice provided that if CBP determined that the pilot period should be extended, CBP would publish another notice in the **Federal Register**. The October 2012 notice also stated that applications from new ACAS pilot participants would be accepted until November 23, 2012. On December 26, 2012, CBP published a notice in the **Federal Register** (77 FR 76064) reopening the application period for new participants until January 8, 2013. On January 3, 2013, the **Federal Register** published a correction (78 FR 315) stating that the correct date of the close of the reopened application period was January 10, 2013. On April 23, 2013, CBP published a notice in the **Federal Register** (78 FR 23946) extending the ACAS pilot period through October 26,

[1] This **Federal Register** notice, published on October 26, 2012, corrected the email address under the **ADDRESSES** heading for submitting applications or comments. The correct email address is *CBPCCS@cbp.dhs.gov.*

2013, and reopening the application period through May 23, 2013.

CBP continues to see an increase in the diversity and number of pilot participants representing a strong sample size of the air cargo community. However, CBP also continues to receive requests to participate in the pilot. In order to provide greater opportunity for a wide range of the air cargo community to participate in the ACAS pilot and to prepare for possible proposed regulatory changes, CBP is extending the ACAS pilot period through July 26, 2014, and reopening the application period through December 23, 2013.

Anyone interested in participating in the ACAS pilot should refer to the notice published in the **Federal Register** on October 24, 2012, for additional application information and eligibility requirements

Dated: October 18, 2013.

Susan T. Mitchell,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 2013–24856 Filed 10–22–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning October 1, 2013, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

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

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2013–16, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2013, and ending on December 31, 2013. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning January 1, 2014, and ending March 31, 2014.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	123113	3	3	2

Dated: October 18, 2013.

Thomas S. Winkowski,

Acting Commissioner.

[FR Doc. 2013–24858 Filed 10–22–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–11]

60 Day Notice of Proposed Information Collection for Public Comment: Historically Black Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* December 23, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Ophelia Wilson, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8226, Washington, DC 20410–6000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Historically Black Colleges and Universities Program.

OMB Approval Number: 2528–0235.

Type of Request: New.

Form Number: SF–425 and HUD–40077.

Description of the need for the information and proposed use: The information is being collected to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Respondents (i.e. affected public): Historically Black Colleges and Universities (HBCU).

	Number of respondents	Total annual responses	Hours per response	Total hours
Quarterly Report	27	108	8	864
Final Reports	8	8	12	96
Recordkeeping	27	27	10	270
Total	62	143	30	1,230

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 30, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–24873 Filed 10–22–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–12]

60-Day Notice of Proposed Information Collection for Public Comment: Doctoral Dissertation Research Grant Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* December 23, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Leatha Blanks, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8226, Washington, DC 20410–6000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Doctoral Dissertation Research Grant (DDRG) Program.

OMB Approval Number: 2528–0213.

Type of Request: New.

Form Number: SF–425.

Description of the Need for the Information and Proposed Use: The information is being collected to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Respondents (i.e., affected public): Ph.D. students preparing their dissertations on HUD-related topics.

	Number of respondents	Total annual responses	Hours per response	Total hours
Semi-Annual Reports	10	20	4	80
Final Reports	6	6	2	12
Recordkeeping	10	10	4	40
Total	26	36	10	132

B. Solicitation of Public Comments:

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 30, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–24878 Filed 10–22–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–10]

60 Day Notice of Proposed Information Collection for Public Comment: Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* December 23, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC) Program.

OMB Approval Number: 2528–0206.

Type of Request: New.

Form Number: SF–425 and HUD–40077.

Description of the Need for the Information and Proposed Use: The information is being collected to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Respondents (i.e. affected public): Alaska Native Institutions (ANI) and Native Hawaiian Institutions (NHI) of Higher Education that meet the statutory definition established in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub.L. 105–244; enacted October 7, 1998).

	Number of respondents	Total annual responses	Hours per response	Total hours
Quarterly Reports	10	40	8	320
Final Reports	3	3	12	36
Recordkeeping	10	10	10	100
Total	23	53	30	456

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 30, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–24881 Filed 10–22–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2013–N208; 81420–1113–0000–F3]

Proposed Template Safe Harbor Agreement for the Solano County Water Agency in Yolo and Solano Counties, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Solano County Water Agency and the U.S. Fish and Wildlife Service (Service) have developed a Template Safe Harbor Agreement (Agreement) for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). While not signatory to this Agreement, non-Federal land owners and managers who elect to enroll their property under the Agreement (participants) will develop individual site plans and be issued individual 10(a)(1)(A) enhancement of survival permits under the Endangered Species Act of 1973, as amended (Act). The Agreement is available for public comment.

DATES: To ensure consideration, please send your written comments by November 22, 2013.

ADDRESSES: Send comments to Mr. Rick Kuyper, via U.S. Mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Kuyper, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the document for review by contacting the individual named above (see **FOR FURTHER INFORMATION CONTACT**). You may also make an appointment to view the document at the above address during normal business hours (see **ADDRESSES**).

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to Section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c) and 17.32(c). These permits allow any necessary future incidental take of covered species above the mutually agreed upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

The Agreement is expected to promote the recovery of the covered species on non-Federal properties within the Putah Creek watershed in Yolo and Solano Counties. The proposed duration of the Agreement is 20 years. The enhancement of survival permits issued to participants would authorize the incidental taking of the covered species associated with: the restoration, enhancement, and maintenance of suitable habitat for the covered species; routine activities associated with agricultural lands management; property upkeep; and the potential future return of any property included in the Agreement to baseline conditions. Under this Agreement, participants may include their properties by entering into a Site Plan with the Service. Each Site Plan will specify the restoration and/or enhancement, and management activities to be carried out on that specific property and a timetable for implementing those activities. All site plans will be reviewed by the Service to determine whether the proposed activities will result in a net conservation benefit for the covered species and meet all required standards of the Safe Harbor Policy (64 FR 32717). The Service will issue individual 10(a)(1)(A) enhancement of survival permits to the participant. The Solano County Water Agency will assist with development of the site plans, implement the restoration and management of riparian habitat, and conduct monitoring as required under the Agreement. participants would receive assurances under our ''no surprises'' regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for the covered species. In addition to meeting other criteria, actions to be performed under an enhancement of survival permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement that is also available for public review.

Individuals wishing copies of the our Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service will evaluate this permit application, associated documents, and comments submitted to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If the Service determines that the requirements are met, we will sign the proposed Agreement and issue enhancement of survival permits under section 10(a)(1)(A) of the Act to participants for take of the covered species incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: October 17, 2013.

Jennifer M. Norris,

Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. 2013–24806 Filed 10–22–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY910000 L16100000 XX0000]

Notice of Public Meeting; Wyoming Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Wyoming Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held November 12, 2013 (1 p.m. to 5:15 p.m.), November 13, 2013 (8:00 a.m. to 4:00 p.m.), and November 14, 2013 (8:00 a.m. to noon).

ADDRESSES: The November 12 meeting will be at the Holiday Inn, 204 South 30th Street, Laramie, Wyoming. The November 13 meeting will be at the Hilton Garden Inn, 229 Grand Avenue, Laramie, Wyoming. The November 14 meeting will be at the University of Wyoming BP Collaboration Center, 1020 East Lewis Street, Laramie, Wyoming.

FOR FURTHER INFORMATION CONTACT: Christian Venhuizen, Wyoming State Office, 5353 Yellowstone, Cheyenne, WY 82009; telephone 307–775–6103; email *cvenhuizen@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 10-member RAC advises the Secretary of the Interior on a variety of management issues associated with public land management in Wyoming.

Planned agenda topics include discussions on National Environmental Policy Act cooperating agency issues, reclamation and mitigation initiatives by the University of Wyoming Ruckleshaus Institute, the University of Wyoming Reclamation Center, participation in the University of Wyoming's ''A Landscape Discussion on Energy Law in Wyoming,'' and follow-up to previous meetings.

On Tuesday, November 12, the meeting will begin at 1:00 p.m. at the Holiday Inn Laramie. On Wednesday, November 13, ''A Landscape Discussion on Energy Law in Wyoming'' begins at 8:00 a.m. Members of the public may attend for free, but must register with the university on their own. On Thursday, November 14 at 8:00 a.m., there will be a tour of the University of Wyoming Energy Innovation Center, 1020 East Lewis Street, Laramie, Wyoming. The public may attend the tour. The meeting will resume at 10:00 a.m.

All RAC meetings are open to the public with time allocated for hearing public comments. On Thursday, November 14, there will be a public comment period beginning at 10:00 a.m. The public may also submit written comments to the RAC. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. If there are no members of the public interested in speaking, the meeting will move promptly to the next agenda item.

Donald A. Simpson,

State Director.

[FR Doc. 2013–24796 Filed 10–22–13; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–837]

Certain Audiovisual Components and Products Containing the Same; Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337 In Its Entirety; Schedule for Filing Written Submissions on Certain Issues Under Review and on Remedy, Bonding, and the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on July 18, 2013 in its entirety. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and the public on the issues of remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 11, 2012, based on a complaint filed by LSI Corporation of Milpitas, California and Agere Systems Inc. of Allentown, Pennsylvania (collectively, ''LSI''). 77 FR 22803 (Apr. 11, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), by reason of infringement of various claims of United States Patent Nos. 5,870, 087 (''the '087 patent''); 6,452,958 (''the '958 patent''); 6,707,867 (''the '867 patent''); and 6,982,663 (''the '663 patent''). The Commission's notice of investigation named several respondents, including Funai Electric Co., Ltd. of Osaka, Japan; Funai Corporation, Inc. of Rutherford, New Jersey; P&F USA, Inc. of Alpharetta, Georgia; and Funai Service Corporation of Groveport, Ohio (collectively, ''Funai''); and Realtek Semiconductor Corporation of Hsinchu, Taiwan (''Realtek''). The Office of Unfair Import Investigations is not participating in this investigation.

On July 18, 2013, the ALJ issued the final ID, which found a violation of section 337 as to certain audiovisual components and products containing the same with respect to claims 1, 5, 7–11 and 16 of the '087 patent. In particular, the ALJ found that Funai's accused products directly infringed claims 1, 5, 7–9 and 16 of the '087 patent and that Funai induced infringement of claims 10 and 11 of the '087 patent. The ALJ found no violation of section 337 in connection with any asserted claims of the '958, the '867, and the '663 patents. The ALJ also found that the asserted patents were not shown to be invalid; that the domestic industry requirement is satisfied as to all the asserted patents; and that respondents did not prevail on any equitable or reasonable and non-

discriminatory (RAND) defenses. On July 31, 2013, the ALJ made recommendations on appropriate remedies and bonding should the Commission find a violation of section 337.

On August 5, 2013, LSI and Funai filed their respective petitions for review of the final ID. That same day, Realtek filed a contingent petition for review of the final ID. The parties filed timely responses on August 13, 2013. Non-party Koninklijke Philips N.V. filed its public interest comments on August 30, 2013. On September 3, 2013, the parties filed their respective public interest comments pursuant to Commission rule 210.50(a)(4).

On August 16, 2013, the Commission determined to extend the date by which the Commission determines whether to review the final ID to October 1, 2013, and the target date for completion of the investigation to December 9, 2013. Due to the federal government shutdown and the Commission Notice extending all deadlines by the length of the shutdown, the date by which the Commission determines whether to review the final ID was extended to October 17, 2013.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the ALJ's final ID in its entirety.

In connection with its review of the final ID, the parties are invited to brief only the discrete issues enumerated below, with reference to the applicable law and the evidentiary record. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

1. What evidence in the record supports or does not support the conclusion that the two DRAMs in each of the Funai products accused of infringing the '087 patent is a single memory having one or more memory chips? With respect to each of the Funai products accused of infringing the '087 patent, what evidence in the record supports or does not support the conclusion that the two DRAMs used by the transport logic, MPEG decoder and system controller function as a unit? To the extent that each Funai product includes a flash memory, what code and/or data is stored in the flash memory and does the flash memory function as a unit with the two DRAMs?

2. What record evidence supports or does not support finding direct infringement by a third party user of each of the Funai products accused of infringing claims 10 and 11 of the '087 patent?

3. Please discuss and cite the record evidence, if any, that shows Funai actively and knowingly aided and abetted another's direct infringement of claims 10 and 11 of the '087 patent.

4. Please discuss and cite the record evidence, if any, of how a person of ordinary skill in the art would interpret steps (A), (B), and (C) of claim 1 and elements (i), (ii) and (iii) of claim 11 of the '663 patent. Please also discuss how such record evidence shows or does not show that each step and element are or are not met literally and/or under the doctrine of equivalents by each of the accused Funai products containing MediaTek decoders.

5. Please discuss and cite the record evidence, if any, that shows a third party user of each of the Funai products accused of infringing the '663 patent performed each and every step of asserted claims 1–9 of the '663 patent.

6. Please discuss and cite the record evidence, if any, that shows Funai actively and knowingly aided and abetted another's direct infringement of claims 1–9 of the '663 patent.

7. Please discuss and cite the record evidence, if any, of Funai's pre-suit knowledge of the '087 patent and/or the '663 patent and Funai's pre-suit knowledge that the induced acts constitute infringement of the '087 patent and/or the '663 patent.

8. What record evidence supports or does not support the conclusion that the '958 patent is entitled to the July 30, 1996 priority date of U.S. Patent No. 5,862,182?

9. Please discuss and cite the record evidence, if any, that shows the asserted claims of the '958 patent are invalid as being anticipated or rendered obvious by Prasad. Assuming the priority date of the '958 patent is April 22, 1998, please discuss and cite the record evidence, if any, that shows the combination of the Harris Proposal in view of the van Nee article, and the combination of the Proakis textbook in view of the Weathers patent render the asserted claims of the '958 patent obvious.

10. What record evidence supports or does not support the conclusion that U.S. Patent Application No. 08/155,661 was abandoned in December 2001 because the applicant failed to file a reply to the Office Action mailed on June 7, 2001 within the six-month statutory deadline (35 U.S.C. 133)? Please discuss and cite the record evidence, if any, showing proof of the USPTO's grant of an extension in December 2001.

11. Please discuss and cite any record evidence of the standard essential nature of the '663, the '958, and the '867 patents.

12. Please discuss, in light of the statutory language, legislative history, the Commission's prior decisions, and relevant court decisions, including *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n,* 690 F.3d 1318 (Fed. Cir. 2012), 707 F.3d 1295 (Fed. Cir. 2013), and *Microsoft Corp.* v. *Int'l Trade Comm'n,* Nos. 2012–1445, –1535 (Oct. 3, 2013), whether establishing a domestic industry based on licensing under 19 U.S.C. 1337 (a)(3)(C) requires proof of ''articles protected by the patent'' (*i.e.,* a technical prong). If so, please identify and describe the evidence in the record that establishes articles protected by the asserted patents.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation. In particular, the Commission is interested in the following issues, with reference to the applicable law, the existing evidentiary record, and if necessary, additional sworn testimony or expert declarations:

1. Please discuss and cite any record evidence of the allegedly RAND-encumbered nature of the declared standard essential '663, '958, and '867 patents. With regard to the '958 patent and the '867 patent, what specific contract rights and/or obligations exist between the patentee and the applicable standard-setting organization, *i.e.,* the Institute of Electrical and Electronic Engineers, Inc. (IEEE)? With regard to the '663 patent, what specific contract rights and/or obligations exist between

the patentee and the applicable standard-setting organization, *i.e.,* the International Telecommunication Union (ITU)?

2. Please summarize the history to date of negotiations between LSI and Funai and between LSI and Realtek concerning any potential license to the '663, the '958, and the '867 patents, either alone, in conjunction with each other and/or the '087 patent, and/or in conjunction with non-asserted patents. Please provide copies of, or cite to their location in the record evidence, all offers and communications related to the negotiations including any offer or counteroffer made by Funai and Realtek.

3. Please summarize all licenses to the '663, the '958, and the '867 patents granted by LSI to any entity including evidence of the value of each patent if such patent was licensed as part of a patent portfolio. Please provide copies of, or cite to their location in the record evidence, all agreements wherein LSI grants any entity a license to these patents. Please also provide a comparison of the offers made to Funai and/or Realtek with offers made to these other entities.

4. If applicable, please discuss the industry practice for licensing patents involving technology similar to the technology in the '663, the '958, and the '867 patents individually or as part of a patent portfolio.

5. Please identify the forums in which you have sought and/or obtained a determination of a RAND rate for the '663, the '958, and the '867 patents. LSI, Funai and Realtek are each requested to submit specific licensing terms for the '663, the '958, and the '867 patents that each believes are reasonable and non-discriminatory.

6. Please discuss and cite any record evidence of any party attempting to gain undue leverage, or constructively refusing to negotiate a license, with respect to the '663, the '958, and the '867 patents. Please specify how that evidence is relevant to whether section 337 remedies with respect to such patents would be detrimental to competitive conditions in the U.S. economy and any other statutory public interest factor.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding with respect to the asserted patents. Complainant is also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the date that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Friday, November 1, 2013. Initial submissions by the parties are limited to 100 pages, not including submissions related to remedy, bonding, and the public interest. Reply submissions must be filed no later than the close of business on Monday, November 11, 2013. All reply submissions are limited to 60 pages, not including submissions related to remedy, bonding, and the public interest. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–837'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf).* Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–46 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46 and 210.50).

Issued: October 17, 2013.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2013–24752 Filed 10–22–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office on Violence Against Women

[OMB Number 1122–0001]

Certification of Compliance With the Statutory Eligibility Requirements of the Violence Against Women Act as Amended for Applicants to the STOP (Services* Training* Officers* Prosecutors) Violence Against Women Formula Grant Program; Agency Information Collection Activities: Revision of a Currently Approved Collection

ACTION: 30-Day Notice.

The Department of Justice, Office on Violence Against Women (OVW) will be submitting following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, page 39325 on July 1, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 22, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk

Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection

(2) *Title of the Form/Collection:* ''Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act as Amended'' for Applicants to the STOP Formula Grant Program

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0001. U.S. Department of Justice, Office on Violence Against Women

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes STOP formula grantees (50 states, the District of Columbia and five territories (Guam, Puerto Rico, American Samoa, Virgin Islands, Northern Mariana Islands). The STOP Violence Against Women Formula Grant Program was authorized through the Violence Against Women Act of 1994 and reauthorized and amended by the Violence Against Women Act of 2000, the Violence Against Women Act of 2005 and the Violence Against Women Act of 2013. The purpose of the STOP Formula Grant Program is to promote a coordinated, multi-disciplinary approach to improving the criminal justice system's response to violence against women. It envisions a partnership among law enforcement, prosecution, courts, and victim advocacy organizations to enhance victim safety and hold offenders accountable for their crimes of violence against women. The Department of Justice's Office on Violence Against Women (OVW) administers the STOP Formula Grant Program funds which must be distributed by STOP state administrators according to statutory formula (as amended by VAWA 2000, VAWA 2005 and VAWA 2013).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 56 respondents (state administrators from the STOP Formula Grant Program) less than one hour to complete a Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act, as Amended.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the Certification is less than 56 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street NE., Washington, DC 20530.

Dated: October 17, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–24733 Filed 10–22–13; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0013]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Application for Permit To Import Controlled Substances for Domestic and/or Scientific Purposes Pursuant to 21 U.S.C. 952 (DEA Form 357)

ACTION: 30-Day Notice.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 78, Number 154, page 48718 on August 9, 2013, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 22, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to (202) 395–7285. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged.

Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0013

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Permit to Import Controlled Substances for Domestic and/or Scientific Purposes pursuant to 21 U.S.C. 952 (DEA Form 357).

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: DEA Form 357, Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Title 21, Code of Federal Regulations, Section 1312.11 requires any registrant who desires to import certain controlled substances into the United States to have an import permit. In order to obtain the permit, an application must be made to the Drug Enforcement Administration on DEA Form 357.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 136 persons complete an estimated 1,265 DEA Form 357s at 15 minutes per form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 316 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: October 17, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–24751 Filed 10–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0008]

Agency Information Collection Activities: Proposed Collection, Comments Requested; Extension of a Currently Approved Collection; Monthly Return of Arson Offenses Known to Law Enforcement

ACTION: 30-day Notice.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on August 09, 2013, Volume 78, Number 154, Page 48,719 allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 22, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Monthly Return of Arson Offenses Known to Law Enforcement.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form 1–725; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, tribal, and federal law enforcement agencies. Under Title 28, U.S. Code, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials, 1930, and the Anti-Arson Act of 1982 this collection requests the number of arson from city, county, state, tribal, and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of crime data and to publish these statistics in the Semiannual and Preliminary Annual Reports and Crime in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are a potential of 18,233 law enforcement agency respondents; calculated estimates indicate 9 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 20,866 hours, annual burden, associated with this information collection.

If additional information is required contact: If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitutional Square, 145 N Street NE., Room 3W–1407–B, Washington, DC 20530.

Dated: October 17, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–24732 Filed 10–22–13; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0004]

Agency Information Collection Activities: Proposed Collection, Comments Requested; Extension of a Currently Approved Collection; Number of Full-time Law Enforcement Employees as of October 31

ACTION: 30-day Notice.

Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the

public and affected agencies. This proposed information collection was previously published in the **Federal Register** on August 09, 2013, Volume 78, Number 154, Page 48,720 allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 22, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Number of Full-time Law Enforcement Employees as of October 31

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form 1–711; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, tribal, and federal law enforcement agencies. Under Title 28, U.S. Code, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials, 1930, this collection requests the number of full-time law enforcement employees both officers and civilians from city, county, state, tribal, and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of police employee data and to publish these statistics in Crime in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are a potential of 18,233 law enforcement agency respondents that submit once a year for a total of 18,233 responses with an estimated response time of 8 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 2,431 hours, annual burden, associated with this information collection.

If additional information is required contact: If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitutional Square, 145 N Street NE., Room 3W–1407–B, Washington, DC 20530.

Dated: October 17, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–24731 Filed 10–22–13; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2014.

DATES: The annual list of labor surplus areas is effective October 1, 2013, for all states, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210. Telephone: (202) 693–2870 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor's regulations at 20 CFR Part 654, Subpart A, require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas and to publish annually a list of labor surplus areas. This is the annual list of labor surplus areas.

Eligible Labor Surplus Areas

A Labor Surplus Area (LSA) is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. ETA uses the Bureau of Labor Statistics unemployment estimates to make these classifications. The average unemployment rate for all states includes data for the Commonwealth of Puerto Rico. The basic LSA classification criteria include a ''floor unemployment rate'' and a ''ceiling rate.'' A civil jurisdiction that has an unemployment rate of 6.0% or lower will not be classified a LSA and any civil jurisdiction that has an unemployment rate of 10.0% or higher will be classified a LSA.

In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

Civil jurisdictions are any of the following:

(a) A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census

(b) A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities

(c) A county, except those counties in the States of Connecticut, Massachusetts, and Rhode Island

(d) A ''balance of county'' consisting of a county less any component cities and townships identified in paragraphs A or B above

(e) A county equivalent which is a town (with a population of at least 25,000) in the New England States or a

municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

ETA issues the LSA list on a fiscal year basis. The list becomes effective each October 1 and remains in effect through the following September 30. The reference period used in preparing the current list was January 2011 through December 2012. The national average unemployment rate (including Puerto Rico) during this period was rounded to 8.56 percent. Twenty percent higher than the national unemployment rate is 10.27 percent. Since the ceiling unemployment rate is 10.0 percent, the qualifying rate for LSA classification is 10.0 percent. Therefore, areas included on the FY 2014 LSA list had a rounded unemployment rate for the referenced period of 10.0 percent (actual rate, greater than or equal to 9.95) or above during the reference period. To ensure all areas classified as labor surplus meet the requirements, when a city is part of a county and meets the unemployment qualifier as a LSA, the city is identified in the LSA list. The balance of county, not the entire county, will be identified if the balance of county also meets the LSA unemployment criteria. The FY 2014 LSA list, statistical data on the current and some previous year's LSAs, and the list of LSAs in Puerto Rico can be accessed at ETA's LSA Web site *http://www.doleta.gov/programs/lsa.cfm.* In addition, the 2014 LSA list is available on the LMI Win-Win Network Community of Practice at *https://winwin.workforce3one.org/view/Labor_Surplus_Area_List_Issued/info.*

Petition for Exceptional Circumstance Consideration

ETA can also designate LSAs under exceptional circumstance criteria. ETA can waive the regular classification criteria when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not reflected in the data for the 2-year reference period. In these situations, ETA can designate civil jurisdictions, Metropolitan Statistical Areas or Combined Statistical Areas, as defined by the Office of Management and Budget as LSAs. In order for an area to be classified as a LSA under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to ETA. The current criteria for an exceptional circumstance classification are: an area's unemployment rate is at least 10.0 percent for each of the three most recent months; has a projected unemployment rate of at least 10.0 percent for each of the next 12 months; and has documentation that the exceptional circumstance event has already occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, as well as a Micropolitan Statistical Areas, Metropolitan Statistical Areas or Combined Statistical Areas. The addresses of state workforce agencies are available on the ETA Web site at: *http://www.doleta.gov/programs/lsa.cfm* and *https://winwin.workforce3one.org/view/Labor_Surplus_Area_List_Issued/info.* State workforce agencies may submit petitions in electronic format to *wright.samuel.e@dol.gov,* or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210 Attention Samuel Wright. Data collection for the petition is approved under OMB 1205–0207, expiration date March 31, 2014.

Signed at Washington, DC, this 25th day of September, 2013.

Eric Seleznow,

Acting Assistant Secretary for Employment and Training Administration.

[FR Doc. 2013–24829 Filed 10–22–13; 8:45 am]

BILLING CODE 4510–FT–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts 180th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the National Endowment for the Arts will hold a virtual meeting of the National Council on the Arts. Agenda times are approximate.

DATES: November 15, 2013 from 4:15 p.m. to 4:45 p.m. (This meeting replaces the meeting originally scheduled for October 25, 2013, which has been cancelled.)

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

SUPPLEMENTARY INFORMATION: The meeting, on Friday, November 15th, will be open to the public. For information about access to the open session of this meeting, go to *http://arts.gov/about/national-council-arts.* The meeting will begin with opening remarks and updates from the Senior Deputy Chairman. Presentation of Guidelines will be at 4:25 p.m. and voting on recommendations for funding and rejection at 4:30 p.m. The meeting will conclude with discussion of other business at 4:35 p.m. and will adjourn at 4:45 p.m.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the February 15, 2012 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of Accessibility, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

Dated: October 18, 2013.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2013–24842 Filed 10–22–13; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0116]

OMB Agency Information Collection Activities: Submission for the Office of Management and Budget Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby

informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on July 15, 2013 (78 FR 42112).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Policy Statement for the ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement,'' Maintenance of Existing Agreement State Programs, Request for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP.

3. *Current OMB approval number:* 3150–0183.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* Every four years for completion of the IMPEP questionnaire in preparation for an IMPEP review. One time for new Agreement State applications. Annually for participation by Agreement States in the IMPEP reviews and fulfilling requirements for Agreement States to maintain their programs.

6. *Who will be required or asked to report:* All Agreement States (37 Agreement States who have signed Agreements with NRC under Section 274b. of the Atomic Energy Act (Act)) and any non-Agreement State seeking to sign an Agreement with the Commission.

7. *An estimate of the number of annual responses:* 58.

8. *The estimated number of annual respondents:* 38 (37 existing Agreement States plus 1 applicant).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 285,143 hours (an average of 7,504 hours per respondent). This includes 477 hours to complete the IMPEP questionnaires; 2,750 hours to prepare new Agreement State applications, 396 hours for participation in IMPEP reviews; and 281,520 hours for maintaining Existing Agreement State programs.

10. *Abstract:* The States wishing to become Agreement States are requested to provide certain information to the NRC as specified by the Commission's Policy Statement, ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement.'' The Agreement States need to ensure that the radiation control program under the Agreement remains adequate and compatible with the requirements of Section 274 of the Act and must maintain certain information.

The NRC conducts periodic evaluations through IMPEP to ensure that these programs are compatible with the NRC's program, meet the applicable parts of the Act, and adequate to protect public health and safety.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. 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 and questions should be directed to the OMB reviewer listed below by November 22, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0183), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 25th day of September 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–24705 Filed 10–22–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Workshop; November 18–19, 2013 in Washington, DC

The U.S. Nuclear Waste Technical Review Board will hold a workshop on impacts of SNF canister design on the SNF waste-management system.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the U.S. Nuclear Waste Technical Review Board will hold a workshop on Monday, November 18, and Tuesday, November 19, 2013, to identify issues related to how the use of large dry-storage canisters by nuclear utilities for onsite storage will affect future handling, storage, transportation and geologic disposal of spent nuclear fuel (SNF). Unless these canisters can be directly disposed of in a geologic repository, it will be necessary to transfer the SNF they contain into disposal containers prior to permanent disposal.

Repackaging the SNF would have significant implications for the waste management system: it likely will take a long time; it will involve extensive SNF handling operations; and, at decommissioned reactor sites, construction of a pool or dry-transfer facility may be necessary. However, direct disposal of the large dry-storage canisters without repackaging the SNF also would present significant challenges and may affect the geologic environments that would be considered for a repository.

The workshop will look broadly at these issues. It will be open to all interested parties and opportunities will be provided for full participation by all attendees. The workshop will be held in conjunction with the Board's Winter Board meeting, which will be held on Wednesday, November 20, 2013. A separate **Federal Register** notice will be issued on that meeting.

The workshop and the Board meeting will be held at the Embassy Suites, 1250 22nd Street NW., Washington, DC 20037; (Tel) 202–857–3388, (Fax) 202–293–3173. A block of rooms has been reserved at the hotel. To make a reservation for either or both meetings, attendees may call 1 800–EMBASSY (362–2779). The group code name for the workshop and meeting is ''UNW.'' Reservations also may be made on the hotel Web site: *http://embassysuites.hilton.com/en/es/groups/personalized/W/WASDNES-UNW-20131117/index.jhtml?WT.mc_id=POG.* All reservations must be made by October 25 to receive the group rate.

The workshop will begin on Monday, November 18, at 1:00 p.m. with a series of presentations that will set the stage for discussion sessions that will take place on the second day of the workshop. On Tuesday, November 19, the workshop will resume at 8:00 a.m. with a call to order and orientation followed by two ''break-out'' sessions, one focused on the issues that will arise if the SNF stored in dry-storage containers needs to be repackaged and the other focused on the issues that will

arise if the dry-storage containers are to be disposed of directly without repackaging the SNF. The break-out sessions will be facilitated and will be held concurrently.

Following a lunch break, there will be a facilitated plenary session at which the outcomes from both morning breakout sessions will be reported, with the opportunity for further discussion by all attendees. Key issues and ''takeaways'' will be pinpointed during a final plenary session, which will include another opportunity for open discussion. The workshop is scheduled to end at approximately 5:00 p.m.

During the workshop, it may be necessary to set a time limit on individual remarks in order to maintain the schedule, but written comments of any length may be submitted during and after the workshop and will be entered into the record of the meeting. The workshop agenda is available on the Board's Web site: *www.nwtrb.gov*. Transcripts of the workshop discussions will be available on the Board's Web site after December 16, 2013.

The Board was established in the 1987 amendments to the Nuclear Waste Policy Act (NWPA) as an independent agency in the Executive branch to perform an ongoing objective evaluation of the technical validity of activities undertaken by the U.S. Department of Energy related to implementing the NWPA. Board members are experts in their fields and are appointed by the President from a list of candidates submitted by the National Academy of Sciences. The Board is required to report its findings, conclusions, and recommendations to Congress and the Secretary. Board reports, correspondence, congressional testimony, and meeting transcripts and materials are posted on the Board's Web site.

For information on the workshop contact Gene Rowe at *rowe@nwtrb.gov* or Karyn Severson at *severson@nwtrb.gov*. For information on meeting logistics contact Linda Coultry at *coultry@nwtrb.gov*. Gene Rowe can be reached by telephone at 703–236–7512. Karyn Severson and Linda Coultry can be reached by telephone at 703–235–4473.

Dated: October 16, 2013.

Nigel Mote,

Executive Director, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2013–24701 Filed 10–22–13; 8:45 am]

BILLING CODE 6820–AM–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting; November 20, 2013 in Washington, DC

The U.S. Nuclear Waste Technical Review Board will meet to discuss DOE SNF and HLW management research and development activities.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the U.S. Nuclear Waste Technical Review Board will hold a public meeting in Washington, DC, on Wednesday, November 20, 2013, to discuss the U.S. Department of Energy's (DOE) research and development (R&D) activities related to its Used Fuel Disposition Program. The Board will hear presentations on a range of studies being supported by the Office of Used Fuel Disposition R&D, including research on long-term storage of high-burnup spent nuclear fuel (SNF), studies on direct disposal of large, dry-storage SNF containers in various geologic media, and evaluation of SNF and high-level radioactive waste disposal options. An overview of studies on advanced separations and waste form technologies being supported by the Office of Fuel Cycle R&D also will be presented. The public meeting will be preceded by a two-day workshop on the Impacts of Dry-Storage Canister Designs on Future Handling, Storage, Transportation, and Geologic Disposal of Spent Nuclear Fuel. A separate **Federal Register** notice will be issued on that workshop.

The meeting will begin at 8:00 a.m. and will be held at the Embassy Suites Hotel, 1250 22nd Street NW., Washington, DC 20037; Tel. (202) 857–3388. A block of rooms has been reserved at the hotel for meeting attendees. Reservations can be made online at *http://embassysuites.hilton.com/en/es/groups/personalized/W/WASDNES-UNW-20131117/index.jhtml?WT.mc_id=POG* or by calling 800–EMBASSY (800–362–2779). Reservations must be made by Friday, October 25, 2013, to ensure receiving the meeting rate. The reservation Group Code name is UNW.

A detailed agenda will be available on the Board's Web site at *www.nwtrb.gov* approximately one week before the meeting. The meeting will be open to the public, and opportunities for public comment will be provided at the end of the day. Those wanting to speak are encouraged to sign the ''Public Comment Register'' at the check-in table. A time limit may need to be set for individual remarks, but written comments of any length may be submitted for the record. Transcripts of the meeting will be available on the Board's Web site after December 18, 2013.

The Board was established in the 1987 amendments to the Nuclear Waste Policy Act (NWPA) as an independent agency in the Executive branch to perform an ongoing objective evaluation of the technical validity of activities undertaken by DOE related to implementing the NWPA. Board members are experts in their fields and are appointed by the President from a list of candidates submitted by the National Academy of Sciences. The Board is required to report its findings, conclusions, and recommendations to Congress and the Secretary. Board reports, correspondence, congressional testimony, and meeting transcripts and materials are posted on the Board's Web site.

For information on the meeting, contact Karyn Severson at *severson@nwtrb.gov* or Roberto Pabalan at *pabalan@nwtrb.gov*. For information on lodging or logistics, contact Linda Coultry at *coultry@nwtrb.gov*. They all can be reached by phone at 703–235–4473.

Dated: October 16, 2013.

Nigel Mote,

Executive Director, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2013–24700 Filed 10–22–13; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; 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'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 12h–1(f) (17 CFR 240.12h–1(f)) under the Securities Exchange Act of 1934 (''Exchange Act'') provides an exemption from the Exchange Act Section 12(g) registration requirements

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 as of its most recently ended fiscal year. The information required under Exchange Act Rule 12h–1 is not filed with the Commission. Exchange Act Rule 12h–1(f) permits issuers to provide the required information to the option holders either by: (i) Physical or electronic delivery of the information; or (ii) written notice to the option holders of the availability of the information on a password-protected Internet site. We estimate that it takes approximately 2 burden hours per response to prepare and provide the information required under Rule 12h–1(f) and it is prepared and provided 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).

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.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) 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*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24772 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 15F; OMB Control No. 3235–0621, SEC File No. 270–559.

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'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Form 15F (17 CFR 249.324) is filed by a foreign private issuer when terminating its Exchange Act reporting obligations pursuant to Exchange Act Rule 12h–6 (17 CFR 240.12h–6). Form 15F requires a foreign private issuer to disclosed information that helps investors understand the foreign private issuer's decision to terminate its Exchange Act reporting obligations and assist Commission staff in determining whether the filer is eligible to terminate its Exchange Act reporting obligations pursuant to Rule 12h–6. Rule 12h–6 provides a process for a foreign private issuer to exit the Exchange Act registration and reporting regime when there is relatively little U.S. investor interest in its securities. Rule 12h–6 is intended to remove a disincentive for foreign private issuers to register their securities with the Commission by lessening concerns that the Exchange Act registration and reporting system would be difficult to exit once an issuer enters it. The information provided to the Commission is mandatory and all information is made available to the public upon request. We estimate that Form 15F takes approximately 30 hours to prepare and is filed by approximately 100 issuers. We estimate that 25% of the 30 hours per response (7.5 hours per response) is prepared by the filer for a total annual reporting burden of 750 hours (7.5 hours per response x 100 responses).

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.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) 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*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24775 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation C; OMB Control No. 3235–0074, SEC File No. 270–68.

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'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Regulation C (17 CFR 230.400 through 230.498) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) provides standard instructions for persons filing registration statements under the Securities Act. The information collected is intended to ensure the adequacy of information available to investors. The information provided is mandatory. Regulation C is assigned one burden hour for administrative convenience because it does not directly impose information collection requirements.

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.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) 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*. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24773 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation 12B; OMB Control No. 3235–0062, SEC File No. 270–70.

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'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Regulation 12B (17 CFR 240.12b–1–12b–37) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'') includes rules governing the registration and periodic reporting under Sections 12(b), 12(g), 13(a), and 15(d) (15 U.S.C. 78l(b), 78l(g), 78m(a) and 78o(d)) of the Exchange Act. The purpose of the regulation is to set forth guidelines for the uniform preparation of Exchange Act registration statement and reports. All information is provided to the public for review. The information required is filed on occasion and it is mandatory. Regulation 12B is assigned one burden hour for administrative convenience because the regulation simply prescribes the disclosure that must appear in other filings under the federal securities laws.

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.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) 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.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24774 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–3693/803–00215]

Davidson Kempner Capital Management LLC; Notice of Application

October 17, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an exemptive order under Section 206A of the Investment Advisers Act of 1940 (the ''Advisers Act'') and Rule 206(4)–5(e) thereunder.

APPLICANT: Davidson Kempner Capital Management LLC (''Applicant'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 206A of the Advisers Act and rule 206(4)-5(e) thereunder from rule 206(4)-5(a)(1) under the Advisers Act.

SUMMARY OF APPLICATION: Applicant requests that the Commission issue an order under section 206A of the Advisers Act and rule 206(4)-5(e) thereunder exempting it from rule 206(4)-5(a)(1) under the Advisers Act to permit Applicant to receive compensation from three government entities for investment advisory services provided to the government entities within the two-year period following a contribution by a covered associate of Applicant to an official of the government entities.

DATES: *Filing Dates:* The application was filed on October 16, 2012, and an amended and restated application was filed on July 5, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a 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 November 12, 2013, and should be accompanied by proof of service on Applicant, 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant, Davidson Kempner Capital Management LLC, c/o Shulamit Leviant, 65 East 55th Street, 19th Floor, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Melissa S. Gainor, Senior Counsel, or Sarah A. Buescher, Branch Chief, at (202) 551–6787 (Investment Adviser Regulation Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 100 F Street NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicant's Representations

1. Applicant is a limited liability company registered with the Commission as an investment adviser under the Advisers Act. Applicant serves as investment adviser to Davidson Kempner Institutional Partners, L.P. (the ''Fund''), an issuer excluded from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940. Three of the investors in the Fund (the ''Clients'') are Ohio public pension plans. The investment decisions for each Client are overseen by a board of between 9 and 11 trustees that includes one individual appointed by the Ohio State Treasurer.

2. On May 22, 2011, Anthony Yoseloff, a managing member and senior investment professional of Applicant (the ''Contributor''), made a contribution of $2,500 (the ''Contribution'') to the federal senate campaign of Joshua Mandel, the Ohio State Treasurer (the ''Official''). The Contributor's wife also made a contribution for the same amount. Applicant represents that the amount of the Contribution, profile of the candidate and characteristics of the campaign are consistent with the pattern of the Contributor's other political contributions.

3. Applicant represents that the Contributor did not solicit any persons

to make contributions to the Official's campaign, and that the executive managing member of Applicant was informed of the Contributor's plan to meet with the Official, but never learned that the Contributor made the Contribution.

4. Applicant represents that each Client's relationship with the Applicant pre-dates the Contribution and only one investment made by the Clients occurred after the contribution. The Applicant also represents that it took steps designed to limit the Contributor's contact with each Client and each Client's representatives during the duration of the two-year compensation time out. Applicant represents that the Contributor's role with the Clients was limited to making substantive presentations to the Client's representatives regarding the investment strategy for which the Contributor is a manager. Applicant represents that the Contributor had no contact with any representative of a Client outside of those presentations, and no contact with any member of a Client's board. No member of a Client's board serving at the time of the Contribution was appointed by the Official.

5. Applicant represents that at no time did any employees of the Adviser other than the Contributor have any knowledge of the Contribution prior to its discovery by the Adviser on November 2, 2011. The Contribution was discovered by the Adviser's compliance department during compliance testing that included random testing of campaign contribution databases for the names of employees. After discovery of the Contribution, the Adviser and Contributor obtained the Official's agreement to return the full amount of the Contribution, which was subsequently returned. An escrow account was established and all fees paid from the Clients' capital accounts in the Fund for the two-year period beginning on May 22, 2011 were deposited in the account. Applicant represents that it notified each Client of the Contribution and resulting two-year prohibition on compensation absent exemptive relief from the Commission.

6. The Adviser's policies and procedures regarding pay-to-play (''Pay-to-Play Policies and Procedures'') were initially adopted and implemented in August 2009 and required covered employees of the Adviser to pre-clear contributions to state and local office incumbents (including state and local officials running for federal office) and candidates. Applicant represents that the Contributor's violation of Applicant's Pay-to-Play Policies and Procedures resulted from his mistaken belief that all contributions to federal campaigns were permissible and exempt from Pay-to-Play Policies and Procedures. After learning of the Contributor's misunderstanding, Applicant represents that it revised its Pay to Play Policies and Procedures to require covered employees of the Adviser to pre-clear all campaign contributions to avoid similar misunderstandings by covered associates.

Applicant's Legal Analysis

1. Rule 206(4)–5(a)(1) under the Advisers Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. Each Client is a ''government entity,'' as defined in rule 206(4)–5(f)(5), the Contributor is a ''covered associate'' as defined in rule 206(4)–5(f)(2), and the Official is an ''official'' as defined in rule 206(4)–5(f)(6). Rule 206(4)–5(c) provides that when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool is treated as providing advisory services directly to the government entity. The Fund is a ''covered investment pool,'' as defined in rule 206(4)–5(f)(3)(ii).

2. Section 206A of the Advisers Act grants the Commission the authority to ''conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Advisers Act].''

3. Rule 206(4)–5(e) provides that the Commission may exempt an investment adviser from the prohibition under Rule 206(4)–5(a)(1) upon consideration of the factors listed below, among others:

(1) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act;

(2) Whether the investment adviser: (i) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (ii) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (iii) after learning of the contribution: (A) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (B) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(3) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(4) The timing and amount of the contribution which resulted in the prohibition;

(5) The nature of the election (e.g., federal, state or local); and

(6) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. Applicant requests an order pursuant to section 206A and rule 206(4)–5(e) thereunder, exempting it from the two-year prohibition on compensation imposed by rule 206(4)–5(a)(1) with respect to investment advisory services provided to the Clients within the two-year period following the Contribution.

5. Applicant submits that the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further submits that the other factors set forth in rule 206(4)–5(e) similarly weigh in favor of granting an exemption to the Applicant to avoid consequences disproportionate to the violation.

6. Applicant states that each Client determined to invest with Applicant and established those advisory relationships on an arms' length basis free from any improper influence as a result of the Contribution. In support of this argument, Applicant notes that each Client's relationship with the Applicant pre-dates the Contribution and only one investment made by the Clients occurred after the contribution. Furthermore, the Official's influence on each Client is limited, as was the Contributor's contact with each Client's representatives. Applicant also argues that the interests of the Clients are best served by allowing the Applicant and its Clients to continue their relationship uninterrupted.

7. Applicant notes that it adopted and implemented Pay-to-Play Policies and Procedures compliant with the rule's

requirements and it implemented compliance testing procedures prior to the date of the Contribution. Applicant further represents that at no time did any employees of Applicant other than the Contributor have any knowledge that the Contribution had been made prior to discovery by the Applicant in November 2011. After learning of the Contribution, Applicant and the Contributor obtained the Official's agreement to return the Contribution, which was subsequently returned, and the Applicant set up an escrow account for all fees charged to the Clients' capital accounts in the Fund for the two-year period beginning May 22, 2011.

8. Applicant states that the Contributor's apparent intent in making the Contribution was not to influence the selection or retention of Applicant. Applicant represents that the amount of the Contribution, profile of the candidate and characteristics of the campaign are consistent with the pattern of the Contributor's other substantial political donations. Applicant notes that the Contributor failed to appreciate that contributions to federal candidates who held state or local office could trigger the prohibition on compensation under Rule 206(4)–5 or that such contributions were subject to the Applicant's Pay-to-Play Policies and Procedures. Applicant represents that the Contributor had no contact with any representative of the Clients (or their boards) outside of making limited substantive presentations to the Clients' representatives and consultants about the investment strategy he manages and that the Applicant took steps designed to limit such contact during the duration of the two-year time out on compensation.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24771 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–30745; File No. 812–14152]

Arden Investment Series Trust, et al.; Notice of Application

October 17, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'' or ''Act''), seeking exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

APPLICANTS: Arden Investment Series Trust (the ''Trust'') and Arden Asset Management LLC (''Arden'') (collectively, the ''Applicants'').

SUMMARY OF APPLICATION: Applicants request an order granting exemptions from the provisions of Sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder in cases where a life insurance company separate account supporting variable life insurance contracts (''VLI Accounts'') holds shares of Arden Variable Alternative Strategies Fund, an existing portfolio of the Trust (the ''Existing Variable Fund''), or a ''Future Variable Fund,'' [1] (any Existing Variable Fund or Future Variable Fund is referred to herein as a ''Fund,'' and collectively, the ''Funds''), and one or more of the following other types of investors also hold shares of the Funds: (i) Any life insurance company separate account supporting variable annuity contracts (''VA Accounts''); (ii) any VLI Account; (iii) trustees of qualified group pension or group retirement plans (''Plans'' or ''Qualified Plans'') outside the separate account context; (iv) the investment adviser or any subadviser to a Fund or affiliated persons of the adviser or subadviser (representing seed money investments in the Fund) (''Advisers''); and (v) any general account of an insurance company depositor of VA Accounts and/or VLI Accounts and affiliated persons of such insurance company (''General Accounts'').

FILING DATE: The application was filed on May 2, 2013, and amended and restated on October 2, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 11, 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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 375 Park Avenue, 32nd Floor, New York, NY 10152.

FOR FURTHER INFORMATION CONTACT: Sonny Oh, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Insured Investments Office, Division of Investment Management at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search.htm*, or by calling (202) 551–8090.

Applicants' Representations

1. The Trust was organized as a Delaware statutory trust on April 11, 2012 and is registered under the Act as an open-end management investment company (Reg. File No. 811–22701). The Trust is a series investment company as defined by Rule 18f–2 under the Act and the Existing Variable Fund is a series of the Trust. The Trust has registered two classes of shares of the Existing Variable Fund under the Securities Act of 1933 (the ''1933 Act'') (Reg. File No. 333–180881) on Form N–1A. The Trust may in the future establish additional Funds and additional classes of shares for any of the Funds. Shares of the Funds will not be offered to the general public. The existing series of the Trust are the Existing Variable Fund, Arden Alternative Strategies Fund and Arden Alternative Strategies II. This Application seeks exemptive relief only for the Existing Variable Fund and any Future Variable Fund of the Trust as defined herein but does not seek exemptive relief for the Arden Alternative Strategies Fund or Arden Alternative Strategies II because they are not designed to be sold to VA Accounts and/or VLI Accounts.

2. Arden serves as the investment adviser to the Trust and the Existing Variable Fund. Arden is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940, as amended. Subject to the authority of the Board of Trustees of the Trust, Arden is responsible for the overall management of the business

[1] As used herein, a Future Variable Fund is any investment company (or investment portfolio or series thereof), other than the Existing Variable Fund, designed to be sold to VA Accounts and/or VLI Accounts and to which Applicants or their affiliates may in the future serve as investment advisers, investment subadvisers, investment managers, administrators, principal underwriters or sponsors.

affairs of the Trust and oversees the investment operations of the Existing Variable Fund, including the purchase, retention and disposition of securities in accordance with the Fund's investment objective.

3. The Existing Variable Fund proposes, and Future Variable Funds will propose, to offer their shares to VLI and VA Accounts of various life insurance companies (''Participating Insurance Companies'') to serve as investment media to support variable life insurance contracts and variable annuity contracts (together, ''Variable Contracts'') issued through such accounts. Each VLI Account and VA Account is or will be established as a segregated asset account by a Participating Insurance Company pursuant to the insurance law of the insurance company's state of domicile. As such, the assets of each will be the property of the Participating Insurance Company, and that portion of the assets of such an Account equal to the reserves and other contract liabilities with respect to the Account will not be chargeable with liabilities arising out of any other business that the insurance company may conduct. The income, gains and losses, realized or unrealized from such an Account's assets will be credited to or charged against the Account without regard to other income, gains or losses of the Participating Insurance Company. If a VLI Account or VA Account is registered as an investment company, it will be a ''separate account'' as defined by Rule 0–1(e) (or any successor rule) under the Act and will be registered as a unit investment trust. For purposes of the Act, the Participating Insurance Company that establishes such a registered VLI Account or VA Account is the depositor and sponsor of the Account as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

4. There are currently no Participating Insurance Companies.

5. The Funds will sell their shares to VLI and VA Accounts only if each Participating Insurance Company sponsoring such a VLI or VA Account enters into a participation agreement with the Funds. The participation agreements define or will define the relationship between each Fund and each Participating Insurance Company and memorialize or will memorialize, among other matters, the fact that, except where the agreement specifically provides otherwise, the Participating Insurance Company will remain responsible for establishing and maintaining any VLI or VA Account covered by the agreement and for complying with all applicable requirements of state and federal law pertaining to such accounts and to the sale and distribution of Variable Contracts issued through such Accounts. The role of the Funds under this arrangement, with regard to the federal securities laws, will consist of offering and selling shares of the Funds to the separate accounts and fulfilling any conditions that the Commission may impose in granting the requested order.

6. The use of a common management investment company (or investment portfolio thereof) as an investment medium for both VLI Accounts and VA Accounts of the same Participating Insurance Company, or of two or more insurance companies that are affiliated persons of each other, is referred to herein as ''mixed funding.'' The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI Accounts and/or VA Accounts of two or more Participating Insurance Companies that are not affiliated persons of each other is referred to herein as ''shared funding.''

7. Applicants propose that the Existing Variable Fund and any Future Variable Funds may offer their shares directly to Qualified Plans, the Fund's Advisers, and a General Account of any Participating Insurance Companies.

8. The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI Accounts, VA Accounts, Qualified Plans, Advisers and General Accounts is referred to herein as ''extended mixed funding.''

Applicants' Legal Analysis

1. Section 9(a) of the 1940 Act makes it unlawful for any company to serve as an investment adviser or principal underwriter of any investment company, including a unit investment trust, if an affiliated person of that company is subject to disqualification enumerated in Section 9(a)(1) or (2) of the Act. Sections 13(a), 15(a), and 15(b) of the 1940 Act have been deemed by the Commission to require ''pass-through'' voting with respect to an underlying investment company's shares.

2. Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the Act provide partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI Accounts supporting certain VLI Contracts and to their life insurance company depositors under limited circumstances, as described in the application. VLI Accounts, their depositors and their principal underwriters may not rely on the exemptions provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) if shares of the Fund are held by a VLI Account through which certain VLI Contracts are issued, a VLI Account of an unaffiliated Participating Insurance Company, an unaffiliated Adviser, any VA Account, a Qualified Plan or a General Account. Accordingly, Applicants request an order of the Commission granting exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder in cases where certain VLI Account hold shares of the Funds and one or more of the following types of investors also hold shares of the Funds: (i) VA Accounts and VLI Accounts (supporting scheduled premium or flexible premium VLI Contracts) of affiliated and unaffiliated Participating Insurance Companies; (ii) Qualified Plans; (iii) Advisers; and/or (iv) General Accounts.

3. Applicants maintain that there is no policy reason for the sale of Fund shares to Qualified Plans, Advisers or General Accounts to prohibit or otherwise limit a Participating Insurance Company from relying on the relief provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15). Nonetheless, Rule 6e–2 and Rule 6e–3(T) each specifically provides that the relief granted thereunder is available only where shares of the underlying fund are offered exclusively to insurance company separate accounts. In this regard, Applicants request exemptive relief to the extent necessary to permit shares of the Funds to be sold to Qualified Plans, Advisers and General Accounts while allowing Participating Insurance Companies and their VA Accounts and VLI Accounts to enjoy the benefits of the relief granted under Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15). Applicants note that if the Funds were to sell their shares only to Qualified Plans, exemptive relief under Rule 6e–2 and Rule 6e–3(T) would not be necessary. The relief provided for under Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) does not relate to Qualified Plans, Advisers or General Accounts or to a registered investment company's ability to sell its shares to such purchasers.

4. Applicants are not aware of any reason for excluding separate accounts and investment companies engaged in shared funding from the exemptive relief provided under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), or for excluding separate accounts and investment companies engaged in mixed funding from the exemptive relief provided under Rule 6e–2(b)(15). Similarly,

Applicants are not aware of any reason for excluding Participating Insurance Companies from the exemptive relief requested because the Funds may also sell their shares to Qualified Plans, Advisers and General Accounts. Rather, Applicants submit that the proposed sale of shares of the Funds to these purchasers may allow for the development of larger pools of assets resulting in the potential for greater investment and diversification opportunities, and for decreased expenses at higher asset levels resulting in greater cost efficiencies.

5. For the reasons explained below, Applicants have concluded that investment by Qualified Plans, Advisers and General Accounts in the Funds should not increase the risk of material irreconcilable conflicts between owners of VLI Contracts and other types of investors or between owners of VLI Contracts issued by unaffiliated Participating Insurance Companies.

6. Consistent with the Commission's authority under Section 6(c) of the Act to grant exemptive orders to a class or classes of persons and transactions, Applicants request exemptions for a class consisting of Participating Insurance Companies and their separate accounts investing in the Existing Variable Fund and Future Variable Funds, as well as their principal underwriters, that currently invest or in the future will invest in the Funds.

7. Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Applicants submit that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Section 9(a)(3) of the Act provides, among other things, that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii) and Rules 6e–3(T)(b)(15)(i) and (ii) under the Act provide exemptions from Section 9(a) under certain circumstances, subject to the limitations discussed above on mixed funding, extended mixed funding and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in management of the underlying investment company.

9. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the Act provide exemptions from pass-through voting requirements with respect to several significant matters, assuming the limitations on mixed funding, extended mixed funding and shared funding are observed. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its variable life insurance contract owners with respect to the investments of an underlying investment company, or any contract between such an investment company and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of Rules 6e–2 and 6e–3(T)).

10. The Applicants represent that the sale of Fund shares to Qualified Plans, Advisers or General Accounts will not have any impact on the exemptions requested herein regarding the disregard of pass-through voting rights. Shares sold to Qualified Plans will be held by such Plans. The exercise of voting rights by Plans, whether by trustees, participants, beneficiaries, or investment managers engaged by the Plans, does not raise the type of issues respecting disregard of voting rights that are raised by VLI Accounts. With respect to Plans, which are not registered as investment companies under the Act, there is no requirement to pass through voting rights to Plan participants. Indeed, to the contrary, applicable law expressly reserves voting rights associated with Plan assets to certain specified persons as disclosed in the application.

11. Similarly, Advisers and General Accounts are not subject to any pass-through voting rights. Accordingly, unlike the circumstances surrounding VLI Account and VA Account investments in shares of the Funds, the issue of the resolution of any material irreconcilable conflicts with respect to voting is not present with respect to Advisers or General Accounts of Participating Insurance Companies.

12. Applicants recognize that the prohibitions on mixed and shared funding might reflect concern regarding possible different investment motivations among investors. When Rule 6e–2 was first adopted, variable annuity separate accounts could invest in mutual funds whose shares were also offered to the general public. However, now, under the tax code any underlying fund, including the Funds, that sells shares to VA Accounts or VLI Accounts, would, in effect, be precluded from also selling its shares to the public. Consequently, the Funds may not sell their shares to the public.

13. Applicants assert that the rights of an insurance company on its own initiative or on instructions from a state insurance regulator to disregard the voting instructions of owners of Variable Contracts is not inconsistent with either mixed funding or shared funding. Applicants state that The National Association of Insurance Commissioners Variable Life Insurance Model Regulation (the ''NAIC Model Regulation'') suggests that it is unlikely that insurance regulators would find an underlying fund's investment policy, investment adviser or principal underwriter objectionable for one type of Variable Contract but not another type.

14. Applicants assert that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. A particular state insurance regulator could require action that is inconsistent with the requirements of other states in which the insurance company offers its contracts. However, the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem. Shared funding by unaffiliated insurers, in this respect, is no different than the use of the same investment company as the funding vehicle for affiliated insurers, which Rules 6e–2(b)(15) and 6e–3(T)(b)(15) permit. Affiliated insurers may be domiciled in different states and be subject to differing state law requirements. Affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions set forth below are designed to safeguard against, and provide procedures for resolving, any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, then the affected Participating Insurance Company will be required to withdraw its separate account investments in the relevant Fund. This requirement will be provided for in the participation agreement that will be entered into by Participating Insurance Companies with the relevant Fund.

15. Rules 6e–2(b)(15) and 6e–3(T)(b)(15) give Participating Insurance Companies the right to disregard the voting instructions of VLI Contract owners in certain circumstances. This right derives from the authority of state insurance regulators over VLI Accounts and VA Accounts. Under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), a Participating Insurance Company may disregard VLI Contract owner voting instructions only with respect to certain specified items. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter or investment adviser initiated by such Contract owners. The potential for disagreement is limited by the requirements in Rules 6e–2 and 6e–3(T) that the Participating Insurance Company's disregard of voting instructions be reasonable and based on specific good faith determinations.

16. A particular Participating Insurance Company's disregard of voting instructions, nevertheless, could conflict with the voting instructions of a majority of VLI Contract owners. The Participating Insurance Company's action possibly could be different than the determination of all or some of the other Participating Insurance Companies (including affiliated insurers) that the voting instructions of VLI Contract owners should prevail, and either could preclude a majority vote approving the change or could represent a minority view. If the Participating Insurance Company's judgment represents a minority position or would preclude a majority vote, then the Participating Insurance Company may be required, at the relevant Fund's election, to withdraw its VLI Accounts' and VA Accounts' investments in the relevant Fund. No charge or penalty will be imposed as a result of such withdrawal. This requirement will be provided for in the participation agreement entered into by the Participating Insurance Companies with the relevant Fund.

17. Applicants assert that there is no reason why the investment policies of a Fund would or should be materially different from what these policies would or should be if the Fund supported only VA Accounts or VLI Accounts, whether flexible premium or scheduled premium VLI Contracts. Each type of insurance contract is designed as a long-term investment program.

18. Each Fund will be managed to attempt to achieve its specified investment objective, and not favor or disfavor any particular Participating Insurance Company or type of insurance contract. There is no reason to believe that different features of various types of Variable Contracts will lead to different investment policies for each or for different VLI Accounts and VA Accounts. The sale of Variable Contracts and ultimate success of all VA Accounts and VLI Accounts depends, at least in part, on satisfactory investment performance, which provides an incentive for each Participating Insurance Company to seek optimal investment performance.

19. Furthermore, no single investment strategy can be identified as appropriate to a particular Variable Contract. Each ''pool'' of VLI Contract and VA Contract owners is composed of individuals of diverse financial status, age, insurance needs and investment goals. A Fund supporting even one type of Variable Contract must accommodate these diverse factors in order to attract and retain purchasers. Permitting mixed and shared funding will provide economic support for the continuation of the Funds. Mixed and shared funding will broaden the base of potential Variable Contract owner investors, which may facilitate the establishment of additional Funds serving diverse goals.

20. Applicants do not believe that the sale of the shares to Plans, Advisers or General Accounts will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. In particular, Applicants see very little potential for such conflicts beyond those that would otherwise exist between owners of VLI Contracts and VA Contracts. Applicants submit that either there are no conflicts of interest or that there exists the ability by the affected parties to resolve such conflicts consistent with the best interests of VLI Contract owners, VA Contract owners and Plan participants.

21. Applicants considered whether there are any issues raised under the Code, Treasury Regulations, or Revenue Rulings thereunder, if Qualified Plans, VA Accounts, VLI Accounts, Advisers and General Accounts all invest in the same Fund. Applicants have concluded that neither the Code, nor the Treasury Regulations nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, VA Accounts, VLI Accounts, Advisers and General Accounts all invest in the same Fund.

22. Applicants note that, while there are differences in the manner in which distributions from separate accounts and Qualified Plans are taxed, these differences have no impact on the Funds. When distributions are to be made, and a separate account or Plan is unable to net purchase payments to make distributions, the separate account or Plan will redeem shares of the relevant Fund at its net asset values in conformity with Rule 22c–1 under the Act (without the imposition of any sales charge) to provide proceeds to meet distribution needs. A Participating Insurance Company will then make distributions in accordance with the terms of its Variable Contracts, and a Plan will then make distributions in accordance with the terms of the Plan.

23. Applicants considered whether it is possible to provide an equitable means of giving voting rights to Variable Contract owners, Plans, Advisers and General Accounts. In connection with any meeting of Fund shareholders, the Fund will inform each Participating Insurance Company (with respect to its separate accounts and general account), Adviser, and Qualified Plan of its share holdings and provide other information necessary for such shareholders to participate in the meeting (e.g., proxy materials). Each Participating Insurance Company then will solicit voting instructions from owners of VLI Contracts and VA Contracts in accordance with Rules 6e–2 or 6e–3(T), or Section 12(d)(1)(E)(iii)(aa) of the Act, as applicable, and its participation agreement with the relevant Fund. Shares of a Fund that are held by an Adviser or a General Account will generally be in the same proportion as all votes cast on behalf of all Variable Contract owners having voting rights. However, an Adviser or General Account will vote its shares in such other manner as may be required by the Commission or its staff. Shares held by Plans will be voted in accordance with applicable law. The voting rights provided to Plans with respect to the shares would be no different from the voting rights that are provided to Plans with respect to shares of mutual funds sold to the general public. Furthermore, if a material irreconcilable conflict arises because of a Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the relevant Fund, to withdraw its investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal.

24. Applicants do not believe that the ability of a Fund to sell its shares to a Qualified Plan, Adviser or General Account gives rise to a senior security as defined by Section 18(g) of the Act. Regardless of the rights and benefits of participants under Plans or owners of Variable Contracts, VLI Accounts, VA

Accounts, Qualified Plans, Advisers and General Accounts only have, or will only have, rights with respect to their respective shares of a Fund. These parties can only redeem such shares at net asset value. No shareholder of a class of the Fund has any preference over any other shareholder of the class with respect to distribution of assets or payment of dividends.

25. Applicants do not believe that the veto power of state insurance commissioners over certain potential changes to Fund investment objectives approved by Variable Contract owners creates conflicts between the interests of such owners and the interests of Plan participants, Advisers or General Accounts. Applicants note that a basic premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. Their interests and opinions may differ, but this does not mean that inherent conflicts of interest exist between or among such shareholders or that occasional conflicts of interest that do occur between or among them are likely to be irreconcilable.

26. Although Participating Insurance Companies may have to overcome regulatory impediments in redeeming shares of a Fund held by their separate accounts, Applicants state that the Plans and participants in participant-directed Plans can make decisions quickly and redeem their shares in a Fund and reinvest in another investment company or other funding vehicle without impediments, or as is the case with most Plans, hold cash pending suitable investment. As a result, conflicts between the interests of Variable Contract owners and the interests of Plans and Plan participants can usually be resolved quickly since the Plans can, on their own, redeem their Fund shares. Advisers and General Accounts can similarly redeem their shares of a Fund and make alternative investments at any time.

27. Finally, Applicants considered whether there is a potential for future conflicts of interest between Participating Insurance Companies and Qualified Plans created by future changes in the tax laws. Applicants do not see any greater potential for material irreconcilable conflicts arising between the interests of Variable Contract owners and Plan participants from future changes in the federal tax laws than that which already exists between VLI Contract owners and VA Contract owners.

28. Applicants recognize that the foregoing is not an all-inclusive list, but rather is representative of issues that they believe are relevant to this Application. Applicants believe that the sale of Fund shares to Qualified Plans would not increase the risk of material irreconcilable conflicts between the interests of Plan participants and Variable Contract owners or other investors. Further, Applicants submit that the use of the Funds with respect to Plans is not substantially dissimilar from each Fund's current and anticipated use, in that Plans, like separate accounts, are generally long-term investors.

29. Applicants assert that permitting a Fund to sell its shares to an Adviser or to the General Account of a Participating Insurance Company for the purpose of obtaining see money will enhance management of each Fund without raising significant concerns regarding material irreconcilable conflicts among different types of investors.

30. Various factors have limited the number of insurance companies that offer Variable Contracts. These factors include the costs of organizing and operating a funding vehicle, certain insurers' lack of experience with respect to investment management, and the lack of name recognition by the public of certain insurance companies as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Variable Contract business on their own. Use of the Funds as a common investment vehicle for Variable Contracts would reduce or eliminate these concerns. Mixed and shared funding should also provide several benefits to owners of Variable Contracts by eliminating a significant portion of the costs of establishing and administering separate underlying funds.

31. Applicants state that the Participating Insurance Companies will benefit not only from the investment and administrative expertise of the Funds' Adviser, but also from the potential cost efficiencies and investment flexibility afforded by larger pools of funds. Therefore, making the Funds available for mixed and shared funding will encourage more insurance companies to offer Variable Contracts. This should result in increased competition with respect to both Variable Contract design and pricing, which can in turn be expected to result in more product variety. Applicants also assert that sale of shares in a Fund to Qualified Plans, in addition to VLI Accounts and VA Accounts, will result in an increased amount of assets available for investment in a Fund.

32. Applicants also submit that, regardless of the type of shareholder in a Fund, an Adviser is or would be contractually and otherwise obligated to manage the Fund solely and exclusively in accordance with the Fund's investment objectives, policies and restrictions, as well as any guidelines established by the Fund's Board of Trustees (the ''Board'').

33. Applicants assert that sales of Fund shares, as described above, will not have any adverse federal income tax consequences to other investors in such a Fund.

34. In addition, Applicants assert that granting the exemptions requested herein is in the public interest and, as discussed above, will not compromise the regulatory purposes of Sections 9(a), 13(a), 15(a), or 15(b) of the Act or Rules 6e–2 or 6e–3(T) thereunder.

Applicants' Conditions

Applicants agree that the Commission order requested herein shall be subject to the following conditions:

1. A majority of the Board of each Fund will consist of persons who are not ''interested persons'' of the Fund, as defined by Section 2(a)(19) of the Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of death, disqualification or bona fide resignation of any trustee or trustees, then the operation of this condition will be suspended: (a) For a period of 90 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 150 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application, or by future rule.

2. The Board will monitor a Fund for the existence of any material irreconcilable conflict between and among the interests of the owners of all VLI Contracts and VA Contracts and participants of all Plans investing in the Fund, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the

investments of the Fund are being managed; (e) a difference in voting instructions given by VA Contract owners, VLI Contract owners, and Plans or Plan participants; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (g) if applicable, a decision by a Plan to disregard the voting instructions of Plan participants.

3. Participating Insurance Companies (on their own behalf, as well as by virtue of any investment of General Account assets in a Fund), the Advisers, and any Plan that executes a participation agreement upon its becoming an owner of 10% or more of the assets of a Fund (collectively, ''Participants'') will report any potential or existing conflicts to the Board. Each Participant will be responsible for assisting the Board in carrying out the Board's responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded, and, if pass-through voting is applicable, an obligation by each trustee for a Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts, and to assist the Board, will be a contractual obligation of all Participating Insurance Companies under their participation agreement with a Fund, and these responsibilities will be carried out with a view only to the interests of the Variable Contract owners. The responsibility to report such information and conflicts, and to assist the Board, also will be contractual obligations of all Plans under their participation agreement with a Fund, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of Plan participants.

4. If it is determined by a majority of the Board, or a majority of the disinterested trustees of the Board, that a material irreconcilable conflict exists, then the relevant Participant will, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) Withdrawing the assets allocable to some or all of their VLI Accounts or VA Accounts from the Fund and reinvesting such assets in a different investment vehicle, including another Fund; (b) in the case of a Participating Insurance Company, submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., VA Contract owners or VLI Contact owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract owners the option of making such a change; (c) withdrawing the assets allocable to some or all of the Plans from the affected Fund and reinvesting them in a different investment medium; and (d) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, then the Participating Insurance Company may be required, at the election of the Fund, to withdraw such Participating Insurance Company's VLI Account and VA Account investments in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the Fund, to withdraw its investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participants under their participation agreement with a Fund, and these responsibilities will be carried out with a view only to the interests of Variable Contract owners or, as applicable, Plan participants.

For purposes of this Condition 4, a majority of the disinterested trustees of the Board of a Fund will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but, in no event, will the Fund or its investment adviser be required to establish a new funding vehicle for any Variable Contract or Plan. No Participating Insurance Company will be required by this Condition 4 to establish a new funding vehicle for any Variable Contract if any offer to do so has been declined by vote of a majority of the Contract owners materially and adversely affected by the material irreconcilable conflict. Further, no Plan will be required by this Condition 4 to establish a new funding vehicle for the Plan if: (a) A majority of the Plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to documents governing the Plan, the Plan trustee makes such decision without a Plan participant vote.

5. The determination by the Board of the existence of a material irreconcilable conflict and its implications will be made known in writing promptly to all Participants.

6. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners whose Contracts are issued through registered VLI Accounts or registered VA Accounts for as long as the Commission continues to interpret the Act as requiring such pass-through voting privileges. However, as to Variable Contracts issued through VA Accounts or VLI Accounts not registered as investment companies under the Act, pass-through voting privileges will be extended to owners of such Contracts to the extent granted by the Participating Insurance Company. Accordingly, such Participating Insurance Companies, where applicable, will vote the shares of each Fund held in their VLI Accounts and VA Accounts in a manner consistent with voting instructions timely received from Variable Contract owners. Participating Insurance Companies will be responsible for assuring that each of their VLI and VA Accounts investing in a Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies investing in that Fund.

The obligation to calculate voting privileges as provided in this Application shall be a contractual obligation of all Participating Insurance Companies under their participation agreement with the Fund. Each Participating Insurance Company will vote shares of each Fund held in its VLI or VA Accounts for which no timely voting instructions are received, as well as shares held in its General Account or otherwise attributed to it, in the same proportion as those shares for which voting instructions are received. Each Plan will vote as required by applicable law, governing Plan documents and as provided in this Application.

7. As long as the Commission continues to interpret the Act as requiring that pass-through voting privileges be provided to Variable

Contract owners, a Fund Adviser or any General Account will vote its respective shares of the Fund in the same proportion as all votes cast on behalf of all Variable Contract owners having voting rights; provided, however, that such an Adviser or General Account shall vote its shares in such other manner as may be required by the Commission or its staff.

8. Each Fund will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in its shares), and, in particular, the Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the Act not to require such meetings) or comply with Section 16(c) of the Act (although each Fund is not, or will not be, one of those trusts of the type described in Section 16(c) of the Act), as well as with Section 16(a) of the Act and, if and when applicable, Section 16(b) of the Act. Further, each Fund will act in accordance with the Commission's interpretations of the requirements of Section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate thereunder.

9. A Fund will make its shares available to the VLI Accounts, VA Accounts, and Plans at or about the time it accepts any seed capital from its Adviser or from the General Account of a Participating Insurance Company.

10. Each Fund has notified, or will notify, all Participants that disclosure regarding potential risks of mixed and shared funding may be appropriate in VLI Account and VA Account prospectuses or Plan documents. Each Fund will disclose, in its prospectus that: (a) Shares of the Fund may be offered to both VA Accounts and VLI Accounts and, if applicable, to Plans; (b) due to differences in tax treatment and other considerations, the interests of various Variable Contract owners participating in the Fund and the interests of Plan participants investing in the Fund, if applicable, may conflict; and (c) the Fund's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflicts.

11. If and to the extent Rule 6e–2 and Rule 6e–3(T) under the Act are amended, or proposed Rule 6e–3 under the Act is adopted, to provide exemptive relief from any provision of the Act, or the rules thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then each Fund and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 or 6e–3(T), as amended, or Rule 6e–3, to the extent such rules are applicable.

12. Each Participant, at least annually, shall submit to the Board of each Fund such reports, materials or data as the Board reasonably may request so that the trustees may fully carry out the obligations imposed upon the Board by the conditions contained in this Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials and data to the Board, when it so reasonably requests, shall be a contractual obligation of all Participants under their participation agreement with the Fund.

13. All reports of potential or existing conflicts received by a Board, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

14. Each Fund will not accept a purchase order from a Qualified Plan if such purchase would make the Plan an owner of 10 percent or more of the assets of the Fund unless the Plan executes an agreement with the Fund governing participation in the Fund that includes the conditions set forth herein to the extent applicable. A Plan will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares.

Conclusion

Applicants submit, for all of the reasons explained above, that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24770 Filed 10–22–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70703; File No. SR–NYSEArca–2013–102]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Relating to Market Maker and Lead Market Maker Transaction Credits

October 17, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 7, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to conform references to certain Market Maker and Lead Market Maker (''LMM'') transaction credits to the transaction credits implemented in a recent fee change. The Exchange proposes to implement the fee change immediately. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to conform references to certain Market Maker and LMM transaction credits to the transaction credits implemented in a recent fee change. The Exchange proposes to implement the fee change immediately.

The Exchange recently amended the Fee Schedule to reduce the credit for the base Market Maker monthly posting credit tier for Penny Pilot issues, including SPY, from $0.32 to $0.28.[4] This base tier credit applies to posted electronic executions in Penny Pilot issues for Market Makers that do not qualify for the Market Maker Select Tier credit of $0.32 or the Market Maker Super Tier credit of $0.37. The base tier credit is duplicative of the standard credit for posted electronic Market Maker executions in Penny Pilot issues that is specified in the standard transaction fee and credit table in the Fee Schedule (*i.e.,* the table that specifies the fees and credits that apply if a separate table or section of the Fee Schedule is not applicable). In other words, a Market Maker that does not qualify for the Select Tier or the Super Tier credit is effectively subject to the standard transaction fee and credit table in the Fee Schedule. The legacy $0.32 Market Maker credit still appears within the standard fee and credit table. The Exchange therefore proposes to similarly reduce the standard Market Maker credit within the standard transaction fee and credit table from $0.32 to $0.28 for posted electronic Market Maker executions in Penny Pilot issues.[5] Without this change the Fee Schedule would reflect two different credits applicable to the same posted electronic Market Maker executions in Penny Pilot issues.

The standard LMM credit within the standard transaction fee and credit table for posted electronic executions in Penny Pilot issues currently is also $0.32. The Exchange proposes to similarly reduce this credit from $0.32 to $0.28.[6] This reduction would maintain equal standard credits for LMMs and Market Makers for posted electronic executions in Penny Pilot issues, which was the case prior to the recent fee change that reduced the credit for the base Market Maker monthly posting credit tier for Penny Pilot issues, including SPY, from $0.32 to $0.28.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that OTP Holders and OTP Firms, including Market Makers and LMMs, would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because without it the Fee Schedule would reflect two different credits applicable to the same posted electronic Market Maker executions in Penny Pilot issues. The proposed change is also reasonable because it would maintain equal standard credits for LMMs and Market Makers for posted electronic executions in Penny Pilot issues.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it would apply to all Market Makers and LMMs on an equal and non-discriminatory basis. The Exchange further believes that the proposed change is equitable and not unfairly discriminatory because it would reasonably ensure consistency and conformity regarding duplicative references to the credits applicable to posted electronic Market Maker executions in Penny Pilot issues while also reasonably ensuring that Market Maker and LMM credits for posted electronic executions in Penny Pilot issues are equal.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would eliminate any potential confusion for Market Makers regarding the applicable credit for posted electronic executions in Penny Pilot issues as a result of a recent fee change that amended one reference to the applicable rate, but not a duplicative reference in the Fee Schedule. Additionally, the proposed change would reasonably ensure that LMMs receive a standard credit for posted electronic executions in Penny Pilot issues that is equal to the standard credit received by Market Makers, which was the case prior to the recent fee change that reduced the credit for the base Market Maker monthly posting credit tier for Penny Pilot issues, including SPY, from $0.32 to $0.28.[11]

Finally, the Exchange 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. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [12] of the Act and subparagraph (f)(2) of Rule 19b–4 [13] thereunder, because it establishes a due,

[4] *See* Securities Exchange Act Release No. 70504 (September 25, 2013), 78 FR 60358 (October 1, 2013) (SR–NYSEArca–2013–93).

[5] The fee change established pursuant to SR–NYSEArca-2013–93 became effective on October 1, 2013. The Exchange will therefore apply the $0.28 credit to all posted electronic Market Maker executions in Penny Pilot issues that do not qualify for the Select Tier or the Super Tier credit beginning on October 1, 2013.

[6] This aspect of the proposed change will become effective immediately upon filing, at which point the Exchange will apply the $0.28 credit to posted electronic LMM executions in Penny Pilot issues. The Exchange will apply the current $0.32 credit to posted electronic LMM executions in Penny Pilot issues prior to such date of effectiveness.

[7] *See supra,* note 4.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78f(b)(8).

[11] *See supra,* note 4.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2013–102 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–102. 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–NYSEArca–2013–102, and should be submittedon or before November 13, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24767 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70704; File No. SR–OCC–2013–10]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Amend Policy Statement Adopted Under Rule 205 Entitled ''Back-Up Communication Channel to Internet Access''

October 17, 2013.

I. Introduction

On August 23, 2013, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2013–10 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on September 5, 2013.[3] The Commission received no comment letters regarding the proposed rule change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

OCC is making certain changes to its Policy Statement adopted under OCC Rule 205 [4] entitled ''Back-up Communication Channel to Internet Access'' requiring clearing members that use the internet as their primary means to access OCC's information and data systems to maintain a secure back-up means of communication in order to provide for business continuance in the event of an internet outage.

In 2006, OCC adopted a Policy Statement under Rule 205 requiring clearing members that primarily use the internet to access OCC's systems to maintain: (i) An OCC-approved method for accessing OCC's information and data systems in order to perform, on a timely basis, critical business activities in the event of an internet outage (''Back-Up Communication Channel''), and (ii) separate service arrangements with two independent internet service providers.[5]

Guidelines were established so that the Back-Up Communication Channel authorized for a particular clearing member was determined in accordance with the firm's business profile using certain criteria. OCC believes that the existing Policy Statement gives OCC the ability to designate a clearing member within a particular Back-Up Communication Channel category, if the clearing member meets any of the criteria that are enumerated under the particular category.[6] For example, a clearing member that: (i) Ranked among the top twenty-five clearing members by cleared volume during a calendar year; (ii) cleared more than one account type as defined in OCC's By-Laws and Rules; (iii) cleared two or more product types; (iv) conducted Clearing Member Trade Assignment (''CMTA'') business; (v) input a high volume of daily post-trade activity; (vi) generally utilized multiple forms of collateral; (vii) utilized most ancillary services offered by OCC; or (viii) used a lease line for data transmissions, would generally be designated as a ''Category A'' firm. ''Category A'' firms were required to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 34–70289 (August 29, 2013), 78 FR 54707 (September 5, 2013).

[4] OCC Rule 205, in relevant part, prescribes that clearing members shall submit instructions, notices, reports, data, and other items to the Corporation by electronic data entry in accordance with procedures prescribed or approved by the OCC. OCC supports the submission of these instructions, notices, reports, data and other items through use of an Internet connection to OCC's secured Web site.

[5] Securities Exchange Act Release No. 53980 (June 14, 2006), 71 FR 36155 (June 23, 2006)(SR–OCC–2006–04).

[6] Email from Bruce Kelber, Vice President and Associate General Counsel, OCC, to Wyatt Robinson, Attorney Adviser, Division of Trading and Markets, Securities and Exchange Commission (October 15, 2013) (stating that the criteria used to determine whether a particular firm should be designated as a Category A firm, Category B firm, or Category C firm under OCC's existing policy statement is intended to be interpreted as ''or'' statements.) OCC believes that the same interpretation will apply to the Policy Statement after changes pursuant to the proposed rule change are implemented. *Id.*

maintain a T1 line as an acceptable form of Back-Up Communication Channel.

A clearing member that: (i) Transacted mid-level cleared volume during a calendar year; (ii) cleared one or more account types as defined in OCC's By-Laws and Rules; (iii) cleared one or more product types; (iv) input a moderate to small volume of post-trade activity; (v) generally utilized one or two forms of collateral; or (vi) may have utilized a lease line for data transmissions, were generally designated as a ''Category B'' firm. Under the Policy Statement, ''Category B'' firms had the option to either maintain a T1 line or ISDN connection as acceptable forms of a Back-Up Communication Channel.

A clearing member that: (i) Transacted low-level cleared volume during a calendar year; (ii) cleared no more than one account type as defined in OCC's By-Laws and Rules; (iii) cleared no more than one product type; (iv) generally utilized one or two forms of collateral; or (v) input minimal amounts of post-trade activity, would generally be designated as a ''Category C'' firm. ''Category C'' firms were given the option to maintain an ISDN connection, utilize OCC equipment if the clearing member was located in or near a city where OCC maintains operational center(s), or rely upon fax transmission in the event an internet connection was not available.

According to OCC, recent denial of service attacks on financial institutions, along with changes in technology since the Policy Statement was first adopted, have prompted OCC to reassess the potential risks to operations should internet connections supporting clearing member access to OCC's information and data systems be interrupted. Through this assessment, OCC has determined that its existing policy should be modified to ensure that it is easily understood and properly implemented by the clearing membership.

OCC is now updating the Policy Statement to simplify the criteria applied to a given firm in determining the appropriate Back-Up Communication Channel. Instead of having three categories of business profiles that include several criteria to be applied, and offering multiple communication options available to a particular firm, the updated Policy Statement will contain two profiles. Clearing members that rank in the top-25 of cleared volume during a calendar year, or act as a facilities manager to one or more clearing firms, will be designated as a ''Category A'' firm, and will be required to maintain a T1 line as its Back-Up Communication Channel. All other firms will be designated as ''Category B'' firms, and will be required to maintain a T1 line or utilize a fax line, telephone or have ready access to an OCC office location.

OCC believes the proposed changes will present minimal to no impact to clearing members. According to OCC, all firms that were previously designated as ''Category A'' firms under the former policy will continue to be designated as ''Category A'' firms under the revised policy, and they will still be required to maintain a T1 line. Those firms that will be designated as Category B firms under the revised policy will now have increased flexibility under the back-up options being made available to them, in that they can select between a T1 Line, fax, telephone, or use an OCC office if they are located in a city where OCC maintains an operational center.[7]

OCC is also clarifying the Policy Statement by expressly adding a requirement for each clearing member to provide OCC with an annual statement that the clearing member: (i) Has been and continues to be in compliance with the Policy Statement since the last reporting period; (ii) has successfully tested its ability to access OCC's information and data systems using its Back-Up Communication Channel since the last reporting period; and (iii) will notify OCC within a reasonable period of any changes to their internet service providers since the date of the last notice provided to OCC. OCC believes that this modification will help eliminate any ambiguity that may exist with respect to responsibility of clearing members to comply with the Policy Statement and help ensure that OCC has sufficient information to troubleshoot in case of an internet outage, thereby helping to ensure that critical business activities can still be performed in a timely manner.

III. Discussion

Section 19(b)(2)(C) of the Act[8] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[9] requires that the rules of a registered clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions.

The Commission finds that the rule change is consistent with Section 17A(b)(3)(F) of the Act[10] because revising the Policy Statement to simplify the criteria used to determine the authorized Back-Up Communication Channel(s) that may be used by a given clearing member should reduce the administrative oversight by OCC and clearing members associated with making such determinations, freeing up resources otherwise directed to this purpose. Furthermore, OCC's requirement that a clearing member confirm its ability to access OCC's systems through testing should help to ensure that critical business activities can still be performed in a timely manner even in the event of an internet outage.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[11] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–OCC–2013–10) be and hereby is *approved.*[13]

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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BILLING CODE 8011–01–P

[7] In preparation for the revisions to the Policy Statement, OCC has acquired new fax servers that have increased bandwidth to support multiple users that may select facsimile transmission as their available back-up communication method. Meanwhile, the telephone features used by OCC's Member Service staff are equipped so that calls are automatically routed to an available representative in the event a firm's designated contact is unavailable. Finally, OCC has confirmed that: the number of Category B firms located in a city where OCC maintains an office that do not currently maintain a T1 line is sufficiently small enough so that OCC will be able to accommodate those firms who may need to utilize OCC's equipment in the event of an Internet outage.

[8] 15 U.S.C. 78s(b)(2)(C).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] *Id.*

[11] 15 U.S.C. 78q–1.

[12] 15 U.S.C. 78s(b)(2).

[13] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70705; File No. SR–CBOE–2013–097]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to The Customized Option Pricing Service

October 17, 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 October 4, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to: (i) Make available historical Customized Option Pricing Service (''COPS'') data and (ii) revise the description of COPS. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to: (i) Make available, through CBOE's affiliate Market Data Express, LLC (''MDX''), historical COPS data and (ii) revise the description of COPS.[3]

Background

COPS provides subscribers with an ''end-of-day'' file [4] of valuations for Flexible Exchange (''FLEX'') [5] options and certain over-the-counter (''OTC'') options (''COPS Data''). COPS Data is available for internal use and internal distribution by subscribers (''Subscribers''). MDX offers COPS Data for sale to all market participants.

COPS Data consists of indicative [6] values for three categories of ''customized'' options. The first category of options is all open series of FLEX options listed on any exchange that offers FLEX options for trading.[7] The second category is OTC options that have the same degree of customization as FLEX options. The third category includes options with strike prices expressed in percentage terms. Values for such options are expressed in percentage terms and are theoretical values.[8]

The fees that MDX charges for COPS Data are set forth on the Price List on the MDX Web site (*www.marketdataexpress.com*). MDX currently charges a fee per option per day for COPS Data. The amount of the fee is reduced based on the number of options purchased. A subscriber pays $1.25 per option per day for each option purchased up to 50 options, $1.00 per option per day for each option purchased from 51 to 100 options, $0.75 per option per day for each option purchased from 101 to 500 options, and $0.50 per option per day for each option purchased over 500 options.

Historical COPS Data

The Exchange proposes to make available, through MDX, historical COPS data (''Historical COPS Data''). Historical COPS Data consists of COPS Data that is over one month old (*i.e.,* copies of the ''end-of-day'' COPS file that are over one month old). Market participants would also be able to purchase Historical COPS Data through the MDX Web site. All market participants would be charged the same fees for Historical COPS Data. The Exchange will file a separate proposed rule change to establish the fees to be charged by MDX for Historical COPS Data.

COPS Description

COPS Data is currently available only for internal use and internal distribution by Subscribers. Pursuant to a written subscriber agreement between MDX and a Subscriber, a Subscriber may not act as a vendor and distribute the Data externally. The Exchange proposes to make COPS Data and Historical COPS Data (collectively, the ''Data'') available to Subscribers for internal use and internal distribution only. The Exchange also proposes to make COPS Data and Historical COPS Data available to ''Customers'' who, pursuant to a written vendor agreement between MDX and a Customer, may distribute the Data externally (*i.e.,* act as a vendor) and/or use and distribute the Data internally. Customers would be subject to the same fees that Subscribers pay for internal use and internal distribution of the Data. Customers would not be charged any fees initially for their external distribution of the Data. The Exchange would file a proposed rule change to establish the fees to be charged to Customers by MDX for external distribution of the Data.

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.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section

[3] The Exchange submitted proposed rule changes in 2012 to establish COPS and COPS fees. *See* Securities Exchange Act Release No. 67813 (September 10, 2012), 77 FR 56903 (September 14, 2012) and Securities Exchange Act Release No. 67928 (September 26, 2012), 77 FR 60161 (October 2, 2012). The service was originally named ''Customized Option Valuation Service'' but is now referred to as the ''Customized Option Pricing Service''.

[4] An end of day file refers to data that is distributed prior to the opening of the next trading day.

[5] FLEX options are exchange traded options that provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

[6] ''Indicative'' values are indications of potential market prices only and as such are neither firm nor the basis for a transaction.

[7] Current FLEX options open interest spans over 2,000 series on over 300 different underlying securities.

[8] These values are theoretical in that they are indications of potential market prices for options that have not traded (*i.e.* do not yet exist). Market participants sometimes express option values in percentage terms rather than in dollar terms because they find it is easier to assess the change, or lack of change, in the marketplace from one day to the next when values are expressed in percentage terms.

[9] 15 U.S.C. 78f(b).

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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the Data would be available to all of MDX's Customers and Subscribers on an equivalent basis.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that this proposal is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants. The Exchange believes the proposal to allow Customers of the Data to distribute the Data externally would help further the dissemination of the Data.

Additionally, the Exchange is making a voluntary decision to make this data available. The Exchange is not required by the Act in the first instance to make the Data available. Further, Historical COPS Data consists of COPS Data that is over one month old, so no new data would be made available by the introduction of the Historical COPS Data product.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change is pro-competitive in that it would allow the Exchange, through MDX, to disseminate COPS data on a voluntary basis. COPS is voluntary on the part of the Exchange, which is not required to offer such services, and voluntary on the part of prospective subscribers that are not required to use it. The Exchange notes there are at least a small number of market data vendors that produce option value data that is similar to COPS data and market data users may elect to buy these other products if they choose.[12] The Options Clearing Corporation (''OCC'') also produces FLEX option value data that is similar to the FLEX option value data that is included in COPS.[13] The Exchange believes that COPS helps attract new users and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. Impose any significant burden on competition; and

C. 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) of the Act [14] and Rule 19b–4(f)(6) [15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–097 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–2013–097. 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–CBOE–2013–097 and should be submitted on or before November 13, 2013.

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] These vendors include SuperDerivatives, Markit, Prism, and Bloomberg's BVAL service.

[13] The OCC makes this data available on its Web site at *http://www.theocc.com/webapps/flex-reports*.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 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.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24769 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70709; File No. SR–OCC–2013–803]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Filing To Reflect Enhancements in OCC's System for Theoretical Analysis and Numerical Simulations as Applied to Longer-Tenor Options

October 17, 2013.

On June 4, 2013, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2013–803 (''Advance Notice'') pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'' or ''Title VIII'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Exchange Act'').[2] The Advance Notice was published for comment in the **Federal Register** on July 9, 2013.[3] The Commission did not receive any comments on the Advance Notice publication. This publication serves as a notice of no objection to the Advance Notice.

I. Description of the Advance Notice

On December 14, 2012, the Commission issued an order approving a proposed rule change and a notice of no objection to an advance notice, collectively (''December 14, 2012 Action''), through which OCC proposed to establish a legal and operational framework for OCC to clear certain OTC index options on the S&P 500 Index (''OTC S&P 500 Index Options'').[4] OCC is prohibited from clearing OTC S&P 500 Index Options until the Commission approves and OCC implements certain enhancements to OCC's System for Theoretical Analysis and Numerical Simulations (''STANS'') as applied to all options,[5] including over-the-counter (''OTC'') options that OCC is otherwise permitted to clear, with at least three years of residual tenor (''Risk Management Proposal'').[6] This Advance Notice is the Risk Management Proposal. By this Advance Notice, OCC is enhancing STANS by: (i) Including daily OTC indicative quotations; (ii) introducing variations in implied volatility; and (iii) introducing a valuation adjustment.

STANS is a margin system that OCC uses to calculate clearing-level margin.[7] Through this Risk Management Proposal, OCC is enhancing STANS in the following ways:

(i) *Daily OTC Indicative Quotations.* According to OCC, STANS uses a daily dataset of market prices to value each portfolio.[8] OCC is enhancing this daily dataset of market prices by including daily OTC indicative quotations.[9] OCC will obtain daily OTC indicative quotations from a third-party service provider who obtains it through a daily poll of OTC derivatives dealers.[10]

(ii) *Variations in Implied Volatility.* According to OCC, STANS currently uses a two-day risk horizon which assumes that implied volatilities of option contracts do not change during that period.[11] OCC will introduce variations in implied volatility in the modeling of all longer-tenor options under STANS.[12] OCC plans to achieve this by ''incorporating, into the set of risk factors whose behavior is included in the econometric models underlying STANS, time series of proportional changes in implied volatilities for a range of tenors and in-the-money and out-of-the-money amounts representative of the dataset provided by OCC's third-party service provider.'' [13]

(iii) *Valuation Adjustment.* OCC intends to enhance the portfolio net asset value that STANS uses, by introducing a valuation adjustment.[14] According to OCC, the valuation adjustment will be ''based upon the aggregate sensitivity of any longer-tenor options in a portfolio to the overall level of implied volatilities at three years and five years and to the relationship between implied volatility and exercise prices at both the three- and five-year tenors in order to allow for the anticipated market impact of unwinding a portfolio of longer-tenor options, as well as for any differences in the quality of data in OCC's third party service provider's dataset, given that month-end data may be subjected to more extensive validation by the service provider than daily data.'' [15]

II. Discussion and Commission Findings

Although Title VIII does not specify a standard of review for an advance notice, the Commission believes that the stated purpose of Title VIII is instructive.[16] The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities (''FMUs'') and strengthening the liquidity of systemically important FMUs.[17]

Section 805(a)(2) of the Clearing Supervision Act [18] authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate

[16] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i). OCC is a designated financial market utility and is required to file advance notices with the Commission. *See* 12 U.S.C. 5465(e). OCC also filed the proposal in this Advance Notice as a proposed rule change under Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder, which was published for comment in the **Federal Register** on June 14, 2013. 15 U.S.C. 78s(b)(1); 17 CFR 240.19b–4. *See* Release No. 69723 (June 10, 2013), 78 FR 36002 (June 14, 2013) (SR–OCC–2013–08). OCC withdrew the proposed rule change on August 27, 2013. Prior to the date of withdrawal, the Commission did not receive any comments on the proposed rule change. On October 10, 2013, OCC re-filed the proposal in this Advance Notice as a proposed rule change under Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder.

[3] Release No. 69925 (July 3, 2013), 78 FR 41161 (July 9, 2013) (SR–OCC–2013–803) (''Notice'').

[4] Release No. 68434 (December 14, 2012), 77 FR 75243 (December 19, 2012) (SR–OCC–2012–14, AN–OCC–2012–01).

[5] OCC represents that its Risk Management Proposal is part of OCC's ongoing efforts to test and improve its risk management operations with respect to all longer-tenor options that OCC currently clears. *See* December 14, 2012 Action, *supra* note 4, 77 FR at 75243. OCC states it intends to use its STANS margin system to calculate margin requirements on the same basis as for exchange-listed options cleared by OCC. *See* Notice, *supra* note 3, 78 FR at 41161.

[6] Release No. 68434 (December 14, 2012), 77 FR 75243 (December 19, 2012) (SR–OCC–2012–14, AN–OCC–2012–01).

[7] According to OCC, STANS calculates margin by determining the minimum expected liquidating value of each account using a large number of projected price scenarios created by large-scale Monte Carlo simulations. *See* Notice, *supra* note 3, 78 FR at 41161.

[8] *See* Notice, *supra* note 3, 78 FR at 41161.

[9] *Id.*

[10] OCC selected a third-party service provider rather than having the OTC derivatives dealers provide the information directly to OCC to avoid unnecessarily duplicating reporting that is already being done in the OTC markets. *See* Notice, *supra* note 3, 78 FR at 41161–62.

[11] *See* Notice, *supra* note 3, 78 FR at 41162.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *See* 12 U.S.C. 5461(b).

[17] *Id.*

[18] 12 U.S.C. 5464(a)(2).

financial regulator. Section 805(b) of the Clearing Supervision Act [19] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- Promote safety and soundness;
- Reduce systemic risks; and
- Support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act [20] (''Clearing Agency Standards'').[21] The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies that perform central counterparty (''CCP'') services to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[22] As such, it is appropriate for the Commission to review advance notices against these risk management standards that the Commission promulgated under Section 805(a) of the Clearing Supervision Act [23] and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[24]

OCC's Risk Management Proposal, as described above, is designed to enhance OCC's margin calculation requirements for longer-tenor options. Consistent with Section 805(b) of the Clearing Supervision Act,[25] the Division believes that OCC's Risk Management Proposal should help promote robust risk management and mitigate systemic risk by introducing variations in implied volatility in the modeling of all Longer-Tenor Options, and introducing a valuation adjustment in STANS to address OCC's increased exposure to Longer-Tenor Options that may possess characteristics that are more illiquid than other options that are cleared by OCC. The Risk Management proposal may also improve liquidity in the market for Longer-Tenor Options, which may improve price discovery in this market.

Commission Rule 17Ad-22(b)(2),[26] adopted as part of the Clearing Agency Standards,[27] requires that a registered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to ''use margin requirements to limit its credit exposures to participants under normal market conditions;'' and ''use risk-based models and parameters to set margin requirements.'' Furthermore, Commission Rule 17Ad–22(b)(3),[28] also adopted as part of the Clearing Agency Standards,[29] requires, in relevant part, a central counterparty to establish, implement, maintain, and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions. The proposed enhancements to STANS, as described in the Risk Management Proposal, should help OCC to more accurately set margin requirements for Longer-Tenor Options, which OCC will use to limit its credit exposures to participants under both normal and stressed market conditions and should help OCC maintain sufficient financial resources to withstand a default by the participant family to which it has the largest exposure in extreme but plausible market conditions.

III. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[30] that the Commission DOES NOT OBJECT to advance notice proposal (SR–OCC–2013–803) and that OCC is AUTHORIZED to implement the proposal as of the date of this notice or the date of an order by the Commission approving a proposed rule change that reflects rule changes that are consistent with this advance notice proposal (SR–OCC–2013–803), whichever is later.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24843 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

[19] 12 U.S.C. 5464(b).

[20] 12 U.S.C. 5464(a)(2).

[21] Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11).

[22] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System (''*Federal Reserve*'') governing the operations of designated DFMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. See Financial Market Utilities, 77 FR 45907 (August 2, 2012).

[23] 12 U.S.C. 5464(a).

[24] 12 U.S.C. 5464(b).

[25] *See* 12 U.S.C. 5464(b).

[26] 17 CFR 240.17Ad–22(b)(2).

[27] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (November 2, 2012).

[28] 17 CFR 240.17Ad–22(b)(3).

[29] Release No. 34–68080 (Oct. 22, 2012), 77 FR 66219 (November 2, 2012).

[30] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70702; File No. SR–FINRA–2013–044]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow FINRA Members To Use the FINRA/NYSE Trade Reporting Facility To Transfer Transaction Fees Charged by One Member to Another Member

October 17, 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 October 9, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to amend FINRA Rule 7230B (Trade Report Input) to permit FINRA members to use the FINRA/NYSE Trade Reporting Facility (the ''FINRA/NYSE TRF'') to transfer transaction fees charged by one member to another member on trades reported to the FINRA/NYSE TRF.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

in Item IV below. FINRA 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

FINRA Rules 7230A(h) and 7330(i) permit FINRA members to agree in advance to transfer a transaction fee charged by one member to another member on over-the-counter transactions reported to the FINRA/Nasdaq Trade Reporting Facility (''FINRA/Nasdaq TRF'') and OTC Reporting Facility (''ORF''), respectively, through the submission of a clearing report.[4] The proposed rule change would adopt a provision that is substantively identical to Rules 7230A(h) and 7330(i) for purposes of transferring transaction fees between members as part of a clearing report submitted to the FINRA/NYSE TRF. Specifically, pursuant to proposed Rule 7230B(i), members would be required to provide in reports submitted to the FINRA/NYSE TRF, in addition to all other information required to be submitted by any other rule, pricing information to indicate a total per share or contract price amount, inclusive of the transaction fee. As a result, members would submit as part of their report to the FINRA/NYSE TRF: (1) Pricing information to indicate a total price inclusive of the transaction fee, which would be submitted by the FINRA/NYSE TRF to NSCC for clearance and settlement; and (2) the price exclusive of the transaction fee, which would be publicly disseminated. For example, if B/D 1 purchases from B/D 2 at $10.00 and B/D 1 and B/D 2 agree to a transaction fee of $.001 per share, the trade price that would be publicly disseminated would be $10.00, while the trade would be cleared and settled by NSCC at $10.001.[5] The parties to the trade would know both prices—the price reported for public dissemination and the clearance/settlement price.

Proposed Rule 7230B(i) provides that both members and their respective clearing firms, as applicable, must execute an agreement, as specified by FINRA, permitting the facilitation of the transfer of the transaction fee through the FINRA/NYSE TRF, as well as any other applicable agreement, such as a give up agreement pursuant to Rule 6380B(g). Such agreement must be executed and submitted to the FINRA/NYSE TRF before the members can transfer any transaction fee under the proposed rule. Among other things, the form of agreement specified by FINRA would expressly provide that the acceptance and processing by the FINRA/NYSE TRF of the transaction fee as part of a trade report shall not constitute an estoppel as to FINRA or bind FINRA in any subsequent administrative, civil or disciplinary proceeding with respect to the transaction fee transferred. In other words, processing of a transaction fee by the FINRA/NYSE TRF should not be taken to mean that FINRA approved that transaction fee or its amount or its appropriateness under FINRA rules or federal securities laws. The mere fact that the transaction fee flowed through a FINRA facility will not be a defense to any action taken by FINRA relating to the fee. The proposed rule also provides that the relevant agreements are considered member records for purposes of Rule 4511 (General Requirements) and must be made and preserved by both members in conformity with applicable FINRA rules.

Furthermore, the proposed rule expressly provides that it shall not relieve a member from its obligations under FINRA rules and federal securities laws, including but not limited to, Rule 2232 (Customer Confirmations) and SEA Rule 10b–10 (Confirmation of Transactions).[6] To the extent that any transaction fee is passed onto the customer, members should review their customer confirmation obligations to ensure that they are disclosing such fees in compliance with all applicable rules and regulations, as well as other FINRA rules, including but not limited to, Rule 5310 (Best Execution and Interpositioning) and NASD Rule 2440 (Fair Prices and Commissions).

FINRA notes that the proposed rule relates solely to transaction fees charged by one FINRA member to another FINRA member. Members would not be able to use the FINRA/NYSE TRF to facilitate the transfer of fees for transactions with a customer (i.e., clients that are not brokers or dealers) or a non-member. In addition, the FINRA/NYSE TRF can only be used to facilitate the transfer of transaction fees. Members would not be able to use the FINRA/NYSE TRF to transfer access fees or rebates on transactions.

FINRA also is proposing to amend Rule 7230B(d) to require that for any transaction for which the FINRA/NYSE TRF is used to transfer a transaction fee between two members, the trade report must comply with the requirements of proposed Rule 7230B(i). Thus, while use of the FINRA/NYSE TRF to transfer transaction fees between members is voluntary, members that opt to use this service must comply with the requirements of proposed Rule 7230B(i), as well as all other applicable FINRA rules.

FINRA is not proposing to charge FINRA/NYSE TRF participants a fee to use this service at this time.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be announced in a notice and will be at least 30 days following the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that by automating and improving transaction fee transfers between members as a value-added service, the proposed rule change will enhance market transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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. FINRA believes that the filing will not have an adverse impact on competition because the proposed rule change would adopt

[4] Prior to the adoption of Rules 7230A(h) and 7330(i), there was no mechanism for members to transfer to each other commissions or other explicit transaction fees through the FINRA trade reporting and clearance submission process. Generally, members wanting to transfer to other members an explicit transaction fee were required to either bill and collect those fees directly from the other member outside the transaction reporting and clearing process or trade on a ''net'' basis (meaning that the broker-dealer's compensation is implicitly included in the execution price disseminated to the tape and reported for clearance and settlement to the National Securities Clearing Corporation (''NSCC'')). Rules 7230A(h) and 7330(i), and the proposed rule, provide members with another alternative by permitting the transfer of a transaction fee as part of a clearing report.

[5] If the parties were trading on a net basis with the fee incorporated in the trade price, the transaction at a price of $10.001 would be reported to the tape and also submitted to NSCC.

[6] 17 CFR 240.10b–10.

[7] 15 U.S.C. 78*o*–3(b)(6).

rules relating to a value-added service, the use of which would be voluntary, for members reporting to the FINRA/NYSE TRF. This service currently is being provided to members reporting to the FINRA/Nasdaq TRF and ORF.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[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–FINRA–2013–044 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–FINRA–2013–044. 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 FINRA. 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–FINRA–2013–044 and should be submitted on or before November 13, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–24766 Filed 10–22–13; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires FINRA to give the Commission written notice of FINRA'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. FINRA has satisfied this requirement.

[10] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments To Compile the Report on Sanitary and Phytosanitary Measures

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and Request for Comments.

SUMMARY: Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) will be publishing in 2014 the Report on Sanitary and Phytosanitary Measures. With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit comments to assist it in identifying significant sanitary and phytosanitary barriers to U.S. exports of goods for inclusion in the report.

The TPSC invites written comments from the public on issues that USTR should examine in preparing the 2014 SPS Report.

DATES: Public comments are due not later than November 15, 2013.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* under the following dockets (based on the subject matter of the submission): USTR–2013–0033.

The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Questions regarding the SPS Report or substantive questions or comments concerning SPS measures should be directed to Jane Doherty, Director of Sanitary and Phytosanitary Affairs, USTR (202–395–6127).

SUPPLEMENTARY INFORMATION: The SPS Report sets out an inventory of SPS barriers to trade. This inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers. The report also provides a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2013 and earlier SPS Reports may be found on USTR's Internet Home Page (*http://www.ustr.gov*) under ''USTR News'' under the tab ''Reports''.

To ensure compliance with the applicable statutory mandate and the Obama Administration's commitment to focus on the most significant SPS barriers to trade, USTR will be guided by the existence of active private sector interest in deciding which restrictions to include in the SPS Report.

Topics on which the TPSC Seeks Information: To assist USTR in the preparation of the SPS Report, commenters should submit information related to SPS measures. Such measures should constitute significant barriers to U.S. exports.

SPS Report: On April 2, 2013, USTR released a report focusing on SPS trade barriers (SPS Report). USTR also released SPS Reports in 2012, 2011 and 2010. These reports serve as tools to

bring greater attention and focus to addressing SPS measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. USTR plans to use comments on SPS submitted pursuant to this notice in producing the report.

The following information describing SPS measures may help commenters to file submissions on particular foreign trade barriers under the SPS docket.

SPS Measures: Generally, SPS measures are measures applied to protect the life or health of humans, animals, and plants from risks arising from additives, contaminants, pests, toxins, diseases, or disease-carrying and causing organisms. SPS measures can take such forms as specific product or processing standards, requirements for products to be produced in disease-free areas, quarantine regulations, certification or inspection procedures, sampling and testing requirements, health-related labeling measures, maximum permissible pesticide residue levels, and prohibitions on certain food additives.

For further information on SPS measures and additional detail on the types of comments that would assist USTR in identifying and addressing significant trade-restrictive SPS measures, please see ''Supporting & Related Materials'' under dockets USTR–2013–0033 at *www.regulations.gov.* The previously released SPS Reports also contain extensive information on SPS measures that commenters may find useful in preparing comments in response to this notice.

In responding to this notice with respect to the report, commenters should place particular emphasis on any practices that the commenter believes may violate U.S. trade agreements. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2013 SPS Report as well as information on new barriers. If USTR does not include in the 2014 SPS Report information that USTR receives pursuant to this notice, USTR will maintain the information for potential use in future discussions or negotiations with trading partners.

Estimate of Increase in Exports: Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any SPS barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

Requirements for Submissions: Commenters providing information on SPS measures in more than one country should, whenever possible, provide a separate submission for each country.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under docket number: USTR–2013–0033

To make a submission, enter the docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to this notice on the search-results page, and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.)

The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the ''Type Comment'' field. For example: ''See attached comment on SPS measures for (name of country)'' USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf).

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. The top of any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL''. Any person filing comments that contain business confidential information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. If a comment contains no business confidential information, the file name should begin with the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

Public Inspection of Submissions

Comments will be placed in the docket and open to public inspection except confidential business information exempt from public inspection. Comments may be viewed on the *http://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

William Shpiece,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 2013–24722 Filed 10–22–13; 8:45 am]

BILLING CODE 3290–F3–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments to Compile the Report on Technical Barriers to Trade

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and Request for Comments.

SUMMARY: Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) will be publishing in 2014 a Report on Technical Barriers to Trade (TBT Report) identifying and analyzing significant standards-related barriers to U.S. exports. With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit written comments to assist it in identifying significant standards-related barriers to U.S. exports of goods for inclusion in the report.

DATES: Public comments are due not later than November 15, 2013.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* under the docket number USTR–2013–0034. For alternatives to on-line submissions please contact Yvonne Jamison at (202–395–3475) or *Yvonne_D_Jamison@ustr.eop.gov.* The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Questions regarding the TBT Report or substantive questions or comments concerning standards-related measures

should be directed to Jennifer Stradtman, Director, Technical Barriers to Trade, USTR (202–395–4498).

SUPPLEMENTARY INFORMATION: The TBT Report sets out an inventory of standards-related non-tariff barriers to U.S. exports. This inventory facilitates U.S. efforts to reduce or eliminate these barriers. The report also provides a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2013 and earlier TBT Reports may be found on USTR's Internet Home Page (*http://www.ustr.gov*) under ''USTR News'' under the tab ''Reports''.

To ensure compliance with the applicable statutory mandate and the Obama Administration's commitment to focus on the most significant foreign trade barriers, USTR will be guided by the existence of active private sector interest in deciding which issues to include in the Report.

Topics on which the TPSC Seeks Information: To assist USTR in the preparation of the 2014 TBT Report, commenters should submit information related to standards-related measures (including standards, technical regulations, and conformity assessment procedures). Such measures should constitute significant foreign trade barriers to U.S. exports.

TBT Report: On April 1, 2013, USTR released the fourth annual TBT report. This report serves as a tool to bring greater attention and focus to resolving standards-related issues that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant foreign barriers to U.S. exports. USTR plans to use comments on standards-related measures submitted pursuant to this notice in producing this report.

The following information describing standards-related measures may help commenters to file submissions on particular foreign trade barriers under the TBT docket.

Standards-related Measures: Broadly, standards-related measures are documents and procedures that set out specific technical or other requirements for products or processes as well as procedures to ensure that these requirements are met. Standards-related measures comprise standards, technical regulations, and conformity assessment procedures, such as mandatory process or design standards, labeling or registration requirements, and testing or certification procedures. The World Trade Organization (WTO) Agreement on Technical Barriers to Trade includes the following definitions for (i) standards, (ii) technical regulation, and (iii) conformity assessment procedure.

Standard: Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

Technical regulation: Document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

Conformity assessment procedures: Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled. Standards-related measures can be applied not only to industrial products, such as machinery or toys, but to agricultural products as well, such as food nutrition labeling schemes and food quality or identity requirements.

For further information on standards-related measures and additional detail on the types of comments that would assist USTR in identifying and addressing significant trade-restrictive standards-related measures, please see ''Supporting & Related Materials'' under dockets USTR—2013–0034 at *www.regulations.gov.* The previously released TBT Reports also contain extensive information on standards-related measures that commenters may find useful in preparing comments in response to this notice. Those reports are available at *http://www.ustr.gov/about-us/press-office/reports-and-publications/2012/technical-barriers-trade-tbt-report.*

In responding to this notice, commenters should place particular emphasis on any practices that raise issues with respect to U.S. trade agreements, including the WTO Agreement on Technical Barriers to Trade. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2013 TBT Report as well as information on new barriers. If USTR does not include in the 2014 TBT Report information that USTR receives pursuant to this notice, USTR will maintain the information for potential use in future discussions or negotiations with trading partners.

Estimate of Increase in Exports: Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any standards-related barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

Requirements for Submissions: Commenters providing information on standards-related measures in more than one country should, whenever possible, provide a separate submission for each country.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site, docket number: USTR–2013–0034

To make a submission, enter this docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to this notice and click on the link entitled ''Submit a Comment.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.) The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the ''Comments'' field. For example: ''See attached comment on standards-related measures for (name of country)''. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf).

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. The top of any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL''. Any person filing comments that contain business confidential

information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. If a comment contains no business confidential information, the file name should begin with the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

Public Inspection of Submissions

Comments will be placed in the docket and open to public inspection except confidential business information exempt from public inspection. Comments may be viewed on the *http://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

William Shpiece,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 2013–24720 Filed 10–22–13; 8:45 am]

BILLING CODE 3190–F3–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q)

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending September 21, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2013–0174.

Date Filed: September 16, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 7, 2013.

Description: Application of Hi Fly Limited (''Hi Fly Ltd'') requesting a foreign air carrier permit and an exemption to provide scheduled and charter foreign air transportation of persons, property and mail from any point or points behind any Member State of the European Union, via any point or points in any Member State, and via intermediate points, to any point or points in the United States and beyond.

Docket Number: DOT–OST–2008–0127.

Date Filed: September 18, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 9, 2013.

Description: Application of Evergreen International Airlines, Inc. requesting renewal of its experimental certificate of public convenience and necessity for Route 888 authorizing scheduled foreign air transportation of property and mail between a point or points in the United States and a point or points in the People's Republic of China, via intermediate points and beyond China.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–24809 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 5, 2013

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2013–0185.

Date Filed: October 3, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 24, 2013.

Description: Application of Ukraine International Airlines requesting a foreign air carrier permit to engage in scheduled air transportation of passengers, property and mail between any point or points in Ukraine, via intermediate points, and any point or points in the United States, and beyond; and on-demand charter air transportation of passengers, property and mail between any point or points in Ukraine and any point or points in the United States, as well as any point or points in the United States and any point or points in a third country or countries subject to pertinent national, bilateral and international rules and regulations.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–24810 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending September 28, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2007–28567.

Date Filed: September 26, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 2013.

Description: Application of United Airlines, Inc. requesting renewal of its certificate authority to provide scheduled air transportation of persons, property, and mail between Newark Liberty and Shanghai on Segment 2 of United's certificate for Route 821.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–24807 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2012–0165]

Notice of Rights and Protections Available Under the Federal Antidiscrimination and Whistleblower Protection Laws

AGENCY: Department of Transportation—Office of the Secretary.

ACTION: No FEAR Act Notice.

SUMMARY: This Notice implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act of 2002). It is the annual obligation for Federal agencies to notify all employees, former employees, and applicants for Federal employment of the rights and protections available to them under the Federal Anti-discrimination and Whistleblower Protection Laws.

FOR FURTHER INFORMATION CONTACT: Yvette Rivera, Associate Director of Equal Employment Opportunity Programs, S–32, Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W78–304, Washington, DC 20590, 202–366–5131 or by email at *Yvette.Rivera@dot.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve this document online through the Federal Document Management System at *http://www.regulations.gov.* Electronic retrieval instructions are available under the help section of the Web site. An electronic copy is also available for download from the Government Printing Office's Electronic Bulletin Board at *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at *http://www.access.gpo.gov/nara.*

No FEAR Act Notice

On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' now recognized as the No FEAR Act (Pub. L. 107–174). One purpose of the Act is to ''require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.'' (Pub. L.107–174, Summary). In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination'' (Pub. L. 107–174, Title I, General Provisions, section 101(1)). The Act also requires the United States Department of Transportation (USDOT) to provide this Notice to all USDOT employees, former USDOT employees, and applicants for USDOT employment. This Notice is to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment because of race, color, religion, sex, national origin, age, disability, marital status, genetic information, or political affiliation. One or more of the following statutes prohibit discrimination on these bases: 5 U.S.C. 2302(b)(1), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 206(d), 29 U.S.C. 791, 42 U.S.C. 2000e–16 and 2000ff.

If you believe you were a victim of unlawful discrimination on the bases of race, color, religion, sex, national origin, age, genetic information, and/or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or in the case of a personnel action, within 45 calendar days of the effective date of the action to try and resolve the matter informally. This must be done before filing a formal complaint of discrimination with USDOT (See, e.g., 29 CFR part 1614).

If you believe you were a victim of unlawful discrimination based on age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. As an alternative to filing a complaint pursuant to 29 CFR part 1614, you can file a civil action in a United States district court under the Age Discrimination in Employment Act (ADEA), against the head of an alleged discriminating agency, after giving the EEOC not less than a 30 day notice of the intent to file such action. You may file such notice in writing with the EEOC via mail at P.O. Box 77960, Washington, DC 20013, personal delivery, or facsimile within 180 days of the occurrence of the alleged unlawful practice.

If you are alleging discrimination based on marital status or political affiliation, you may file a written discrimination complaint with the U.S. Office of Special Counsel (OSC) (See Contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the USDOT administrative or negotiated grievance procedures, if such procedures apply and are available. Form OSC–11 is available online at the OSC Web site *http://www.osc.gov/index.htm,* under the filing tab (*Contact Information*).

Additionally, you can download the form under the same filing tab, under OSC Forms. Complete this form and mail it to the Complaints Examining Unit, U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036–4505. You also have the option to call the Complaints Examining Unit at (800) 872–9855 for additional assistance.

If you are alleging compensation discrimination pursuant to the Equal Pay Act (EPA), and wish to pursue your allegations through the administrative process, you must contact an EEO counselor within 45 calendar days of the alleged discriminatory action as such complaints are processed under EEOC's regulations at 29 CFR part 1614. Alternatively, you may file a civil action in a court of competent jurisdiction within two years, or if the violation is willful, three years of the date of the alleged violation, regardless of whether you pursued any administrative complaint processing. The filing of a complaint or appeal pursuant to 29 CFR part 1614 shall not toll the time for filing a civil action.

Whistleblower Protection Laws

A USDOT employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take, or fail to take, or threaten to take, or fail to take a personnel action against an employee or applicant because of a disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless the disclosure of such information is specifically prohibited by law and such information is specifically required by Executive

Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against a USDOT employee or applicant for making a protected disclosure is prohibited (5 U.S.C. 2302(b)(8)). If you believe you are a victim of whistleblower retaliation, you may file a written complaint with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 202–036–4505 using Form OSC–11. Alternatively, you may file online through the OSC Web site at *http://www.osc.gov.*

Disciplinary Actions

Under existing laws, USDOT retains the right, where appropriate, to discipline a USDOT employee who engages in conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection laws up to and including removal from Federal service. If OSC initiates an investigation under 5 U.S.C. 1214 according to 5 U.S.C. 1214(f), USDOT must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws, or permits an agency to take unfounded disciplinary action against a USDOT employee, or to violate the procedural rights of a USDOT employee accused of discrimination.

Additional Information

For more information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate office(s) within your agency (e.g., EEO/civil rights offices, human resources offices, or legal offices). You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws at the EEOC Web site at *http://www.eeoc.gov* and the OSC Web site at *http://www.osc.gov.*

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Issued in Washington, DC, on October 2, 2013.

Camille Hazeur,

Director, Departmental Office of Civil Rights, United States Department of Transportation.

[FR Doc. 2013–24811 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2013–0184]

Senior Executive Service Performance Review Boards Membership

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of Performance Review Board (PRB) appointments.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental PRBs as required by 5 U.S.C. 4314(c)(4).

FOR FURTHER INFORMATION CONTACT: Keith Washington, Director, Departmental Office of Human Resource Management, (202) 366–4088.

SUPPLEMENTARY INFORMATION: The persons named below have been selected to serve on one or more Departmental PRBs.

Issued in Washington, DC, on October 03, 2013.

Daphne Jefferson,

Assistant Secretary for Administration.

Department of Transportation

Federal Highway Administration

Alicandri, Elizabeth; Arnold, Robert E.; Bezio, Brian R.; Brown, Janice W.; Conner, Clara H.; Curtis, Joyce A.; Elston, Debra S.; Evans, Monique Redwine; Fleury, Nicolle M.; Furst, Anthony T.; Griffith, Michael S.; Holian, Thomas P.; Kehrli, Mark R.; Knopp, Martin C.; Konove, Elissa K.; Lindley, Jeffrey A.; Lucero, Amy C.; Mammano, Vincent P.; Marchese, April Lynn; McDade, Jonathan D.; McElroy, Regina Selva; Nadeau, Gregory G.; Pagan-Ortiz, Jorge E.; Paniati, Jeffrey F.; Peters, Joseph I.; Ridenour, Melisa Lee; Saunders, Ian C.; Schmidt, Robert T.; Shepherd, Gloria Morgan; Shores, Sarah J.; Solomon, Gerald L.; St Denis, Catherine; Stephanos, Peter J.; Suarez, Ricardo; Tischer, Marylynn; Trentacoste, Michael F.; Wagner, Fred R.; Waidelich, Walter C. Jr.; Whitlock, Warren S.; Winter, David R.; Wlaschin, Julius.

Federal Motor Carrier Administration

Amos, Anna J.; Collins, Anne L.; Delorenzo, Joseph P.; Dillingham, Steven D.; Fromm, Charles J.; Leone, Geraldine K.; Minor, Larry W.; Paden, William R.; Quade, William A. III; Smith, Steven K.; Van Steenburg, John W.

Federal Railroad Administration

Cummings, Stacy A.; Haley, Michael T.; Hedlund, Karen J.; Hill, Corey W.; Hynes, Ronald E.; Lauby, Robert C.; Moscoso, Brenda J.; Nissenbaum, Paul; Pennington, Rebecca A.; Porter, Melissa L.; Tunna, John M.

Federal Transit Administration

Ahmad, Mokhtee; Biehl, Scott A.; Buchanan-Smith, Henrika; Carter, Dorval R.; Garliauskas, Lucy; Gehrke, Linda M.; Hynes-Cherin, Brigid; Krochalis, Richard F.; McMillan, Therese Watkins; Mello, Mary E.; Nifosi, Dana C.; Patrick, Robert C.; Rogers, Leslie T.; Shazor, Marilyn G.; Simon, Marisol R.; Taylor, Yvette G.; Tuccillo, Robert J.; Valdes, Vincent; Welbes, Matthew J.

Maritime Administration

Bohnert, Roger V.; Brennan, Dennis J.; Brohl, Helen A.; Kumar, Shashi N.; Lesnick, H. Keith; McMahon, Christopher J.; Moschkin, Lydia; Pixa, Rand R.; Szabat, Joel M.; Tokarski, Kevin M.

National Highway Traffic Safety Administration

Beuse, Nathaniel M.; Bonanti, Christopher J.; Borris, Frank S. II; Brown, Michael L.; Coggins, Colleen P.; Donaldson, K. John; Guerci, Lloyd S.; Gunnels, Mary D.; Harris, Claude H.; Johnson, Tim J.; Lewis, Nancy L.; McLaughlin, Brian M.; McLaughlin, Susan; Michael, Jeffrey P.; Saul, Roger A.; Shelton, Terry T.; Simons, James F.; Smith, Daniel C.; Vincent, O. Kevin; Wood, Stephen P.

Office of the Secretary

Abraham, Julie; Brown, Gregory A.; Fields, George C.; Forsgren, Janet R; Geier, Paul M.; Gretch, Paul L.; Herlihy, Thomas W.; Homan, Todd M.; Horn, Donald H.; Hurdle, Lana T.; Jackson, Ronald A.; Jefferson, Daphne Y.; Jones, Mary N.; Lee, Robert M. Jr.; Lefevre, Maria S.; Lowder, Michael W.; McDermott, Susan E.; Osborne, Elizabeth D.; Petrosino-Woolverton, Marie; Podberesky, Samuel; Rivait, David J.; Scarton, Amy M.; Smith, Willie H.; Washington, Keith E.; Wells, John V.; Ziff, Laura M.

Pipeline and Hazardous Materials Safety Administration

El-Sibaie, Magdy A.; Mayberry, Alan K.; Posten, Raymond R.; Poyer, Scott A.; Schoonover, William S.; Summitt, Monica J.; Sutherland, Vanessa L. Allen; Wiese, Jeffrey DD.

Research and Innovative Technology Administration

Aylward, Anne D.; Brecht-Clark, Jan M.; Farley, Audrey L.; Hu, Patricia S.; Ishihara, David S.; Johns, Robert C.; Lang, Steven R.; Partridge, Ellen L.; Schmitt, Rolf R.; Womack, Kevin C.

Saint Lawrence Seaway Development Corporation

Middlebrook, Craig H.; Pisani, Salvatore L.

[FR Doc. 2013–24813 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Interim Policy, FAA Review of Solar Energy System Projects on Federally Obligated Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of interim policy; opportunity to comment.

SUMMARY: This notice establishes interim FAA policy for proposals by sponsors of federally obligated airports to construct solar energy systems on airport property. FAA is adopting an interim policy because it is in the public interest to enhance safety by clarifying and adding standards for measuring ocular impact of proposed solar energy systems which are effective upon publication. FAA will consider comments and make appropriate modifications before issuing a final policy. The policy applies to any proposed on-airport solar energy system that has not received from the FAA either an unconditional airport layout plan approval or a ''no objection'' finding on a Notice of Proposed Construction or Alteration Form 7460–1.

DATES: The effective date of this interim policy is October 23, 2013.

Comments must be received by November 22, 2013.

ADDRESSES: You can get an electronic copy of the interim policy and the comment form on the FAA Airports Web site at *http://www.faa.gov/airports/environmental/.*

You can submit comments using the Comments Matrix, using any of the following methods:

Electronic Submittal to the FAA: Go to *http://www.faa.gov/airports/environmental/* and follow the instructions for sending your comments electronically.

Mail: FAA Office of Airports, Office of Airport Planning and Programming, Routing Symbol APP–400, 800 Independence Avenue SW., Room 615, Washington, DC 20591. Please send two copies.

Fax: 1–202–267–5302.

Hand Delivery: To FAA Office of Airports, Office of Airport Planning and Programming, Routing Symbol APP–400, 800 Independence Avenue SW., Room 615, Washington, DC 20591; between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please provide two copies.

For more information on the notice and comment process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://www.faa.gov/airports/environmental/*, including any personal information you provide.

Comments Received: To read comments received, go to *http://www.faa.gov/airports/environmental/* at any time.

FOR FURTHER INFORMATION CONTACT: Ralph Thompson, Manager, Airport Planning and Environmental Division, APP–400, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–3263; facsimile (202) 267–5257; email: *ralph.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA invites interested persons to join in this notice and comment process by filing written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data.

Availability of Documents

You can get an electronic copy of this interim policy by visiting the FAA's Airports Web page at *http://www.faa.gov/airports/environmental/.*

Authority for the Policy

This notice is published under the authority described in Subtitle VII, part B, chapter 471, section 47122 of title 49 United States Code.

Background

There is growing interest in installing solar photovoltaic (PV) and solar hot water (SHW) systems on airports. While solar PV or SHW systems (henceforth referred to as solar energy systems) are designed to absorb solar energy to maximize electrical energy production or the heating of water, in certain situations the glass surfaces of the solar energy systems can reflect sunlight and produce glint (a momentary flash of bright light) and glare (a continuous source of bright light). In conjunction with the United States Department of Energy (DOE), the FAA has determined that glint and glare from solar energy systems could result in an ocular impact to pilots and/or air traffic control (ATC) facilities and compromise the safety of the air transportation system. While the FAA supports solar energy systems on airports, the FAA seeks to ensure safety by eliminating the potential for ocular impact to pilots and/or air traffic control facilities due to glare from such projects.

The FAA established a cross-organizational working group in 2012, to establish a standard for measuring glint and glare, and clear thresholds for when glint and glare would impact aviation safety. The standards that this working group developed are set forth in this notice.

A sponsor of a federally-obligated airport must request FAA review and approval to depict certain proposed solar installations (e.g., ground-based installations and collocated installations that increase the footprint of the collocated building or structure) on its airport layout plan (ALP), before construction begins.[1] A sponsor of a federally-obligated airport must notify the FAA of its intent to construct any solar installation [2] by filing FAA Form 7460–1, ''Notice of Proposed Construction or Alteration'' under 14 CFR Part 77 for a Non-Rulemaking case (NRA) [3] [4]. This includes the intent to permit airport tenants, including Federal agencies, to build such

[1] FAA Technical Guidance for Evaluating Selected Solar Technologies on Airports, Section 2.3.5, states that ''solar installations of any size, located on an airport, that are not collocated on an existing structure (i.e., roof of an existing building) and require a new footprint, need to be shown on the Airport Layout Plan (ALP). Collocated solar installations need to be shown on the ALP only if these installations substantially change the footprint of the collocated building or structure. *Available at: http://www.faa.gov/airports/environmental/policy_guidance/media/airport_solar_guide_print.pdf.* Title 49 of the United States Code (USC), sec. 47107(a), requires, in part, a current ALP approved by the FAA prior to the approval of an airport development project. See Grant Assurance No. 29, AC No. 150/5070–6B, and FAA Order No. 5100.38.

[2] Any solar installation means any ground-based solar energy installation and those solar energy installations collocated with a building or structure (i.e., rooftop installations).

[3] FAA Technical Guidance for Evaluating Selected Solar Technologies on Airports Section 3.1 reads in part ''All solar projects at airports must submit to FAA a Notice of Proposed Construction Form 7460 . . .''. This section further states ''Even if the project will be roof mounted . . . the sponsor must still submit a case'' [i.e., file a Form 7460–1].

[4] The requirements of this policy are not mandatory for a proposed solar installation that is not on an airport and for which a form 7460–1 is filed under part 77 and is studied under the Obstruction Evaluation Program. However, the FAA urges proponents of off-airport solar-installations to voluntarily implement the provisions in this policy.

installations. The sponsor's obligation to obtain FAA review and approval to depict certain proposed solar energy installation projects at an airport is found in 49 U.S.C. 47107(a)(16) and Sponsor Grant Assurance 29, ''Airport Layout Plan.'' Under these latter provisions, the sponsor may not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the ALP as approved by the FAA and which might, in the opinion of the FAA, adversely affect the safety, utility or efficiency of the airport.

Airport sponsors and project proponents must comply with the policies and procedures in this notice to demonstrate to the FAA that a proposed solar energy system will not result in an ocular impact that compromises the safety of the air transportation system. This process enables the FAA to approve amendment of the ALP to depict certain solar energy projects or issue a ''no objection'' finding to a filed 7460–1 form. The FAA expects to continue to update these policies and procedures as part of an iterative process as new information and technologies become available.

Solar energy systems located on an airport that is not federally-obligated or located outside the property of a federally-obligated airport are not subject to this policy. Proponents of solar energy systems located off-airport property or on non-federally-obligated airports are strongly encouraged to consider the requirements of this policy when siting such systems.

This interim policy clarifies and adds standards for measurement of glint or glare presented in the 2010 Technical Guidance document. Later this year the FAA plans to publish an update to the ''Technical Guidance for Evaluating Selected Solar Technologies on Airports,'' (hereinafter referred to as ''Technical Guidance'') dated November 2010. This update to the technical guidance will include the standards for measuring glint and glare outlined in this notice. It will also provide enhanced criteria to ensure the proper siting of a solar energy installation to eliminate the potential for harmful glare to pilots or air traffic control facilities.

In advance of the planned update, as part of this Notice, we are clarifying one aspect of the Technical Guidance relating to airport sponsor and FAA responsibilities for evaluating the potential for solar energy systems installed on airports to either block, reflect, or disrupt radar signals, NAVAIDS, and other equipment required for safe aviation operations. Section 3.1 of the Technical Guidance, entitled ''Airspace Review,'' correctly states that this role is exclusively the responsibility of FAA Technical Operations (Tech Ops). However subsection 3.1.3, ''System Interference,'' states: ''[s]tudies conducted during project siting should identify the location of radar transmission and receiving facilities and other NAVAIDS, and determine locations that would not be suitable for structures based on their potential to either block, reflect, or disrupt radar signals.''

Reading the two sections together, what is meant is that the airport sponsor, in siting a proposed solar energy system, is responsible for limiting the potential for inference with communication, navigation, and surveillance (CNS) facilities. The sponsor should do so by ensuring that solar energy systems remain clear of the critical areas surrounding CNS facilities. FAA Advisory Circular (AC) 5300–13, ''Airport Design,'' Chapter 6, defines the critical areas for common CNS facilities located on an airport. Sponsors may need to coordinate with FAA Technical Operations concerning CNS facilities not in AC 5300–13. As stated in Section 3.1, the FAA is responsible for evaluating if there are any impacts to CNS facilities. The FAA will conduct this review after the Form 7460–1 is filed for the construction of a new solar energy system installation on an airport. In summary, airport sponsors do not need to conduct studies on their own to determine impacts to CNS facilities when siting a solar energy system on airport. Section 3.1.3 will be revised accordingly in the next version of the Technical Guidance.

Interim Policy Statement

The following sets forth the standards for measuring ocular impact, the required analysis tool, and the obligations of the Airport Sponsor when a solar energy system is proposed for development on a federally-obligated airport.

The FAA is adopting an interim policy because it is in the public interest to enhance safety by clarifying and adding standards for measuring ocular impact of proposed solar energy systems. FAA will consider comments and make appropriate modifications before issuing a final policy in a future **Federal Register** Notice. The policy applies to any proposed solar energy system that has not received unconditional airport layout plan approval (ALP) or a ''no objection'' from the FAA on a filed 7460–1, Notice of Proposed Construction or Alteration.

Standard for Measuring Ocular Impact

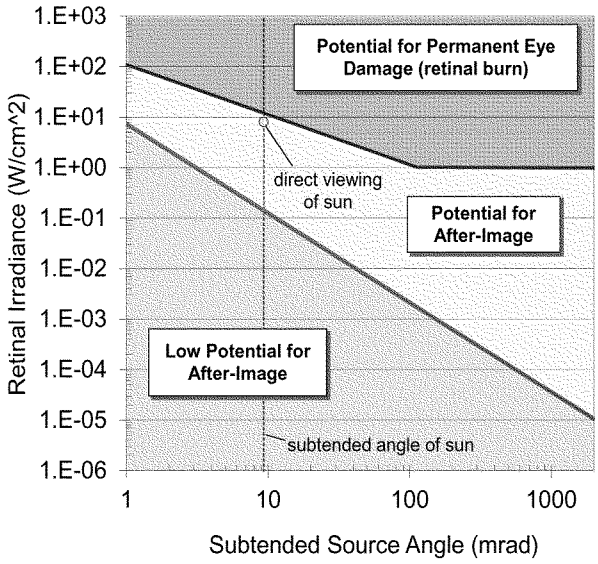
FAA adopts the *Solar Glare Hazard Analysis Plot* shown in Figure 1 below as the standard for measuring the ocular impact of any proposed solar energy system on a federally-obligated airport. To obtain FAA approval to revise an airport layout plan to depict a solar installation and/or a ''no objection'' to a Notice of Proposed Construction Form 7460–1, the airport sponsor will be required to demonstrate that the proposed solar energy system meets the following standards:

1. No potential for glint or glare in the existing or planned Airport Traffic Control Tower (ATCT) cab, and

2. No potential for glare or ''low potential for after-image'' (shown in green in Figure 1) along the final approach path for any existing landing threshold or future landing thresholds (including any planned interim phases of the landing thresholds) as shown on the current FAA-approved Airport Layout Plan (ALP). The final approach path is defined as two (2) miles from fifty (50) feet above the landing threshold using a standard three (3) degree glidepath.

Ocular impact must be analyzed over the entire calendar year in one (1) minute intervals from when the sun rises above the horizon until the sun sets below the horizon.

Figure 1



Solar Glare Ocular Hazard Plot: The potential ocular hazard from solar glare is a function of retinal irradiance and the subtended angle (size/distance) of the glare source. It should be noted that the ratio of spectrally weighted solar illuminance to solar irradiance at the earth's surface yields a conversion factor of ~100 lumens/W. Plot adapted from Ho et al., 2011.

Chart References: Ho, C.K., C.M. Ghanbari, and R.B. Diver, 2011, Methodology to Assess Potential Glint and Glare Hazards from Concentrating Solar Power Plants: Analytical Models and Experimental Validation, J. Solar Energy Engineering, August 2011, Vol. 133, 031021-1 – 031021-9.

Tool To Assess Ocular Impact

In cooperation with the DOE, the FAA is making available free-of-charge the *Solar Glare Hazard Analysis Tool* (SGHAT). The SGHAT was designed to determine whether a proposed solar energy project would result in the potential for ocular impact as depicted on the *Solar Glare Hazard Analysis Plot* shown above.

The SGHAT employs an interactive Google map where the user can quickly locate a site, draw an outline of the proposed solar energy system, and specify observer locations (Airport Traffic Control Tower cab) and final approach paths. Latitude, longitude, and elevation are automatically recorded through the Google interface, providing necessary information for sun position and vector calculations. Additional information regarding the orientation and tilt of the solar energy panels, reflectance, environment, and ocular factors are entered by the user.

If glare is found, the tool calculates the retinal irradiance and subtended source angle (size/distance) of the glare source to predict potential ocular hazards ranging from temporary after-image to retinal burn. The results are presented in a simple, easy-to-interpret plot that specifies when glare will occur throughout the year, with color codes indicating the potential ocular hazard. The tool can also predict relative energy production while evaluating alternative designs, layouts, and locations to identify configurations that maximize energy production while mitigating the impacts of glare.

Users must first register for the use of the tool at this web address: *www.sandia.gov/glare.*

Required Use of the SGHAT

As of the date of publication of this interim policy, the FAA requires the use of the SGHAT to demonstrate compliance with the standards for measuring ocular impact stated above for any proposed solar energy system located on a federally-obligated airport. The SGHAT is a validated tool specifically designed to measure glare according to the *Solar Glare Hazard Analysis Plot.* All sponsors of federally-obligated airports who propose to install or to permit others to install solar energy systems on the airport must attach the SGHAT report, outlining solar panel glare and ocular impact, for each point of measurement to the Notice of Proposed Construction Form 7460–1. The FAA will consider the use of alternative tools or methods on a case-by-case basis. However, the FAA must approve the use of an alternative tool or method prior to an airport sponsor seeking approval for any proposed on-airport solar energy system. The alternative tool or method must evaluate ocular impact in accordance with the *Solar Glare Hazard Analysis Plot.*

Please contact the Office of Airport Planning and Programming, Airport Planning and Environmental Division, APP–400, for more information on the validation process for alternative tools or methods.

Airport sponsor obligations have been discussed above under Background. We caution airport sponsors that under preexisting airport grant compliance policy, failure to seek FAA review of a solar installation prior to construction could trigger possible compliance action under 14 CFR Part 16, ''Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.'' Moreover, if a solar installation creates glare that interferes with aviation safety, the FAA could require the airport to pay for the elimination of solar glare by removing or relocating the solar facility.

Issued in Washington, DC, on September 27, 2013.

Benito De Leon,

Director, Office of Airport Planning and Programming.

[FR Doc. 2013–24729 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: RTCA Tactical Operations Committee (TOC)

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

ACTION: Third Meeting Notice of RTCA Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the third meeting of the RTCA Tactical Operations Committee.

DATES: The meeting will be held November 7, 2013 from 9 a.m.–3 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site *http://www.rtca.org.* Andy Cebula, NAC Secretary can also be contacted at *acebula@rtca.org* or 202–330–0652.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Tactical Operations Committee (TOC). The agenda will include the following:

November 19, 2013

- Opening of Meeting/Introduction of TOC Members
- Official Statement of Designated Federal Official
- Approval of July 23, 2013 Meeting Summary
- FAA Report
- Notice to Airmen (NOTAM) Activity Prioritization
- Regional Task Groups (RTGs)
- Reports on current activities underway by Regional Task Groups: Eastern, Central, Western
- VHF Omni-directional Range (VOR) Minimum Operating Network
- New Tasking: Obstacle Clearance
- Anticipated Issues for TOC consideration and action at the next meeting
- Other Business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 18, 2013.

Edith V. Parish,

Senior Advisor, Mission Support Services, Air Traffic Organization, Federal Aviation Administration.

[FR Doc. 2013–24968 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; French Lick Airport; French Lick, Indiana.

SUMMARY: The FAA is considering a proposal to change a portion of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at French Lick Airport, French Lick, Indiana. The aforementioned land is not needed for aeronautical use. The proposal consists of 18.606 acres located in the southern section of airport property which is not being used by the airport presently. The land is to be sold to Commissioners of Orange County for the construction of County Road CR 300 South/Airport Road to facilitate access to the airport.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: Documents are available for review by appointment at the FAA Airports District Office, Azra Hussain, Program Manager, 2300 E. Devon Avenue, Des Plaines, Illinois 60018 Telephone: (847) 294–8252/Fax: (847) 294–7046 and Zachary D. Brown, French Lick Municipal Airport, 9764 West County Road 375 South, French Lick, Indiana, 47933.

Written comments on the Sponsor's request must be delivered or mailed to: Azra Hussain, Program Manager, Federal Aviation Administration, Airports District Office, 2300 E. Devon Avenue, Des Plaines, Illinois (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Azra Hussain, Program Manager, Federal Aviation Administration, Airports District Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. Telephone Number: (847) 294–8252/FAX Number: (847) 294–7046.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The subject land consists of two parcels. Parcel 1 (approx. 16.667 acres) was acquired through the Federal Aid to Airport Program dated July 28, 1963 and Parcel 2 (approx. 1.939 acres) was acquired by the sponsor as part of a larger parcel (approx. 9.97 acres) for the nominal sum of One Dollar and zero cents ($1.00) on April 19, 2010. The Commissioners of Orange County intend to purchase the property for a nominal sum of One Dollar and zero cents ($1.00) for the construction of County Road CR 300 South/Airport Road. Construction of the road will facilitate access to the airport. The aforementioned land is not needed for aeronautical use, as shown on the Airport Layout Plan. There are no impacts to the airport by allowing the airport to dispose of the property.

This notice announces that the FAA is considering the release of the subject airport property at French Lick Airport, French Lick, Indiana, subject to easements and covenants running with the land. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

Issued in Des Plaines, Illinois on September 30, 2013.

James Keefer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2013–24738 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0305]

Agency Information Collection Activities; Extension of an Approved Information Collection Request: Transportation of Hazardous Materials, Highway Routing

AGENCY: FMCSA, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to extend an existing ICR titled, ''Transportation of Hazardous Materials, Highway Routing.'' The information reported by States and Indian tribes is necessary to identify designated/restricted routes and restrictions or limitations affecting how motor carriers may transport certain hazardous materials on their highways, including dates that such routes were established and information on subsequent changes or new hazardous materials routing designations.

DATES: We must receive your comments on or before December 23, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2013–0305 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all 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 DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8–794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Bomgardner, Office of Enforcement and Compliance, Hazardous Materials Division, Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–493–0027; email *paul.bomgardner@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The data for the Transportation of Hazardous Materials; Highway Routing ICR is collected under authority of 49 U.S.C. 5112 and 5125. Specifically, 49 U.S.C. 5112(c) requires that the Secretary, in coordination with the States, ''shall update and publish periodically a list of currently effective hazardous material highway route designations.''

Under 49 CFR 397.73, the FMCSA Administrator has the authority to request that each State and Indian tribe, through its routing agency, provide information identifying hazardous materials routing designations within its jurisdiction. That information is collected and consolidated by FMCSA and published annually, in whole or as updates, in the **Federal Register**.

Title: Transportation of Hazardous Materials, Highway Routing.

OMB Control Number: 2126–0014.

Type of Request: Extension of a currently-approved information collection.

Respondents: The reporting burden is shared by 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the U.S. Virgin Islands.

Estimated Number of Respondents: 51 [35 States, District of Columbia, and U.S. Territories with designated hazardous materials highway routes + 15 States/U.S. Territories without designated hazardous materials highway routes + 1 Indian tribe with a designated route = 51].

Estimated Time per Response: 15 minutes.

Expiration Date: None.

Frequency of Response: Annually.

Estimated Total Annual Burden: 13 hours [51 annual respondents x 1 response x 15 minutes per response/60 minutes per response = 12.75 hours, rounded to 13 hours].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: September 24, 2013.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2013–24765 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0188]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 29 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0188 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 29 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Toni Benfield

Ms. Benfield, 40, has had ITDM since 2013. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Benfield understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Benfield meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from South Carolina.

Delbert L. Bennett, Jr.

Mr. Bennett, 64, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bennett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bennett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Idaho.

Daniel A. Bryan

Mr. Bryan, 45, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bryan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bryan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Stephen A. Cronin

Mr. Cronin, 46, has had ITDM since 1986. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cronin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cronin meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have

diabetic retinopathy. He holds a Class E operator's license from Florida.

Paul J. Dent

Mr. Dent, 50, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dent understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dent meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Lee E. Emery

Mr. Emery, 59, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Emery understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Emery meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

Marshall H. Evans

Mr. Evans, 58, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Evans understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Evans meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Joseph M. Fiorelli

Mr. Fiorelli, 60, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fiorelli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fiorelli meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

David W. Foster

Mr. Foster, 31, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Foster understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Foster meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Francis M. Garlach, III

Mr. Garlach, 61, has had ITDM since 2003. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Garlach understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Garlach meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Darren L. Graham

Mr. Graham, 43, has had ITDM since 1997. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Graham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Graham meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Texas.

James M. Harvey

Mr. Harvey, 24, has had ITDM since 2001. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Harvey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harvey meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

Jerry D. Joseph

Mr. Joseph, 63, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Joseph understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Joseph meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that

he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Neal S. Kassebaum

Mr. Kassebaum, 65, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kassebaum understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kassebaum meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Tennessee.

Kevin E. Kneff

Mr. Kneff, 48, has had ITDM since 1997. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kneff understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kneff meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Ronald Mooney

Mr. Mooney, 54, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mooney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mooney meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Martin J. Mostyn

Mr. Mostyn, 46, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mostyn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mostyn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

Floyd P. Murray, Jr.

Mr. Murray, 38, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Murray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Murray meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Cameron J. Ohl

Mr. Ohl, 26, has had ITDM since 1994. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ohl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ohl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Mark A. Pille

Mr. Pille, 31, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pille understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pille meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Glen E. Pozernick

Mr. Pozernick, 56, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pozernick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pozernick meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Jody R. Prause

Mr. Prause, 47, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Prause understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Prause meets the vision

requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class E CDL from Michigan.

Andrew Quaglia

Mr. Quaglia, 23, has had ITDM since 1993. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Quaglia understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Quaglia meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from New York.

Gilbert Rios

Mr. Rios, 64, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rios understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rios meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Joseph F. Schafer, Jr.

Mr. Schafer, 43, has had ITDM since 1999. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Schafer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schafer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Gary A. Sjokvist

Mr. Sjokvist, 59, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sjokvist understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sjokvist meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Richard D. Stalter

Mr. Stalter, 53, has had ITDM since 1974. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stalter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stalter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arkansas.

Charles W. Sterling

Mr. Sterling, 63, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sterling understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sterling meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Carl F. Wagner, Jr.

Mr. Wagner, 54, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wagner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wagner meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0188 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0188 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 7, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24749 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2013–0185]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 37 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0185 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 37 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Charles A. Adams, Jr.

Mr. Adams, 44, has had ITDM since 1995. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Adams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Adams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Connecticut.

Thomas W. Allee

Mr. Allee, 60, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Allee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Allee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

J.D. Ashcraft, Jr.

Mr. Ashcraft, 40, has had ITDM since 1978. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ashcraft understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ashcraft meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable proliferative diabetic retinopathy. He holds a Class D operator's license from Alabama.

Robert J. Berger III

Mr. Berger, 53, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Berger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Berger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Michael E. Bingham

Mr. Bingham, 56, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bingham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bingham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Danny W. Bradley

Mr. Bradley, 47, has had ITDM since 1968. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bradley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bradley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class D operator's license from Delaware.

Richard A. Clark

Mr. Clark, 63, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clark understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clark meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Georgia.

Winfred G. Clemenson

Mr. Clemenson, 58, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clemenson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clemenson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Romero Coleman

Mr. Coleman, 46, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist

certifies that Mr. Coleman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coleman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Thomas J. Crawford

Mr. Crawford, 46, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Crawford understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crawford meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from NY.

William N. Drake

Mr. Drake, 40, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Drake understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Drake meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

John S. Duvall

Mr. Duvall, 50, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duvall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duvall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Robert B. Engel

Mr. Engel, 48, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Engel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Engel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Carolyn C. Gardner

Ms. Gardner, 34, has had ITDM since 2012. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Gardner understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Gardner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class D operator's license from Connecticut.

Brian L. Gregory

Mr. Gregory, 48, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gregory understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gregory meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Alfonso Grijalva

Mr. Grijalva, 29, has had ITDM since 1991. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grijalva understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grijalva meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class C operator's license from California.

Jason E. Jacobus

Mr. Jacobus, 43, has had ITDM since approximately 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jacobus understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jacobus meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Kentucky.

Ervin A. Klocko, Jr.

Mr. Klocko, 42, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting

in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Klocko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Klocko meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

Stephen C. Koktavy

Mr. Koktavy, 21, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Koktavy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Koktavy meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Richard J. Long

Mr. Long, 42, has had ITDM since 1992. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Long understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Long meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Minnesota.

Margaret Lopez

Ms. Lopez, 53, has had ITDM since 2009. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Lopez understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Lopez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from New York.

John D. May

Mr. May, 54, has had ITDM since 1998. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. May understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. May meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Kansas.

Michael C. McDowell

Mr. McDowell, 62, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McDowell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDowell meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Charles B. McKay

Mr. McKay, 21, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McKay understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McKay meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Norman C. Mertz

Mr. Mertz, 55, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mertz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mertz meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Gary D. Peters

Mr. Peters, 66, has had ITDM since 1998. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peters understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peters meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class O operator's license from Nebraska.

Mark R. Phillips

Mr. Phillips, 51, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Phillips understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Phillips meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Francis J. Shultz

Mr. Shultz, 46, has had ITDM since 1977. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shultz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shultz meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Gary L. Snelling

Mr. Snelling, 38, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Snelling understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Snelling meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Alabama.

Joseph L. Stevenson

Mr. Stevenson, 57, has had ITDM since 1983. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stevenson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stevenson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Matthew S. Thompson

Mr. Thompson, 31, has had ITDM since 2002. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Robin S. Travis

Mr. Travis, 28, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Travis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Travis meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class R operator's license from Colorado.

William R. Van Gog

Mr. Van Gog, 60, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Van Gog understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Van Gog meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Charles S. Watson

Mr. Watson, 33, has had ITDM since 2000. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Watson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watson meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Illinois.

David H. Wilkins

Mr. Wilkins, 59, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wilkins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilkins meets the vision

requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Mark A. Yurian

Mr. Yurian, 48, has had ITDM since 2004. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yurian understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yurian meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Montana.

David M. Zanicky

Mr. Zanicky, 40, has had ITDM since 1995. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zanicky understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zanicky meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0185 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0185 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 8, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24753 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0140]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 14 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 12, 2013. Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2011–0140], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 14 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 14 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Danny F. Burnley (KY)
Ronald J. Claud (NY)
Stewart K. Clayton (TX)
Sean R. Conorman (MI)
Jackie E. Frederick (AL)
Robert E. Graves (NE)
Brian P. Millard (SC)
Steven D. Nash (MN)
Merle M. Price (IA)
Terrence F. Ryan (FL)
Kirby R. Sands (IA)
Dennis W. Stubrich (PA)
Stephen W. Verrette (MI)
Leslie H. Wylie (ID)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (76 FR 37169; 76 FR 50318). Each of these 14 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by November 22, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing

its decision to exempt these 14 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2011–0140 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2011–0140 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 24, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24760 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 15 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 15, 2013. Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level

of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 15 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 15 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Domenic J. Carassai (NJ)
Bruce E. Hemmer (WI)
Christopher G. Jarvela (MI)
Brad L. Mathna (PA)
Warren J. Nyland (MI)
Greg L. Riles (IA)
Wesley E. Turner (TX)
Paul S. Yocum (IN)
Fred W. Duran (MS)
Steven P. Holden (MD)
Donald L. Jensen (SD)
Vincent P. Miller (CA)
Dennis M. Prevas (WI)
Calvin D. Tomlinson (KY)
Mona J. Van Krieken (OR)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 15 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 17743; 66 FR 30502; 66 FR 66 33990; 66 FR 41654; 68 FR 35772; 68 FR 37197; 68 FR 44837; 68 FR 48989; 70 FR 33937; 70 FR 41811; 70 FR 42615; 72 FR 40360; 74 FR 34362; 76 FR 49531). Each of these 15 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by November 22, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 15 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2003–15268 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents

and comments related to the proposed rulemaking.

Issued on: September 24, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24761 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2013–0181]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 24 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective October 23, 2013. The exemptions expire on October 23, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On June 26, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 24 individuals and requested comments from the public (78 FR 38435). The public comment period closed on July 26, 2013, and no comments were received.

FMCSA has evaluated the eligibility of the 24 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 24 applicants have had ITDM over a range of 1 to 23 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the June 26, 2013, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received no comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual

medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts Wayne A. Beebe (ID), Craig W. Blackner (UT), Clifford R. Brown (GA), Daniel W. Eggebraaten (SD), Peter J. Ferguson, Jr. (MA), John L. Fischer (ND), Christopher E. Francklyn (CO), Justin R. Freeman (ID), Douglas E. Gibbs (TX), Clarence H. Holliman, Jr. (MS), Steve P. Hoppe (ND), Tracy S. Johnson (FL), Chad D. Labonte (OR), Jason J. Marks (LA), Keith R. McKeever (PA), Alberto Ramirez (CA), Donald G. Reed, Sr. (PA), Brain S. Ruth (AK), Carl L. Saxton (IA), Michael R. Sheddan (TN), Ronald S. Smith (NJ), Lawrence E. Starks, Sr. (IN), Lloyd K. Steinkamp (WV), and Calvin C. Wallingford (NY) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 7, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24759 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0189]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 15 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0189 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 15 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Steven R. Auger

Mr. Auger, 50, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Auger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Auger meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from New Hampshire.

James L. Barnes

Mr. Barnes, 61, has had ITDM since 2013. His endocrinologist examined him

in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barnes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barnes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Travis D. Clarkston

Mr. Clarkston, 42, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clarkston understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clarkston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Steven M. Ference

Mr. Ference, 52, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ference understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ference meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

Allen D. Goddard

Mr. Goddard, 41, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Goddard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Goddard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Jerry M. Hicks

Mr. Hicks, 33, has had ITDM since 1999. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hicks understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hicks meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D Chauffeur license from West Virginia.

Bobby H. Johnson

Mr. Johnson, 56, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

Michael P. Mahan

Mr. Mahan, 47, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mahan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mahan meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Kenneth B. Maynard, Jr.

Mr. Maynard, 66, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Maynard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Maynard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Hampshire.

Will Norsworthy

Mr. Norsworthy, 56, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Norsworthy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Norsworthy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that

he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Walter A. Przewrocki, Jr.

Mr. Przewrocki, 57, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Przewrocki understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Przewrocki meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Keith E. Pulliam

Mr. Pulliam, 60, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pulliam understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pulliam meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Richard A. Treadwell, Sr.

Mr. Treadwell, 66, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Treadwell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Treadwell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

James R. Troutman

Mr. Troutman, 48, has had ITDM since 1993. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Troutman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Troutman meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

William E. Wyant III

Mr. Wyant, 29, has had ITDM since 2003. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wyant understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wyant meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Iowa.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0189 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0189 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 7, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24754 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0187]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 16 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0187 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 16 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Richard J. Batzel

Mr. Batzel, 64, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Batzel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Batzel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

Peter J. Benz

Mr. Benz, 56, has had ITDM since 1973. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Benz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Benz meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable, non-proliferative diabetic retinopathy.

He holds a Class E operator's license from Florida.

Michael L. Collins

Mr. Collins, 57, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Collins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Collins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Washington.

Steven M. Dent

Mr. Dent, 62, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dent understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Dent meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Iowa.

Leburn L. Gardner

Mr. Gardner, 68, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gardner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gardner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Isadore Johnson, Jr.

Mr. Johnson, 71, has had ITDM since 2004. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Brian K. Lester

Mr. Lester, 59, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lester understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lester meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Montana.

Richard E. Li

Mr. Li, 51, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Li understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Li meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

Brent L. McDaniels

Mr. McDaniels, 42, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McDaniels understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McDaniels meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class O operator's license from Michigan.

Travis F. Moon

Mr. Moon, 42, has had ITDM since 1987. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moon meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Steven D. Nowakowski

Mr. Nowakowski, 51, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nowakowski understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nowakowski meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Maryland.

Stephen Plesz

Mr. Plesz, 60, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Plesz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Plesz meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

Stanley A. Sabin

Mr. Sabin, 62, has had ITDM since 1980. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sabin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sabin meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable, non-proliferative diabetic retinopathy. He holds a Class A CDL from Kentucky.

Stephen A. Stewart

Mr. Stewart, 56, has had ITDM since 1998. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stewart understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stewart meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class E operator's license from Missiouri.

Thomas L. Stoudnour

Mr. Stoudnour, 60, has had ITDM since 1995. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stoudnour understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stoudnour meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Merle L. Weyer

Mr. Weyer, 39, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weyer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weyer meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

FMCSA–2013–0187 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0187 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 7, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24764 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0141]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 5 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 10, 2013. Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2011–0141], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: 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.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 5 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 5 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

James Howard (CA)
Matthew D. Nelson (FL)
Thomas L. Swatley (TN)
Ramon Melendez (NJ)
Jesse A. Nosbush (MN)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms

and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 5 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (76 FR 40445; 76 FR 53710). Each of these 5 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by November 22, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 5 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2011–0141 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2011–0141 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 24, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24762 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0168]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 38 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before November 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0168 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note

that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 38 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Ernest J. Bachman

Mr. Bachman, age 50, has complete loss of vision in his right eye due to a traumatic incident in 1975. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my opinion he has sufficient vision to operate a commercial vehicle.'' Mr. Bachman reported that he has driven straight trucks for 32 years, accumulating 6,400 miles, and tractor-trailer combinations for 32 years, accumulating 12,800 miles. He holds a Class A Commercial Driver's License (CDL) from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

A. Wayne Barker

Mr. Barker, 70, has had a retinal detachment in his right eye since 2010. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''In my medical opinion, Wayne has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Barker reported that he has driven straight trucks for 52 years, accumulating 1.3 million miles, and tractor-trailer combinations for 49 years, accumulating 2.2 million miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Edgar G. Baxter

Mr. Baxter, 74, has had a vascular occlusion in his left eye since 2010. The visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Baxter reported that he has driven tractor-trailer combinations for 32 years, accumulating 4.16 million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jason W. Bowers

Mr. Bowers, 26, has had Coat's disease in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''This patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bowers reported that he has driven tractor-trailer combinations for 3 years, accumulating 75,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Scott Brady

Mr. Brady, 47, has had a central vein occlusion in his right eye since 2010. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Mr. Brady has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Brady reported that he has driven straight trucks for 6 years, accumulating 108,000 miles, and tractor-trailer combinations for 11 years, accumulating 198,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald A. Cleaver, Jr.

Mr. Cleaver, 24, has had anisometropic amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his ophthalmologist noted, ''His current degree of peripheral vision and good best-corrected acuity in his right eye should allow him to be safe operating a commercial vehicle.'' Mr. Cleaver reported that he has driven straight trucks for 10 years, accumulating 17,500 miles, and tractor-trailer combinations for 2 years, accumulating 2,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric V. DeFrancesco

Mr. DeFrancesco, 35, has had aniosometropic amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''It is my medical opinion within a reasonable degree of medical certainty that he has sufficient visual ability to perform all of the driving tasks required to operate a commercial vehicle.'' Mr. DeFrancesco reported that he has driven straight trucks for 5.5 years, accumulating 137,500 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Matthew A. Eck

Mr. Eck, 60, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In summary, Mr. Eck's amblyopia with his right eye is long-standing and stable, and in my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Eck reported that he has driven straight trucks for 37 years, accumulating 222,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David E. Ferris

Mr. Ferris, 70, has had complete loss of vision in his right eye since 1991. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''I, therefore, certify that in my medical opinion, the patient has sufficient vision to perform his driving tasks to operate a commercial vehicle.'' Mr. Ferris reported that he has driven straight trucks for 47.5 years, accumulating 1.19 million miles, and tractor-trailer combinations for 10 years, accumulating 1 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George M. Hapchuk

Mr. Hapchuk, 59, has had strabismic amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2012, his optometrist noted, ''It is my impression that George Hapchuk has adequate vision to perform the tasks to operate a commercial vehicle.'' Mr. Hapchuk reported that he has driven straight trucks for 38 years, accumulating 1.2 million miles. He holds a Class BM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James L. Hawthorne

Mr. Hawthorne, 51, has a prosthetic right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''James Hawthorne . . . truck driver . . . Prosthetic right eye. The left eye's field is normal . . . Applicant should be good to drive with appropriate head turn adjustments and with caution.'' Mr. Hawthorne reported that he has driven straight trucks for 32 years, accumulating 800,000 miles and tractor-trailer combinations for 32 years, accumulating 1.12 million miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny D. Ivey

Mr. Ivey, 71, has had glaucoma in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his ophthalmologist noted, ''His visual defect is long standing (since childhood) in the left eye and does not affect his ability to drive safely. He can drive a commercial tractor trailer [sic].'' Mr. Ivey reported that he has driven tractor-trailer combinations for 25 years, accumulating 1.42 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he was following too closely.

Darryl H. Johnson

Mr. Johnson, 50, has had a hemorrhage in his left eye for 40 years. The visual acuity in his right eye is 20/15, and in his left eye, 20/100. Following an examination in 2013, his ophthalmologist noted, ''Therefore, for the past 15 years, this patient has successfully operated a commercial vehicle with 20/15 vision in the right eye and less than 20/200 vision in the left eye. The current status of the left eye is such that it is not likely that any form of visual rehabilitation will be possible. So for the future, the patient will operate with 20/15 vision in the right eye, and less than 20/200 vision in the left eye, which has been successful for him with respect to his operating a commercial vehicle for 15 years. This letter is to request a waver [sic] for the visual requirements for binocular vision for this particular patient, who has been quite successful with his current level of vision which is expected to be stable in the future.'' Mr. Johnson reported that he has driven straight trucks for 2 years, accumulating 20,000 miles, and tractor-trailer combinations for 22 years, accumulating 3.3 million miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David Jones

Mr. Jones, 49, has a prosthetic right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''It is in my professional opinion that Mr. Jones has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones reported that he has driven straight trucks for 2.5 years, accumulating 25,000 miles. He holds a Class B CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas L. Kitchen

Mr. Kitchen, 54, has been nearsighted in his right eye since childhood. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''Even though Mr. Kitchen's vision does not meet normal standards for a commercial driver's license, his vision has been in the same range for many years and I believe that his vision is sufficient for operating a commercial vehicle.'' Mr. Kitchen reported that he has driven straight trucks for 27 years, accumulating 2.36 million miles, and tractor-trailer combinations for 27 years, accumulating 2.36 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Wayne C. Knighton

Mr. Knighton, 54, has had maculopathy in his right eye since 2009. The visual acuity in his right eye is 20/200, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, ''In my medical opinion Mr. Knighton has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Knighton reported that he has driven straight trucks for 30 years, accumulating 360,000 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Brandon C. Koopman

Mr. Koopman, 29, has aphakia and a corneal scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his ophthalmologist noted, ''Vision is stable. Vision in the left eye is limited due to long standing injury as a child. Brandon has adapted to this and has functioned normally throughout life. He has excellent eye health in his right eye.

While the ultimate decision rests on the DOT in my opinion Brandon has sufficient visual capacity to perform driving tasks and operate a commercial vehicle.'' Mr. Koopman reported that he has driven straight trucks for 8 years, accumulating 4,000 miles. He holds an operator's license from Nebraska. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David G. Lamborn

Mr. Lamborn, 61, has had a branch retinal vein occlusion in his left eye since 2003. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2013, his optometrist noted, ''In my opinion, Mr. Lamborn presents with sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Lamborn reported that he has driven straight trucks for 1.5 years, accumulating 180,000 miles, tractor-trailer combinations for 6 months, accumulating 12,000 miles, and buses for 2 years, accumulating 36,000 miles. He holds a Class AM CDL from North Dakota. His driving record for the last 3 years shows one crash, for which he was not cited and to which he did not contribute, and no convictions for moving violations in a CMV.

Robert A. Marks

Mr. Marks, 52, has had ocular toxoplasmosis in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his ophthalmologist noted, ''Mr. Marks has sufficient vision to perform driving tasks to operate a commercial vehicle.'' Mr. Marks reported that he has driven straight trucks for 22 years, accumulating 44,000 miles. He holds an operator's license from West Virginia. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Stephen R. Marshall

Mr. Marshall, 47, has complete loss of vision in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my opinion, Mr. Marshall does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Marshall reported that he has driven tractor-trailer combinations for 29 years, accumulating 5 million miles. He holds an operator's license from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Edgar H. Meraz

Mr. Meraz, 32, has had a macular hole in his left eye since 2004. The visual acuity in his right eye is 20/15, and in his left eye, 20/200. Following an examination in 2013, his ophthalmologist noted, ''I believe that Mr. Meraz has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Meraz reported that he has driven straight trucks for 14 years, accumulating 70,000 miles, and tractor-trailer combinations for 12 years, accumulating 180,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ralph Reno

Mr. Reno, 55, has had central serous retinopathy in his right eye since 2003. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''The Goldmann visual field shows a horizontal field of 140 degrees and vertical field of 130 degrees in the right and left eyes individually and together. As such, his left eye is able to compensate for the right eye so that his overall visual function is good and Mr. Reno should be able to continue in his occupation driving a commercial vehicle without restriction with his vision deficiency.'' Mr. Reno reported that he has driven straight trucks for 26 years, accumulating 468,000 miles. He holds an operator's license from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Glennis R. Reynolds

Mr. Reynolds, 48, has a macular scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''Based upon my findings and medical expertise, I Ellen M. Grubb, O.D. hereby certify Glennis Reynolds to be visually able to safely operate a commercial motor vehicle.'' Mr. Reynolds reported that he has driven tractor-trailer combinations for 28 years, accumulating 2.8 million miles. He holds a Class DMA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joseph B. Saladino

Mr. Saladino, 43, has had a retinal detachment in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2013, his ophthalmologist noted, ''I certify that the patient meets and/or exceeds the visual requirements to perform driving tasks required to operate a commercial vehicle.'' Mr. Saladino reported that he has driven straight trucks for 24 years, accumulating 960,000 miles, and tractor-trailer combinations for 24 years, accumulating 960,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carlos M. Saravia

Mr. Saravia, 39, has a chorioretinal scar in his right eye due to a traumatic injury during childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''In my professional opinion, I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle at this time.'' Mr. Saravia reported that he has driven straight trucks for 4 years, accumulating 32,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to obey instructions at a traffic control device.

Glen M. Schulz

Mr. Schulz, 64, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his optometrist noted, ''I believe that his vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schulz reported that he has driven straight trucks for 39 years, accumulating 682,500 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steve W. Scott

Mr. Scott, 50, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted that Mr. Scott does not have any visual field defects or field loss that would affect the safe operation of a commercial motor vehicle. Mr. Scott reported that he has driven straight

trucks for 4 years, accumulating 28,000 miles, and tractor-trailer combinations for 10 years, accumulating 70,000 miles. He holds a Class A CDL from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eugene D. Self, Jr.

Mr. Self, 40, has had a prosthetic left eye since 1979. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his ophthalmologist noted, ''Mr. Self's visual impairment does not compromise his ability to drive a commercial motor vehicle.'' Mr. Self reported that he has driven buses for 7.5 years, accumulating 13,125 miles. He holds a Class C CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Darren B. Shields

Mr. Shields, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2013, his optometrist noted, ''In my medical opinion this patient has sufficient vision and agility to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shields reported that he has driven straight trucks for 3 years, accumulating 162,000 miles, and buses for 8 years, accumulating 96,000 miles. He holds a Class BM CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roye T. Skelton

Mr. Skelton, 45, has had a traumatic cataract in his right eye since 2006. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''If proceeding with caution, in my opinion there is no reason this patient can not safely drive. However, it will be up to the discretion of the waiver committee to make the final decision.'' Mr. Skelton reported that he has driven straight trucks for 18 years, accumulating 561,600 miles. He holds an operator's license from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Smienski

Mr. Smienski, 55, has a prosthetic right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''Upon conclusion of the exam, I find that Mr. Smienski has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Smienski reported that he has driven straight trucks for 18 years, accumulating 540,000 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Justin T. Swires

Mr. Swires, 48, has a corneal scar in his left eye due to a traumatic incident in 1984. The visual acuity in his right eye is 20/15, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, ''He judges depth very well using monocular clues, and in my opinion has sufficient vision capabilities to perform the driving tasks required to operate a commercial vehicle.'' Mr. Swires reported that he has driven straight trucks for 31 years, accumulating 620,000 miles, and tractor-trailer combinations for 31 years, accumulating 3.1 million miles. He holds a Class A CDL from Wyoming. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert Thomas

Mr. Thomas, 48, has Commotio Retinae in his left eye due to a traumatic incident in 1985. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, ''His central vision loss in the left eye can be compensated for by the right eye. Therefore, in my medical opinion, I feel his vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Thomas reported that he has driven straight trucks for 23 years, accumulating 115,000 miles, and tractor-trailer combinations for 23 years, accumulating 1.27 million miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clifford B. Thompson, Jr.

Mr. Thompson, 48, has a prosthetic right eye due to a traumatic incident in 2010. The visual acuity in his right eye is no light perception, and in his left eye, 20/25. Following an examination in 2013, his optometrist noted, ''Field is stable . . . color vision is normal . . . I believe he is qualified for commercial driving.'' Mr. Thompson reported that he has driven straight trucks for 18 years, accumulating 237,600 miles, and tractor-trailer combinations for 6 years, accumulating 288,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald L. Urmston

Mr. Urmston, 50, has had ocular histoplasmosis in his left eye since 1999. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, ''In my opinion, since Donald has 20/20 vision in one eye and good peripheral vision temporally in each eye, his vision is sufficient to drive a commercial vehicle.'' Mr. Urmston reported that he has driven straight trucks for 4 years, accumulating 200,000 miles, and tractor-trailer combinations for 25 years, accumulating 1.25 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven M. Veloz

Mr. Veloz, 57, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2012, his optometrist noted, ''In my medical opinion, I feel that Steven Veloz has sufficient vision to perform the driving tasks equired [sic] to operate a commercial vehicle.'' Mr. Veloz reported that he has driven straight trucks for 35 years, accumulating 1.93 million miles, and tractor-trailer combinations for 35 years, accumulating 2.5 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stephen H. Ward

Mr. Ward, 66, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my professional opinion, Mr. Ward has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Ward reported that he has driven straight trucks for 40 years, accumulating 500,000 miles, tractor-trailer combinations for 2 years, accumulating 6,000 miles, and buses for 4 years, accumulating 40,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

Janusz K. Wis

Mr. Wis, 31, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my opinion your vision seems to be stable and you have sufficient vision in the left eye to be able to perform the driving tasks required to operate a commercial vehicle.'' Mr. Wis reported that he has driven straight trucks for 7 years, accumulating 21,000 miles, and tractor-trailer combinations for 7 years, accumulating 21,000 miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business November 22, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0168 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0168 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 24, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24763 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0165]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 25 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective October 23, 2013. The exemptions expire on October 23, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On August 6, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 47818). That notice listed 25 applicants' case histories. The 25 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 25 applications on their merits and

made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 25 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including retinal detachment, shattered retina, strabismic amblyopia, amblyopia, corneal laceration, exotropia, macular scar, optic nerve damage, refractive amblyopia, prosthetic eye, congenitally underdeveloped optic nerve, corneal scar, optic atrophy, complete loss of vision, anisometropic amblyopia, retinal tear, cataract, and open angle glaucoma.

In most cases, their eye conditions were not recently developed. Seventeen of the applicants were either born with their vision impairments or have had them since childhood.

The eight individuals that sustained their vision conditions as adults have had it for a period of 2 to 18 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 25 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 2 to 50 years. In the past 3 years, one of the drivers was involved in a crash and four were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 12, 2013 notice (78 FR 47818).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 25 applicants, one of the drivers was involved in a crash and four were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover,

driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 25 applicants listed in the notice of August 6, 2013 (78 FR 47818).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 25 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received eight comments in this proceeding. The comments are considered and discussed below.

The eight comments received were all in support of Elmer L. Roberson receiving a vision exemption.

Conclusion

Based upon its evaluation of the 25 exemption applications, FMCSA exempts Larry E. Blakely (GA), William Bucaria, Jr. (FL), Kevan M. Burke (PA), Thomas F. Caithamer (IL), Jaime M. Daigle (MA), James E. Goodman (AL), Britt A. Green (ND), Craig C. Harris (NH), Jesus J. Huerta (NV), Arlene S. Kent (NH), Willie L. Murphy (IN), Chad J. Nolan (OH), Joseph J. Pudlik (IL), Freddie G. Reed (MS), Elmer L. Roberson (OK), Anthony R. Santomango (ME), Daniel W. Schafer (PA), Keith A. Sommers (IN), James A. Spell (MD), Robert L. Spencer (CT), Scott C. Star (NJ), Brain S. Stockwell (IL), Jeffrey R. Swett (SC), Brian C. Tate (VA), and Aaron M. Vernon (OH) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 8, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–24755 Filed 10–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 721]

New Filing Deadlines for Material Due To Be Submitted During the Federal Government Shutdown

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice.

SUMMARY: The Board provides notice that any material due to be submitted to the Board during the Federal government shutdown will now be due no later than October 24, 2013. Further, submissions that arrived by mail during the shutdown will be considered received on October 17, 2013.

DATES: *Effective Date:* October 18, 2013.

FOR FURTHER INFORMATION CONTACT: Ryan Lee, (202) 245–0394. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: During the shutdown of the Federal government, from October 1, 2013, through October 16, 2013, all deadlines requiring the submission of material to the Board were tolled. The Board is now providing notice that any material due to be submitted to the Board during the shutdown is due no later than October 24, 2013. Should a party to a proceeding believe that further modification to a procedural schedule is necessary, the party should request an extension in that case docket.

Filers who made submissions by mail during the closure should not resubmit them. All submissions received by mail during the closure will be considered filed on October 17, 2013.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: October 18, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–24844 Filed 10–22–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection: Information Collected Through Investigative Inquiry Forms

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Investigative Inquiry Forms.

DATES: Written comments should be received on or before December 20, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@bpd.treas.gov.* The opportunity to make comments online is also available at *www.pracomment.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies should be directed to Bruce A. Sharp, Bureau of the Fiscal Service, 200 Third Street A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Investigative Inquiry Forms.

OMB Number: 1535–0141.

Form Number: PD F 5518—Investigative Request for Personal Information.

PD F 5519—Investigative Request for Law Enforcement Data.

PD F 5520—Investigative Request for Educational Registrar and Dean of Students Records.

PD F 5521—Investigative Request for Employment Data and Supervisor Information.

Abstract: The information is requested while conducting background investigations to provide a general overview of the character and reputation of employees and contractors.

Current Actions: None.

Type of Review: Revision.

Affected Public: Individuals.

Estimated Number of Respondents: 750.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 125.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 18, 2013.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2013–24815 Filed 10–22–13; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Senior Executive Service; Fiscal Service Performance Review Board

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Fiscal Service Performance Review Board (PRB) for the Bureau of the Fiscal Service (Fiscal Service). The PRB reviews the performance appraisals of career senior executives who are below the level of Assistant Commissioner/Executive Director and who are not assigned to the Office of the Commissioner in the Fiscal Service. The PRB makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions.

DATES: Effective on October 23, 2013.

FOR FURTHER INFORMATION CONTACT: Angela Jones, Deputy Chief Human Capital Officer, Bureau of the Fiscal Service, (304) 480–8949.

SUPPLEMENTARY INFORMATION: This Notice announces the appointment of the following primary and alternate members to the Bureau of the Fiscal Service (Fiscal Service) PRB:

Primary Members

Anita D. Shandor, Deputy Commissioner, Finance and Administration, Fiscal Service

John Hill, Assistant Commissioner, Payment Management, Fiscal Service

Douglas Anderson, Assistant Commissioner, Office of Administrative Services, Fiscal Service

Alternate Member

Patricia M. Greiner, Chief Financial Officer/Assistant Commissioner, Management, Fiscal Service

Authority: 5 U.S.C. 4314(c)(4).

David A. Lebryk,

Commissioner.

[FR Doc. 2013–24616 Filed 10–22–13; 8:45 am]

BILLING CODE M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of an information collection titled, ''Securities Offering Disclosure Rules.''

DATES: Comments must be submitted on or before December 23, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0120, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

Title: Securities Offering Disclosure Rules.

OMB Control No.: 1557–0120.

Type of Review: Regular review.

Description: The OCC requests that OMB extend its approval of the information collection without change.

Twelve CFR Part 16 and 197 govern the offer and sale of securities by national banks and Federal savings associations. The requirements in those sections enable the OCC to perform its responsibility to ensure that the investing public has information about the condition of the institution, the reasons for raising new capital, and the terms of the offering.

These information collection requirements ensure national bank and Federal savings association compliance with applicable Federal law, promote bank safety and soundness, provide protections for national banks and Federal savings associations, and further public policy interests.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 61.

Estimated Annual Burden: 1,310 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 11, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–24725 Filed 10–22–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice of new systems of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(3)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records titled ''Human Resources Information Systems Shared Service Center (HRIS SSC)—VA''—(171VA056A).

DATES: Comments on this new system of records must be received no later than November 22, 2013. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective November 22, 2013.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted through *www.regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington DC 20420; or by fax to (202) 273–9026. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment (this is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Terese A. Bell, Human Resources Specialist, Human Resources Information Service, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (414) 336–1910 or Jean Hayes, Privacy Officer, Office of Human Resources Management, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 461–7863.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Systems of Records

The HRIS SSC is a Department of Veterans Affairs Human Capital information system that has been acquired from a private-sector provider through an Interagency Agreement with the General Services Administration (GSA). The HRIS SSC is considered a major application and will provide personnel action and benefits processing for all of VA's 320,000+ employees, and approximately 100,000+ clinical trainees. The system will not be used for managing contractor or volunteer elements of the VA labor force.

The HRIS SSC contains VA position and employee data, such as name, compensation data, and benefits information. [Note: name and compensation information is subject to disclosure under the Freedom of Information Act, and is routinely provided by the Office of Personnel Management to the media on request.] Additional information includes Social Security Number, VA Employee Identification Number, and voluntarily self-reported Race, National Original and Ethnicity data. Such data are considered to be Personally Identifiable Information (PII), and are the most sensitive information elements included

in the system. There is no Protected Health Information (PHI) stored in the system.

II. Proposed Routine Use of Data in the System

Records in this system have various uses, including screening qualifications of employees; determining status eligibility, and rights and benefits under pertinent laws and regulations governing Federal employment; computing length of service; and other information needed to provide personnel services.

1. All of the information contained in this system of records is used for official purposes of VA; all such uses of information are compatible with the purposes for which the information was collected.

2. To produce and maintain the official personnel records, including reports and statistical data, of VA employees for use by Federal, State and local agencies and organizations authorized by law or regulation to have access to such information. These records may be disclosed as part of an ongoing matching program to accomplish these purposes. This routine use does not authorize the disclosure of information that must be disclosed under the criteria contained in 5 U.S.C. 552a (b) (7), (8), and (11).

3. To transfer personnel data to the Office of Personnel Management (OPM) in order to provide OPM with a readily accessible major data source for meeting the work force information needs of OPM, national planning agencies, the Congress, the White House and the public.

4. VA, on its own initiative, may disclose any information in this system which is relevant to a suspected violation or reasonable imminent violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to any Federal, foreign, State, tribal or local government agency charged with responsibility of investigating or prosecuting such violations, or charged with enforcing or implementing the statute, rule, regulation, or order.

5. A record from this system of records may be disclosed as a routine use to a Federal, State or local agency, or to a non-governmental organization maintaining civil, criminal or other relevant information, such as current licenses, registration or certification, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the use of an individual as a consultant, attending or to provide fee basis health care, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefits. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

6. A record from this system of records may be disclosed to a Federal, State or local agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

7. The record of an individual who is covered by this system may be disclosed to a Member of Congress or a staff person acting for a Member, when the Member or staff person requests the record on behalf of, and at the written request of, the individual.

8. Information and records in this system may be disclosed to the National Archives and Records Administration (NARA) and GSA in records management inspections conducted under the authority of 44 U.S.C. 2906 and the implementing regulations.

9. To transfer human resources and payroll information to complete payroll Checks and direct deposit/electronic funds transfer (DD/EFT), bond deductions, and withholding taxes to the Defense Finance Accounting System (DFAS) to effect delivery of salary payments to VA employees.

10. Transfer payroll information to the Social Security Administration in order to credit quarterly posting for social security.

11. Relevant information from this system of records, including the nature and amount of a financial obligation may be disclosed as a routine use in order to assist VA in the collection of unpaid financial obligations owed to VA, to a debtor's employing agency or commanding officer. This purpose is consistent with the Governmentwide debt collection standards set forth at 31 U.S.C. Chapter 37, subchapters I and II, 31 CFR parts 900–904, and VA regulations 38 CFR 1.900–1.954.

12. To provide State and local taxing authorities with employee names, home addresses, social security numbers, gross compensation paid for a given period, taxes withheld for the benefit of the recipient jurisdiction or other jurisdictions, according to the provisions of State and/or local law.

13. Records from this system of records may be disclosed to a Federal, State or local government agency or licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity. These entities maintain records concerning an individual's employment or practice histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty. Disclosures may be made in order for the agency to obtain information determined relevant to an agency decision concerning the hiring, retention or termination of an employee. Disclosures may also be made to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

14. Any information in this system of records may be disclosed to any State, local, or foreign civil or criminal law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety for the purpose of protecting public health or safety if qualified representatives of such agency or instrumentality has made a written request that such information be provided in order to meet a statutory reporting requirement.

15. Identifying information in this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of health care practitioners, and other times as deemed necessary by VA in order for VA to obtain information to make a decision concerning the hiring, privileging/re-privileging, retention or termination of the applicant or employee.

16. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank and/or State Licensing Board in the State(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (1) Any payment for the benefit of a physician,

dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (2) a final decision which relates to possible incompetence or improper professional conduct that adversely effects the clinical privileges of a physician or other licensed health care practitioner for a period longer than 30 days; or (3) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or other licensed health care practitioners either while under investigation by the health care entity relating to possible incompetence or improper professional misconduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

17. Relevant information from this system of records concerning residents and interns employed at the VA Medical Centers, including names, social security numbers, occupational titles, and dates of service, may be disclosed to the Health Care Financing Administration as part of an ongoing computer matching program. The purpose of this computer matching program is to help assure that no intern or resident is counted as more than a full-time equivalent in accordance with program regulations governing Medicare education costs.

18. Relevant information from this system of records may be disclosed to individuals, organizations, private or public agencies or other agencies with whom VA has a contract or agreement or where there is a subcontract to perform services as VA may deem practicable for the purpose of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. In accordance with the provisions of the contract or agreement, the contractor may disclose relevant information from this system of records to a third party. This includes the situation where relevant information may be disclosed to a third party upon the presentation or submission to the contractor by that third party of specific authorization or access data (e.g., an authorization code or number), which is obtained from VA or the VA contractor only by the individual employee to whom the information pertains. The employee's release of the specific authorization or access data to a third party indicates the employee's authorization for the disclosure of such information to that third party.

19. Identifying information in this system, including names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

20. Information from this system of records may be released to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

21. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

22. Information from this system of records may be released to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

23. Any information in this system may be disclosed to the Department of Treasury, Internal Revenue Service (IRS), where required by law or regulation to report withholding information and to effect payment of taxes withheld to IRS and to create W–2's.

24. VA may disclose information from this system of records to a court administrative entity or custodial parent of a child in order to provide documentation for child health care insurance coverage in accordance with a court or administrative order as required by 5 U.S.C. 8905(h), as enacted by Public Law 106–394 and in accordance with the procedures stated in the applicable OPM Benefits Administration and Payroll Office Letters. VA may also disclose information from this system of records to healthcare insurance carriers in order to enroll employees and their children in healthcare insurance plans in accordance with Public Law 106–394.

25. Relevant information from this system of records, including social security number, date of birth, home address, and the amount of contributions, interfund transfers, or other financial information may be disclosed to the Federal Retirement Thrift Investment Board in order to effect employee participation in the Thrift Savings Plan.

26. Information from this system of records may be disclosed in response to legal processes, including interrogatories, served on the agency in connection with garnishment proceedings against current or former VA employees under 5 U.S.C. 5520a.

27. Transfer withholding tax information to State and/or city governments to effect payment of taxes to State and/or city governments and to create W–2's.

28. Transfer retirement record information to OPM in order to provide a history of service and retirement deductions.

29. Information and records in this system may be transferred to NARA to provide a history of all salaries, deductions, time and leave.

30. Transfer unemployment compensation information to State agencies to compile unemployment compensation data.

31. The name and general geographic location where an employee resides (not specific home addresses) may be disclosed by the facility Employee Transportation Coordinator to other employees in order to promote the car/vanpooling and ridesharing program established in accordance with Executive Order 12191 and to enable VA to verify membership in car and vanpools.

32. The name of the employee, social security number, beginning and ending pay period dates, the number of hours worked during a given pay period, the gross salary and duty station may be disclosed to the Department of Labor's (DOL) Office of Inspector General (OIG) in order for DOL's OIG to conduct a computer match of these records with various State unemployment benefit files. The purpose of this computer-matching program will be to determine if Federal employees have been improperly drawing State unemployment benefit payments. These

payments are ultimately reimbursed to the State by the Federal Government.

33. VA may disclose from this system of records to the Department of Justice (DOJ), either on VA's initiative or in response to DOJ's request for information, after either VA or DOJ determines that such information is relevant to DOJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

34. Relevant information from this system of records, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, social security number of debtor, place and date of birth of the debtor, name and address of debtor's employer or firm, and dates of employment, may be disclosed to other Federal agencies. State probate courts, State driver's license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed to the United States. This purpose is consistent with the Governmentwide debt collection standards set forth at 38 U.S.C. Chapter 37, Subchapters I and II; 31 CFR parts 900–904; and VA regulations 38 CFR 1.900–1.954.

35. Any information in this system of records may be disclosed to a third party purchaser of delinquent debt sold pursuant to the provisions of 31 U.S.C. 3711(i).

36. To disclose to the Office of Federal Employees' Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

37. To disclose information to health carriers contracting with OPM under the Federal Health Benefits Program that is necessary to identify eligibility for payments of a claim for health benefits, or to carry out the coordination or audit of benefits provisions of such contracts.

38. Any information in this system of records, including social security numbers and home addresses, may be disclosed to DFAS so that DFAS may process the payment of pay and allowances for VA employees.

39. Any information in this system of records including social security numbers may be disclosed to another Federal agency when that agency has been requested to conduct a Federal salary offset hearing under 5 U.S.C. 5514(a)(2)(D) for VA employees.

40. Disclosures to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

41. VA may own its own initiative disclose any information or records to the appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) VA has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by VA or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms as defined in 38 U.S.C. 5727.

42. VA may disclose information from this system to the Merit Systems Protection Board or the Office of Special Counsel when requested in connection to appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

43. VA may disclose information from this system to the Federal Labor Relations Authority, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representative elections.

44. VA may disclose information from this system to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

45. VA may disclose information or records from this system to appropriate Federal Government agencies, upon request, for employee accountability purposes, during the time of a declared national, state or local emergency.

46. Any information in this system of records may be disclosed to the Secretary of the Treasury, or to any designated Government disbursing official, for the purpose of conducting administrative offset of any eligible Federal payments in order to collect debts owed to the United States under the authority set forth in 31 U.S.C. 3716. Tax refund and Federal salary payments may be included in those Federal payments eligible for administrative offset.

47. Any information in this system of records concerning a delinquent debt may be disclosed to the Secretary of the Treasury for appropriate collection or termination action, including the transfer of the indebtedness for collection or termination, in accordance with 31 U.S.C. 3711(g) (4), to DFAS, to a debt collection center designated by the Secretary of the Treasury, to a private collection agency, or to DOJ. The Secretary of the Treasury, a designated debt collection center, a private collection agency or DOJ, may take appropriate action on a debt in accordance with the existing laws under which the debt arose.

The notice of intent to establish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of OMB as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: September 30, 2013.

Jose D. Riojas,

Chief of Staff, Department of Veterans Affairs.

171VA056A

SYSTEM NAME:

''Human Resources Information System Shared Service Center (HRIS SSC)—VA'' (171VA056A).

SYSTEM LOCATION:

The primary Data Center is located at 1506 Moran Road, Dulles, VA 20166; the backup or disaster recovery site is located at 120 East Van Buren, Phoenix, AZ 85004. Monster On-Boarding System serves as the VA On-Boarding System. The Monster On-Boarding System and all associated records will be located at a primary site in Ashburn, VA (Equinix, 21701 Filigree Ct, Ashburn, VA 20147) and at a secondary site in McLean, VA (Monster Government Solution, 8280 Greensboro Drive, Suite 900, McLean, VA 22102).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include all VA employees, Consultants, Interns, Residents, Without Compensation Employees and Fee Basis employees; applicants for appointment under authority of 38 U.S.C. Chapter 73; applicants for appointment under 38 U.S.C. Chapter 75 in the Veterans Canteen Service; applicants for employment under 5 U.S.C. Chapter 23.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to: Name; home address; social security number; taxpayer identification number; date of birth; grade; race; employing organization; timekeeper number; salary; pay plan; number of hours worked, including compensatory time; leave accrual rate, usage, and balances; records related to retirement and benefit elections; FICA withholdings; Federal, State, and local tax withholdings; records related to travel expenses and payments; telework indicator codes; carpool and ridesharing program records (e.g., name, address, office location at the facility); public transportation benefit program records; records related to garnishments, deductions, allotments, and direct deposit/electronic funds transfer (DD/EFT); and records related to background information investigations. For persons who have applied for Federal employment, the system may include additional records relating to their education and training; licensure, registration or certification by State licensing boards and/or national certifying bodies, including any finding of facts, evidence and any other related documents pertaining to a disciplinary action; prior and/or current clinical privileges; employment history, appraisals of past performance; convictions of offenses against the law; appraisals of potential honors, awards or fellowships; military service; veterans' preference; or birthplace.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501(a); 38 U.S.C. 73; 38 U.S.C. 75 SEC 4202; 5 U.S.C. Part III, Subparts D and E.

PURPOSES:

The system is the official repository of the personnel information, reports of personnel actions and the documents associated with these actions. The personnel action reports and other documents give legal force and effect to personnel transactions and establish employee rights and benefits under pertinent laws and regulations governing Federal employment. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in this system have various uses, including screening qualifications of employees; determining status eligibility, and rights and benefits under pertinent laws and regulations governing Federal employment; computing length of service; and other information needed to provide personnel services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information from this system may be disclosed to produce and maintain the official personnel records, including reports and statistical data, of VA employees for use by Federal, State and local agencies and organizations authorized by law or regulation to have access to such information. These records may be disclosed as part of an ongoing matching program to accomplish these purposes.

2. Information from this system may be disclosed to transfer personnel data to Office of Personnel Management (OPM) in order to provide OPM with a readily accessible major data source for meeting the work force information needs of OPM, national planning agencies, the Congress, the White House and the public.

3. VA, on its own initiative, may disclose any information in this system which is relevant to a suspected violation or reasonable imminent violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to any Federal, foreign, State, tribal or local government agency charged with responsibility of investigating or prosecuting such violations, or charged with enforcing or implementing the statute, rule, regulation, or order.

4. A record from this system may be disclosed as a routine use to a Federal, State or local agency, or to a non-governmental organization maintaining civil, criminal or other relevant information, such as current licenses, registration or certification, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the use of an individual as a consultant, attending or to provide fee basis health care, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefits. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

5. A record from this system may be disclosed to a Federal, State or local agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. The record of an individual who is covered by this system may be disclosed to a Member of Congress or a staff person acting for a Member, when the Member or staff person requests the record on behalf of, and at the written request of, the individual.

7. Information from this system may be disclosed to the National Archives and Records Administration (NARA) and General Services Administration (GSA) in records management inspections conducted under the authority of 44 U.S.C. 2906 and the implementing regulations.

8. Information from this system may be disclosed to transfer human resources and payroll information to complete payroll Checks and DD/EFT, bond deductions, and withholding taxes to the Defense Finance Accounting System (DFAS) to effect delivery of salary payments to VA employees.

9. Information from this system may be disclosed to transfer payroll information to the Social Security Administration in order to credit quarterly posting for social security.

10. Relevant information from this system, including the nature and

amount of a financial obligation may be disclosed as a routine use in order to assist VA in the collection of unpaid financial obligations owed to VA, to a debtor's employing agency or commanding officer. This purpose is consistent with the Governmentwide debt collection standards set forth at 31 U.S.C., Chapter 37, subchapters I and II, 31 CFR parts 900–904, and VA regulations 38 CFR 1.900–1.954.

11. Information from this system may be disclosed to provide State and local taxing authorities with employee names, home addresses, social security numbers, gross compensation paid for a given period, taxes withheld for the benefit of the recipient jurisdiction or other jurisdictions, according to the provisions of State and/or local law.

12. Records from this system may be disclosed to a Federal, State or local government agency or licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity. These entities maintain records concerning an individual's employment or practice histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty.

13. Records from this system may be disclosed in order for the agency to obtain information deemed relevant to an agency decision concerning the hiring, retention or termination of an employee. Records may also be disclosed to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

14. Information from this system may be disclosed to any State, local, or foreign civil or criminal law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety for the purpose of protecting public health or safety if qualified representatives of such agency or instrumentality has made a written request that such information be provided in order to meet a statutory reporting requirement.

15. Identifying information from this system, including name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/re-privileging of health care practitioners, and other times as deemed necessary by VA in order for VA to obtain information to make a decision concerning the hiring, privileging/re-privileging, retention or termination of the applicant or employee.

16. Relevant information from this system may be disclosed to the National Practitioner Data Bank and/or State Licensing Board in the State(s) in which a practitioner is licensed, in which the VA facility is located, and/or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (1) Any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice if an appropriate determination is made in accordance with agency policy that payment was related to substandard care, professional incompetence or professional misconduct on the part of the individual; (2) a final decision which relates to possible incompetence or improper professional conduct that adversely effects the clinical privileges of a physician or other licensed health care practitioner for a period longer than 30 days; or (3) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or other licensed health care practitioners either while under investigation by the health care entity relating to possible incompetence or improper professional misconduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

17. Relevant information from this system concerning residents and interns employed at the VA Medical Centers, including names, social security numbers, occupational titles, and dates of service, may be disclosed to the Health Care Financing Administration as part of an ongoing computer matching program. The purpose of this computer matching program is to help assure that no intern or resident is counted as more than a full-time equivalent in accordance with program regulations governing Medicare education costs.

18. Relevant information from this system may be disclosed to individuals, organizations, private or public agencies or other agencies with whom VA has a contract or agreement or where there is a subcontract to perform services as VA may deem practicable for the purpose of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. In accordance with the provisions of the contract or agreement, the contractor may disclose relevant information from this system of records to a third party. This includes the situation where relevant information may be disclosed to a third party upon the presentation or submission to the contractor by that third party of specific authorization or access data (e.g., an authorization code or number), which is obtained from VA or the VA contractor only by the individual employee to whom the information pertains. The employee's release of the specific authorization or access data to a third party indicates the employee's authorization for the disclosure of such information to that third party.

19. Identifying information from this system, including names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

20. Information from this system may be released to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

21. Information from this system may disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

22. Information from this system may be released to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program

(Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

23. Information from this system may be disclosed to the Department of Treasury, Internal Revenue Service (IRS), where required by law or regulation to report withholding information and to effect payment of taxes withheld to IRS and to create W–2's.

24. VA may disclose information from this system to a court administrative entity or custodial parent of a child in order to provide documentation for child health care insurance coverage in accordance with a court or administrative order as required by 5 U.S.C. 8905(h), as enacted by Public Law 106–394 and in accordance with the procedures stated in the applicable OPM Benefits Administration and Payroll Office Letters. VA may also disclose information from this system of records to health care insurance carriers in order to enroll employees and their children in health care insurance plans in accordance with Public Law 106–394.

25. Relevant information from this system, including social security number, date of birth, home address, and the amount of contributions, interfund transfers, or other financial information may be disclosed to the Federal Retirement Thrift Investment Board in order to effect employee participation in the Thrift Savings Plan.

26. Information from this system may be disclosed in response to legal processes, including interrogatories, served on the agency in connection with garnishment proceedings against current or former VA employees under 5 U.S.C. 5520a.

27. Information from this system may be disclosed to transfer withholding tax information to State and/or city governments to effect payment of taxes to State and/or city governments and to create W–2's.

28. Information from this system may be disclosed to transfer retirement record information to OPM in order to provide a history of service and retirement deductions.

29. Information and records in this system may be transferred to NARA to provide a history of all salaries, deductions, time and leave.

30. Information from this system may be disclosed to transfer unemployment compensation information to State agencies that compile unemployment compensation data.

31. The name and general geographic location where an employee resides (not specific home addresses) may be disclosed by the facility Employee Transportation Coordinator to other employees in order to promote the car/vanpooling and ridesharing program established in accordance with Executive Order 12191 and to enable VA to verify membership in car and vanpools.

32. The name of the employee, social security number, beginning and ending pay period dates, the number of hours worked during a given pay period, the gross salary and duty station may be disclosed to the Department of Labor's (DOL) Office of Inspector General (OIG) in order for DOL's OIG to conduct a computer match of these records with various State unemployment benefit files. The purpose of this computer-matching program will be to determine if Federal employees have been improperly drawing State unemployment benefit payments. These payments are ultimately reimbursed to the State by the Federal Government.

33. VA may disclose from this system to the Department of Justice (DOJ), either on VA's initiative or in response to DOJ's request for information, after either VA or DOJ determines that such information is relevant to DOJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

34. Relevant information from this system, including available identifying data regarding the debtor, such as name of debtor, last known address of debtor, social security number of debtor, place and date of birth of the debtor, name and address of debtor's employer or firm, and dates of employment, may be disclosed to other Federal agencies. State probate courts, State driver's license bureaus, and State automobile title and license bureaus as a routine use in order to obtain current address, locator and credit report assistance in the collection of unpaid financial obligations owed to the United States. This purpose is consistent with the Governmentwide debt collection standards set forth at 38 U.S.C. Chapter 37, Subchapters I and II; 31 CFR parts 900–904; and VA regulations 38 CFR 1.900–1.954.

35. Any information in this system may be disclosed to a third party purchaser of delinquent debt sold pursuant to the provisions of 31 U.S.C. 3711(i).

36. Information from this system may be disclosed to the Office of Federal Employees' Group Life Insurance Information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

37. Information from this system may be disclosed to health carriers contracting with OPM under the Federal Health Benefits Program that is necessary to identify eligibility for payments of a claim for health benefits, or to carry out the coordination or audit of benefits provisions of such contracts.

38. Any information from this system, including social security numbers and home addresses, may be disclosed to DFAS so that DFAS may process the payment of pay and allowances for VA employees.

39. Any information in this system including social security numbers may be disclosed to another Federal agency when that agency has been requested to conduct a Federal salary offset hearing under 5 U.S.C. 5514(a)(2)(D) for VA employees.

40. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud, waste, overpayment, or abuse by individuals in their operations and programs as well as identifying areas where legislative and regulatory amendments directed toward preventing overpayments. These records may also be disclosed as part of an ongoing computer-matching program to accomplish this purpose.

41. VA may on its own initiative disclose any information or records to the appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) VA has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by VA or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities or persons whom VA

determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms as defined in 38 U.S.C. 5727.

42. VA may disclose information from this system to the Merit Systems Protection Board or the Office of Special Counsel when requested in connection to appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

43. VA may disclose information from this system to the Federal Labor Relations Authority, including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representative elections.

44. VA may disclose information from this system to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

45. VA may disclose information or records from this system to appropriate Federal Government agencies, upon request, for employee accountability purposes, during the time of a declared national, State or local emergency.

46. Information in this system may be disclosed to the Secretary of the Treasury, or to any designated Government disbursing official, for the purpose of conducting administrative offset of any eligible Federal payments in order to collect debts owed to the United States under the authority set forth in 31 U.S.C. 3716. Tax refund and Federal salary payments may be included in those Federal payments eligible for administrative offset.

47. Information in this system of records concerning a delinquent debt may be disclosed to the Secretary of the Treasury for appropriate collection or termination action, including the transfer of the indebtedness for collection or termination, in accordance with 31 U.S.C. 3711(g)(4), to DFAS, to a debt collection center designated by the Secretary of the Treasury, to a private collection agency, or to DOJ. The Secretary of the Treasury, a designated debt collection center, a private collection agency or DOJ, may take appropriate action on a debt in accordance with the existing laws under which the debt arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in electronic storage media located within the primary Data Center and backup site. Portable media and hardcopy documents will be stored in a GSA-approved combination safe. On-Boarding System—Computer storage media.

RETRIEVABILITY:

Electronic records are indexed by Employee Identification Number and social security number. Information can be retrieved by any data field within the system.

SAFEGUARDS:

VA employees will have access to their own individual online records using a username and password credentials, or by using Personal Identity Verification (PIV). Privileged users such as Human Resources Administrators and report generators will access online records other than their own, consistent with their authority and organizational affiliations using a username and password credentials. Contractors fulfilling system administrator roles will access the VA HRIS SSC system using two-factor authentication.

Physical Security—Physical security to the records will be maintained by a physical barrier and guarded by security guards at all times. Physical controls include: (1) GSA-approved combination safes; (2) Locked rooms/areas with controlled access; (3) roving guards; and (4) Two-Person Integrity (e.g., one person has keyed access to the room where the safe is kept, while a different person has the combination to the safe).

On-Boarding System—Access to these records is restricted to authorized VA employees, contractors, or subcontractors on a ''need to know'' basis by means of unique user identification and passwords. Offices where these records are maintained are locked after working hours and are protected from access by the Federal Protective Service, other security officers and alarm systems.

RETENTION AND DISPOSAL:

The Shared Service Center provider will comply with all VA retention and disposal procedures specified in VA Handbook 6300 and VA Directive 6300. Records contained in the VA HRIS SSC will be retained as long as the information is needed in accordance with a NARA-approved retention period.

All electronic storage media used to store, process, or access VA HRIS SSC records will be disposed of in adherence with the latest version of VA Handbook 6500.1, Electronic Media Sanitization.

Retention (of Records)—Records contained in the VA On-Boarding System will be retained as long as the information is needed in accordance with a NARA-approved retention period.

All electronic storage media used to store, process, or access VA On-Boarding System records will be disposed of in adherence with the latest version of VA Handbook 6500.1, Electronic Media Sanitization.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Human Resources Management, Department of Veterans Affairs, VA Central Office, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Any individual seeking information concerning the existence of a personnel record pertaining to them must submit a written request to the VA station of employment. Inquiries should include the employee's full name, social security number, date of birth, office and return address.

RECORDS ACCESS PROCEDURE:

Employees or representatives designated in writing seeking information regarding access to VA records may write, email or call the VA office of employment.

CONTESTING RECORD PROCEDURES:

Employees or representatives designated in writing seeking information regarding contesting VA records may write, email or call the VA office of employment.

RECORD SOURCE CATEGORIES:

Personnel records, information received from employees, VA officials, other Government and State agencies.

[FR Doc. 2013–24830 Filed 10–22–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Wednesday,
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Part II

Federal Deposit Insurance Corporation

Privacy Act of 1974, as Amended; System of Records; Notice

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974, as Amended; System of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Altered Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and OMB Circular A–130, the Federal Deposit Insurance Corporation (''FDIC'') has conducted required reviews of its systems of records and is publishing this notice regarding its proposal to alter ten existing systems of records and to incorporate minor editorial and administrative changes in other existing systems of records. We hereby publish this notice for comment on the proposed actions.

DATES: Comments on the proposed systems of records must be received on or before *November 22, 2013.* The proposed systems of records will become effective 45 days following publication in the **Federal Register**, unless a superseding notice to the contrary is published before that date.

ADDRESSES: You may submit written comments by any of the following methods:

- *Agency Web site:* Located at *www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on this Web site.
- *Email:* Send to *comments@fdic.gov*. Include ''Notice of Altered FDIC Systems of Records'' in the subject line.
- *Mail:* Send to Gary Jackson, Counsel, Attention: Comments, FDIC Systems of Records, 550 17th Street NW., Washington, DC 20429.

All submissions should refer to ''Notice of Altered FDIC Systems of Records.'' By prior appointment, comments may also be inspected and photocopied in the FDIC Public Information Center, 3501 Fairfax Drive, Room E–1005, Arlington, Virginia 22226, between 9:00 a.m. and 4:00 p.m. (EST), Monday to Friday.

FOR FURTHER INFORMATION CONTACT: Gary Jackson, Counsel, FDIC, 550 17th Street NW., Washington, DC 20429, (703) 562–2677.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, the FDIC has conducted a review of its Privacy Act systems of records and has determined that it needs to alter ten existing systems of records. FDIC last published a complete list of its system notices in the **Federal Register** on December 13, 2011, Volume 76, Number 239 (76 FR 77626). This publication will incorporate into the full text of the systems, all changes that have been published since the 2011 publication. These include the July 23, 2012 deletion of the system of records designated FDIC 30–64–0032, Nationwide Mortgage Licensing System and Registry, Volume 77, Number 243 (76 FR 77626), and the January 22, 2013 addition of a new system of records designated FDIC 30–64–0035, Identity, Credential and Access Management Records, Volume 78, Number 14 (78 FR 4408). These publications may be viewed at *http://www.fdic.gov/about/privacy/* on the FDIC's Privacy Web page. With the present notice, the FDIC is also publishing the complete text of all of its system notices to incorporate other minor editorial and administrative changes and to provide a current, easily accessible compilation. Information about the reasons for these proposed changes is noted below.

As described in the last published notice, the Attorney and Legal Intern Applicant Records (FDIC 30–64–0001) system is used to manage applications for the position of honors attorney or legal intern with the Legal Division of the FDIC. Substantive changes to the system notice have been made to the following sections: (1) The System Name reflects the new title: Honors Attorney and Legal Intern Applicant Records; and (2) The System Manager has been updated to add the Open Bank Regional Affairs Section of the Legal Division to provide more accurate contact information.

As described in the last published notice, the Employee Training Information Records (FDIC 30–64–0007) system is used to manage FDIC training programs. Substantive changes to the system notice have been made to the following sections: (1) The System Name reflects the new title: FDIC Learning and Development Records; (2) The Categories of Records have been updated to include special career commissions as a new record type; and (3) The Purpose has been updated to include tracking special career commissions.

As described in the last published notice, the Corporate Applicant Recruiting, Evaluating and Electronic Referral Records (FDIC 30–64–0011) system is used to manage employment applications filed with the FDIC. Substantive changes to the system notice have been made to the following sections: (1) The System Location and System Manager have been updated to include FDIC Office of Inspector General for OIG applications; and (2) The Categories of Individuals has been updated to include applicants for employment by OIG.

As described in the last published notice, the Financial Information Management Records (FDIC 30–64–0012) system is used to manage and account for financial transactions of the FDIC. Substantive changes to the system notice have been made to update the Categories of Records to include dependents' names and dates of birth associated with claims for reimbursement of relocation expenses, and certification of medical or physical conditions associated with certain travel authorizations.

As described in the last published notice, the Insured Financial Institution Liquidation Records (FDIC 30–64–0013) system is used to maintain information required to manage the receivership and conservatorship functions of the FDIC. Substantive changes to the system notice have been made to update the Policies and Practices for Retrieving Records by adding social security and loan numbers as methods for record retrieval.

As described in the last published notice, the Personnel Records (FDIC 30–64–0015) system is used to manage FDIC personnel and benefits programs. Substantive changes to the system notice have been made to the following sections: (1) The System Location and System Manager have been updated to include FDIC Office of Inspector General for OIG personnel; and (2) The Categories of Records have been updated to add Equal Employment Opportunity (EEO) group information about FDIC personnel.

As described in the last published notice, the Employee Medical and Health Assessment Records (FDIC 30–64–0017) system is used to maintain medical evaluation, treatment, and claims information for FDIC personnel. Substantive changes to the system notice have been made to the following sections: (1) The System Location and System Manager have been updated to include FDIC Office of Inspector General for OIG personnel; (2) The Categories of Records have been updated to include the results of physical and other medical examinations of OIG personnel; and (3) The Purpose has been updated to include determining compliance with OIG policies.

As described in the last published notice, the Grievance Records (FDIC 30–64–0018) system is used to manage the administrative grievance process for FDIC personnel. Substantive changes to the system notice have been made to the following sections: (1) The System

Location and System Manager have been updated to include FDIC Office of Inspector General for OIG personnel; and (2) The Categories of Records have been updated to include grievances filed by OIG personnel.

As described in the last published notice, the Office of Inspector General Inquiry Records (FDIC 30–64–0034) system is used to manage correspondence and other communications addressed or directed to the FDIC Office of Inspector General. A substantive change to the system notice has been made to update the Routine Uses by adding a routine use (15) for sharing records with a Federal agency responsible for considering a suspension or debarment action.

As described in the last published notice, the Identity, Credential and Access Management Records (FDIC 30–64–0035) system is used to issue Personal Identity Verification cards and manage access to FDIC facilities. Substantive changes to the system notice have been made to update the Categories of Records to include passport and user access information.

A Report of Altered Systems of Records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

More detailed information on the proposed altered systems of records may be viewed in the complete text below.

INDEX OF FDIC PRIVACY ACT SYSTEMS OF RECORDS IN THIS PUBLICATION

FDIC–30–64–0001

SYSTEM NAME:

Honors Attorney and Legal Intern Applicant Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429; and Atlanta Regional Office, FDIC, 10 Tenth Street, Suite 800, Atlanta, Georgia 30309.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of honors attorney or legal intern with the Legal Division of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references; applicants' resumes; application forms; and in some instances, comments of individuals who interviewed applicants; documents relating to an applicant's suitability or eligibility; writing samples; and copies of academic transcripts and class ranking.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The information in this system is used to evaluate the qualifications of individuals who apply for honors attorney or legal intern positions in the Legal Division.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To individuals or concerns whose names were supplied by the applicant as references and/or past or present employers in requesting information about the applicant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are retrieved by name. Records of unsuccessful applicants are indexed first by job position category and year and then by name.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel. Some paper records may be maintained in a locked room accessible only to authorized personnel during a finite initial review period.

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants become a part of the Personnel Records system of records (FDIC 30–64–0015) and are retained two years after the applicant leaves the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Open Bank Regional Affairs Section, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants; references supplied by the applicants; current and/or former employers of the applicants; and FDIC employees who interviewed the applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 12 CFR part 310.13(b), investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the FDIC under an express promise of confidentiality.

FDIC–30–64–0002

SYSTEM NAME:

Financial Institution Investigative and Enforcement Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who participate or have participated in the conduct of or who are or were connected with financial institutions, such as directors, officers, employees, and customers, and who have been named in suspicious activity reports or administrative enforcement orders or agreements. Financial institutions include banks, savings and loan associations, credit

unions, other similar institutions, and their affiliates whether or not federally insured and whether or not established or proposed.

(2) Individuals, such as directors, officers, employees, controlling shareholders, or persons who are the subject of background checks designed to uncover criminal activities bearing on the individual's fitness to be a director, officer, employee, or controlling shareholder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency or intra-agency correspondence or memoranda; criminal referral reports; suspicious activity reports; newspaper clippings; Federal, State, or local criminal law enforcement agency investigatory reports, indictments and/or arrest and conviction information; and administrative enforcement orders or agreements. Note: Certain records contained in this system (principally criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other federal law enforcement agencies) are the property of federal law enforcement agencies. Upon receipt of a request for such records, the FDIC will notify the proprietary agency of the request and seek guidance with respect to disposition. The FDIC may forward the request to that agency for processing in accordance with that agency's regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5, 6, 7, 8, 9, 18, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1818, 1819, 1828, 1829).

PURPOSE:

The information is maintained to support the FDIC's regulatory and supervisory functions by providing a centralized system of information (1) for conducting and documenting investigations by the FDIC or other financial supervisory or law enforcement agencies regarding conduct within financial institutions by directors, officers, employees, and customers, which may result in the filing of suspicious activity reports or criminal referrals, referrals to the FDIC Office of the Inspector General, or the initiation of administrative enforcement actions; and (2) to identify whether an individual is fit to serve as a financial institution director, officer, employee or controlling shareholder.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To a financial institution affected by enforcement activities or reported criminal activities;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To other Federal, State or foreign financial institutions supervisory or regulatory authorities; and

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third Parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by

authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Financial institutions; financial institution supervisory or regulatory authorities; newspapers or other public records; witnesses; current or former FDIC employees; criminal law enforcement and prosecuting authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of the records in this system of records were compiled for law enforcement purposes and are exempt from disclosure under 12 CFR part 310.13 and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

FDIC–30–64–0003

SYSTEM NAME:

Administrative and Personnel Action Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Legal Division, Executive Secretary Section, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of administrative actions or personnel actions by the FDIC Board of Directors or by standing committees of the FDIC and individuals who have been the subject of administrative actions by FDIC officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Minutes of the meetings of the FDIC Board of Directors or standing committees and orders of the Board of Directors, standing committees, or other officials as well as annotations of entries into the minutes and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 8, 9, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829).

PURPOSE:

The system is maintained to record the administrative and personnel actions taken by the FDIC Board of Directors, standing committees, or other officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To the U.S. Office of Personnel Management, General Accounting Office, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission,

or the Federal Labor Relations Authority or its General Counsel of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media, microfilm, and paper format within individual file folders, minute book ledgers and index cards.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format, index cards, and minute book ledgers are stored in lockable metal file cabinets or vault accessible only by authorized personnel. A security copy of certain microfilmed portions of the records is retained at another location.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Legal Division, Executive Secretary Section, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Intra-agency records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0004

SYSTEM NAME:

Changes in Financial Institution Control Ownership Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who acquired or disposed of voting stock in an FDIC-insured financial institution resulting in a change of financial institution control or ownership; and

(2) Individuals who filed or are included as a member of a group listed in a ''Notice of Acquisition of Control'' of an FDIC-insured financial institution. Note: The information is maintained only for the period 1989 to 1995. Commencing in 1996 the records were no longer collected nor maintained on an individual name or personal identifier basis and are not retrievable by individual name or personal identifier. Beginning in 1996, information concerning changes in financial institution control is collected and maintained based upon the name of the FDIC-insured financial institution or specialized number assigned to the FDIC-insured financial institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of proposed acquirer; statement of assets and liabilities of acquirer; statement of income and sources of income for each acquirer; statement of liabilities for each acquirer; name and location of the financial institution; number of shares to be acquired and outstanding; date ''Change in Control Notice'' or ''Notice of Acquisition of Control'' was filed; name and location of the newspaper in which the notice was published and date of publication. For consummated transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on institution's books, number of shares acquired and outstanding. If stock of a holding company is involved, the name and location of the holding company and the institution(s) it controls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

PURPOSE:

The system maintains information on individuals involved in changes of control of FDIC-insured financial institutions for the period 1989 to 1995 and is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such

agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To other Federal or State financial institution supervisory authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records for the period 1989 to 1995 are indexed and retrieved by name of the individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized persons. File folders are maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Persons who acquired control of an FDIC-insured financial institution; the insured financial institution or holding company in which control changed; filed ''Change in Control Notice'' form and ''Notice of Acquisition of Control'' form during the period 1989 to 1995; federal and state financial institution supervisory authorities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Depositor and Consumer Protection, FDIC, 550 17th Street NW., Washington, DC 20429, and FDIC regional offices for complaints or inquiries originating within or involving an FDIC-insured depository institution located in an FDIC region. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted complaints or inquiries concerning activities or practices of FDIC-insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records of other communications between the FDIC and the individual submitting a complaint or making an inquiry, including copies of supporting documents and contact information supplied by the individual. This system may also contain correspondence between the FDIC and the FDIC-insured depository institution in question and/or intra-agency or inter-agency memoranda or correspondence concerning the complaint or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Section 202(f) of Title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)).

PURPOSE:

The system maintains correspondence from individuals regarding complaints or inquiries concerning activities or practices of FDIC-insured depository institutions. The information is used to identify concerns of individuals, to manage correspondence received from individuals and to accurately respond to complaints, inquiries, and concerns expressed by individuals. The information in this system supports the FDIC regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in

the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the insured depository institution which is the subject of the complaint or inquiry when necessary to investigate or resolve the complaint or inquiry;

(11) To authorized third-party sources during the course of the investigation in order to resolve the complaint or inquiry. Information that may be disclosed under this routine use is limited to the name of the complainant or inquirer and the nature of the complaint or inquiry and such additional information necessary to investigate the complaint or inquiry; and

(12) To the Federal or State supervisory/regulatory authority that has direct supervision over the insured depository institution that is the subject of the complaint or inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Electronic media is indexed and retrieved by unique identification number which may be cross referenced to the name of complainant or inquirer.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Depositor and Consumer Protection, FDIC, 550 17th Street NW., Washington, DC 20429, or the Regional Director, Division of Supervision and Consumer Protection for records maintained in FDIC regional offices (See *Appendix A* for the location of FDIC Regional Offices).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; FDIC-insured depository institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other parties providing information to the FDIC in an attempt to resolve the complaint or inquiry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0006

SYSTEM NAME:

Employee Confidential Financial Disclosure Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Records are located in component divisions, offices and regional offices to which individuals covered by the system are assigned. Duplicate copies of the records are located in the Legal Division, Executive Secretary Section, Ethics Unit, FDIC, 550 17th Street NW., Washington, DC 20429. (See *Appendix A* for a list of the FDIC regional offices and their addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, and special government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains statements of personal and family financial holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions and determinations of ethics counselors; information related to conflict of interest determinations; relevant personnel information and ethics training records; and information contained on the following forms:

(1) Confidential Financial Disclosure Report—contains listing of personal and

family investment holdings, interests in business enterprises and real property, creditors, and outside employment for covered employees.

(2) Confidential Report of Indebtedness—contains information on extensions of credit to employees, including loans and credit cards, by FDIC-insured depository institutions or their subsidiaries; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured financial institutions or subsidiaries thereof.

(3) Confidential Report of Interest in FDIC-Insured Depository Institution Securities—contains a brief description of an employee's direct or indirect interest in the securities of an FDIC-insured depository institution or affiliate, including a depository institution holding company, and the date and manner of acquisition or divestiture; a brief description of an employee's direct or indirect continuing financial interest through a pension or retirement plan, trust or other arrangement, including arrangements resulting from any current or prior employment or business association, with any FDIC-insured depository institution, affiliate, or depository institution holding company; and a certification acknowledging that the employee has read and understands the rules governing the ownership of securities in FDIC-insured depository institutions.

(4) Employee Certification and Acknowledgment of Standards of Conduct Regulation—contains employee's certification and acknowledgment that he or she has received a copy of the Standards of Ethical Conduct for Employees of the FDIC.

(5) Public Financial Disclosure Form—contains a description of an employee's personal and family investment holdings, including interests in business enterprises or real property, non-investment income, creditors, former or future employer information, outside positions, and other affiliations for political appointees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Ethics in Government Act of 1978 (5 U.S.C. 7301 and App.); Section 9 and 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a), 1822(f)); 26 U.S.C. 1043; Executive Order Nos. 12674 (as modified by 12731), 12565, and 11222; 5 CFR parts 2634, 2635, and 3201.

PURPOSE:

The records are maintained to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, Federal Statutes and FDIC regulations and to determine if a conflict of interest exists between employment of individuals by the FDIC and their personal employment and financial interests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections; and

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual. Electronic media and paper format do not index the names of prospective employees who are not selected for employment.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format copies are maintained in lockable file cabinets.

RETENTION AND DISPOSAL:

Records concerning prospective employees who are not selected for employment are retained for one year and then destroyed, except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. All other records are retained for six years and then destroyed. Entries maintained in electronic media are deleted, except that paper format documents and electronic media entries needed in an ongoing investigation will be retained until no longer needed for the investigation. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Program Manager, Executive Secretary Section, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual or a person or entity designated by the individual; FDIC employees designated as Ethics Counselors or Deputy Ethics Counselors; FDIC automated personnel records system; and other employees or individuals to whom the FDIC has provided information in connection with evaluating the records maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0007

SYSTEM NAME:

FDIC Learning and Development Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC Corporate University, 3501 Fairfax Drive, Arlington, VA 22226, and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees and other individuals that have attended training conducted or sponsored by the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the schedule of the individual's training classes and other educational programs attended, dates of attendance, continuing education credits earned, tuition fees and expenses, and related information. Also contains information on career development, certifications, commissions, and learner skills and competencies. The system used by the Office of Inspector General may also contain information on educational degrees or professional memberships and other similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sections 4(b) and 6(e) of the Inspector General Act of 1978, as amended (5 U.S.C. app).

PURPOSE:

The system is used to record and manage comprehensive learning and development information that is available to learners, training administrators, and management. The system is also used to schedule training events, enroll students, launch online training, and run reports. The system is used to track training, career development, certifications, commissions, continuing education and learner skills and competencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To educational institutions for purposes of enrollment and verification of employee attendance and performance;

(11) To vendors, professional licensing boards or other appropriate third parties, for the purpose of verification, confirmation, and substantiation of training or licensing requirements;

(12) To the U.S. Office of Personnel Management for purposes of tracking and analyzing training and related information of FDIC employees; and

(13) To other Federal Offices of Inspector General or other entities for purposes of conducting quality assessments or peer reviews of the OIG or any of its components.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper records within individual file folders are maintained in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESSES:

Associate Chief Learning Officer, Corporate University, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee about whom the record is maintained, employee supervisors, training administrators, and the training facility or institution attended.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0008

SYSTEM NAME:

Chain Banking Organizations Identification Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429, and FDIC regional offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control two or more insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the names of and contact information for individuals who, either alone or in concert with others, own or control two or more insured depository institutions as well as the insured depository institutions names, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate holding entity and percentage of holding company held by controlling individual or group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j), 1819).

PURPOSE:

This system identifies and maintains information of possible linked FDIC-insured depository institutions or holding companies which, due to their common ownership, present a concentration of resources that could be susceptible to common risks. The information in this system is used to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To other Federal or State financial institution supervisory authorities for: (a) coordination of examining resources when the chain banking organization is composed of insured depository institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Indexed and retrieved by name of controlling individual(s) or assigned identification number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Certain records are archived in off-line storage and all records are periodically updated to reflect changes. These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Financial Institution Control Notices filed pursuant to 12 U.S.C. 1817(j).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0009

SYSTEM NAME:

Safety and Security Incident Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Division of Administration, 550 17th Street NW., Washington, DC 20429, and the FDIC regional or area offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and past FDIC employees, contractors, volunteers, visitors, and others involved in the investigation of accidents, injuries, criminal conduct, and related civil matters involving the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains investigative reports, correspondence and other communications that may include, without limitation, name, home and office address and phone numbers, physical characteristics, vehicle information, and associated information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to support the administration and maintenance of a safety and security incident investigation, tracking and reporting system involving FDIC facilities, property, personnel, contractors, volunteers, or visitors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, or case number.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Paper records and electronic media are retained for five years after their creation in accordance with FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include current FDIC employees, contractors, members of the public, witnesses, law enforcement officials, medical providers, and other parties providing information to the FDIC to facilitate an inquiry or resolve the complaint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(c)(3), (d)(5), (e)(1), (e)(4)(G), (H), and (I), (f) and (k).

FDIC–30–64–0010

SYSTEM NAME:

Investigative Files of the Office of Inspector General.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226. In addition, records are maintained in OIG field offices. OIG field office locations can be obtained by contacting the Assistant Inspector General for Investigations at said address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FDIC employees and individuals involved in or associated with FDIC programs and operations including contractors, subcontractors, vendors and other individuals associated with investigative inquiries and investigative cases, including, but not limited to, witnesses, complainants, suspects and those contacting the OIG Hotline.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files, including memoranda, computer-generated background information, correspondence, electronic case management and tracking files, reports of investigations with related exhibits, statements, affidavits, records or other pertinent documents, reports from or to other law enforcement bodies, pertaining to violations or potential violations of criminal laws, fraud, waste, and abuse with respect to administration of FDIC programs and operations, and violations of employee and contractor Standards of Conduct as set forth in section 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)), 12 CFR parts 336, 366, and 5 CFR parts 2634, 2635, and 3201. Records in this system may contain personally identifiable information such as names, social security numbers, dates of birth and addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended (5 U.S.C. app.).

PURPOSE:

Pursuant to the Inspector General Act, the system is maintained for the purposes of (1) conducting and documenting investigations by the OIG or other investigative agencies regarding FDIC programs and operations in order to determine whether employees or other individuals have been or are engaging in waste, fraud and abuse with respect to the FDIC's programs or operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other FDIC components or divisions for their use in operating and evaluating their programs

or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act or those of other federal instrumentalities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To the appropriate Federal, State, local, foreign or international agency or authority which has responsibility for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order to assist such agency or authority in fulfilling these responsibilities when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal (collectively referred to as the adjudicative bodies) in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings (collectively, the litigative proceedings)when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary in order for the adjudicatory bodies, or any of them, to perform their official functions in connection with the presentation of evidence relative to the litigative proceedings;

(3) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding to assist those representatives by providing them with information or evidence for use in connection with such litigation or proceedings;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury;

(6) To the subjects of an investigation and their representatives during the course of an investigation and to any other person or entity that has or may have information relevant or pertinent to the investigation to the extent necessary to assist in the conduct of the investigation;

(7) To third-party sources during the course of an investigation only such information as determined to be necessary and pertinent to the investigation in order to obtain information or assistance relating to an audit, trial, hearing, or any other authorized activity of the OIG;

(8) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(9) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for the FDIC to obtain information concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit;

(10) To a Federal agency responsible for considering suspension or debarment action where such record is determined to be necessary and relevant to that agency's consideration of such action;

(11) To a consultant, person or entity who contracts or subcontracts with the FDIC or OIG, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(12) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for OIG, FDIC or the Federal Government in order to assist those entities or individuals in carrying out their obligation under the related contract, grant, agreement or project;

(13) To the U.S. Office of Personnel Management, Government Accountability Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with hiring or retaining an employee, rendering advice requested by OIG, issuing a security clearance, reporting an investigation of an employee, reporting an investigation of prohibited personnel practices, letting a contract or issuing a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter;

(14) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(15) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(16) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(17) To a financial institution affected by enforcement activities or reported criminal activities authorities to ascertain the knowledge of or involvement in matters that have been developed during the course of the investigation;

(18) To the Internal Revenue Service and appropriate State and local taxing authorities for their use in enforcing the relevant revenue and taxation law and related official duties;

(19) To other Federal, State or foreign financial institutions supervisory or regulatory authorities for their use in administering their official functions, to include examination, supervision, litigation, and resolution authorities

with respect to financial institution, receiverships, liquidation, conservatorships, and similar functions;

(20) To appropriate Federal agencies and other public authorities for use in records management inspections;

(21) To a governmental, public or professional or self-regulatory licensing organization for use in licensing or related determinations when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(22) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC or to obtain information in the course of an investigation (to the extent permitted by law). Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt; and

(23) To other Federal Offices of Inspector General or other entities for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components, or for statistical purposes.

Note: In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of individual, unique investigation number assigned, referral number, social security number, or investigative subject matter.

SAFEGUARDS:

The electronic system files are accessible only by authorized personnel and are safeguarded with user passwords and authentication, network/database permission, and software controls. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity. Note: This system contains records that are exempt under 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). See ''Exemptions Claimed for the System'' below.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310. **Note:** This system contains records that are exempt under 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). See ''Exemptions Claimed for the System'' below.

RECORD SOURCE CATEGORIES:

Official records of the FDIC; current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants. Records in this system may have originated in other FDIC systems of records and subsequently transferred to this system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records, to the extent that it consists of information compiled for the purpose of criminal investigations, has been exempted from the requirements of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(G) and (H); (e)(5); (e)(8); (e)(12); (f); (g); and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, this system of records, to the extent that it consists of investigatory material compiled: (A) For other law enforcement purposes (except where an individual has been denied any right, privilege, or benefit for which he or she would otherwise be entitled to or eligible for under Federal law, so long as the disclosure of such information would not reveal the identity of a source who furnished information to the FDIC under an express promise that his or her identity would be kept confidential); or (B) solely for purposes of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the FDIC on a confidential basis, has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G) and (H); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), respectively.

FDIC–30–64–0011

SYSTEM NAME:

Corporate Applicant Recruiting, Evaluating and Electronic Referral Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226, and FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the FDIC or OIG in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series

and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, other contact information, social security number, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); 5 U.S.C. 1104; and Section 8C(b) of the Inspector General Act, as amended (5 U.S.C. app.).

PURPOSE:

The records are collected and maintained to monitor and track individuals filing employment applications with the FDIC or OIG and to assess recruiting goals and objectives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format.

RETRIEVABILITY:

Indexed and retrieved by name and truncated social security number of individual applicant.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Network servers are located in a locked room with physical access limited to authorized personnel. Paper files are stored in lockable offices.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Information Systems and Services Section, Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information originates from position vacancy announcements, applications for employment submitted by individuals, and the applicant qualification and processing system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0012

SYSTEM NAME:

Financial Information Management Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Finance, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

Records concerning garnishments, attachments, wage assignments and related records concerning FDIC employees are located with the General Counsel, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees, current and former vendors and contractors providing goods and/or services to the FDIC, current and former advisory committee members and others who travel or perform services for the FDIC, current and former FDIC customers, and individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver. **Note:** Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains (1) employee payroll, benefit, and disbursement-related records; (2) contractor and vendor invoices and other accounts payable records; (3) customer records related to accounts receivables; (4) payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver; and (5) accounting and financial management records. The payroll and/or disbursement records include, without limitation, employees' mailing addresses and home addresses; dependents' names and dates of birth; financial institution account information; social security number and unique employee identification number; rate and amount of pay; tax exemptions; tax deductions for employee payments; and corporate payments information for tax reporting. Records relating to employee, advisory committee and other claims for reimbursement of official travel expenses include, without limitation, travel authorizations, vouchers showing amounts claimed, medical certification and narratives with information about the traveler's medical or physical conditions, exceptions taken as a result of audit, and amounts paid. Other records maintained on employees include reimbursement claims for relocation expenses consisting of authorizations, advances, vouchers of amounts claimed and amounts paid; reimbursement for educational expenses or professional membership dues and licensing fees and similar reimbursements; awards, bonuses, and buyout payments; advances or other funds owed to the FDIC; and garnishments, attachments, wage assignments or related records. Copies of receipts/invoices provided to the FDIC for reimbursement may contain credit card or other identifying account information. Contractor, vendor, and other accounts payable records consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents, vendor addresses and financial institution account information, vendor invoice statements; amounts paid, and vendor tax identification number. Copies of documentation supporting vendor invoice statements may contain identifying data, such as account number. Customer information is also captured as necessary for the collection of accounts receivable. Payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver include name, address, and payment amount; tax id numbers or social security numbers are also included for depositors or claimants when an informational tax return must be filed. The records also include general ledger and detailed trial balances and supporting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)).

PURPOSE:

The records are maintained for the FDIC and the failed financial institution receiverships managed by the FDIC. The records are used to manage and account for financial transactions and financial activities of the FDIC. The records and associated databases and subsystems provide a data source for the production of reports and documentation for internal and external management reporting associated with the financial operations of the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under

such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To auditors employed by the U.S. Government Accountability Office;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To vendors, carriers, or other appropriate third parties by the FDIC Office of Inspector General for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations; and

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media are indexed and retrievable by social security number or specialized identifying number; paper format records are generally indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are maintained in secure areas.

RETENTION AND DISPOSAL:

Financial records are retained by the FDIC for ten years in electronic format and then transferred to the Federal Records Center or destroyed. The retention period for records relating to garnishments, attachments and wage assignments is three years after termination. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Finance, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. For records about FDIC employees concerning garnishments, attachments, wage assignments and related records, the system manager is the General Counsel, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual upon whom the record is maintained; other government agencies; contractors; or from another FDIC office maintaining the records in the performance of their duties. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial authority.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0013

SYSTEM NAME:

Insured Financial Institution Liquidation Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429; Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Dallas, Texas 75201; and at secure sites and on secure servers maintained by third-party service providers for the FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors, obligees, or subject to claims of FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator of FDIC-insured financial institutions that were provided assistance by the FDIC and the FDIC is acting as receiver or conservator of certain of the financial institution's assets. Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the individual's files held by the closed or assisted financial institution, including loan or contractual agreements, related documents, and correspondence. The system also contains FDIC asset files, including judgments obtained, restitution orders, and loan deficiencies arising from the liquidation of the obligor's loan asset(s) and associated collateral, if any; information relating to the obligor's financial condition such as financial statements and income tax returns; asset or collateral verifications or searches; appraisals; and potential sources of repayment. FDIC asset files also include intra- or inter-agency memoranda, as well as notes, correspondence, and other documents relating to the liquidation of the loan obligation or asset. FDIC's receivership claims files may include all information related to claims filed with the receivership estate by a failed financial institution's landlords, creditors, service providers or other obligees or claimants. **Note:** Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable State

laws governing the liquidation of assets and wind-up of the affairs of failed financial institutions.

PURPOSE:

The records are maintained to: (a) Identify and manage loan obligations and assets acquired from failed FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator, or from FDIC-insured financial institutions that were provided assistance by the FDIC; (b) identify, manage and discharge the obligations to creditors, obligees and other claimants of FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator, or of FDIC-insured financial institutions that were provided assistance by the FDIC; and (c) assist with financial and management reporting. The records support the receivership and conservatorship functions of the FDIC required by applicable Federal and State statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors or entities performing services for the FDIC in connection with the liquidation of an individual's obligation(s), including judgments and loan deficiencies or in connection with the fulfillment of a claim filed with the FDIC as receiver or liquidator. Third party contractors include, but are not limited to, asset marketing contractors; loan servicers; appraisers; environmental contractors; attorneys retained by the FDIC; collection agencies; auditing or accounting firms retained to assist in an audit or investigation of FDIC's liquidation activities; grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To prospective purchaser(s) of the individual's obligation(s), including judgments and loan deficiencies, for the purpose of informing the prospective purchaser(s) about the nature and quality of the loan obligation(s) to be purchased;

(11) To Federal or State agencies, such as the Internal Revenue Service or State taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise or write-off of a loan obligation;

(12) To participants in the loan obligation in order to fulfill any contractual or incidental responsibilities in connection with the loan participation agreement;

(13) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

(14) To Federal or State agencies or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement;

(15) To Federal or State examiners for the purposes of examining borrowing relationships in operating financial institutions that may be related to an obligation of an individual covered by this system; and

(16) To the individual, the individual's counsel or other representatives, insurance carrier(s) or underwriters of bankers' blanket bonds or other financial institution bonds for failed or assisted FDIC-insured financial institutions in conjunction with claims made by the FDIC or litigation instituted by the FDIC or others on behalf of the FDIC against former officers, directors, accountants, lawyers, consultants, appraisers, or underwriters of bankers' blanket bonds or other financial institution bonds of a failed or assisted FDIC-insured financial institution.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed by financial institution number, name of failed or assisted insured institution, name of individual, social security number, and loan number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Credit/loan files or files concerning the obligors, obligees, or individuals subject to claims of the failed or assisted financial institution are maintained until the receivership claim, loan obligation, judgment, loan deficiency or other asset or liability is sold or otherwise disposed of, or for the period of time provided under applicable Federal or State laws pursuant to which the FDIC liquidates the assets, discharges the liabilities or processes the claims. FDIC asset files will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429; and Deputy Director, Field Operations Branch, FDIC, 1601 Bryan Street, Dallas, Texas 75201.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating financial institution or the FDIC; investigative and/or research companies; credit bureaus and/or services; loan servicers; court records; references named by the individual; attorneys or accountants retained by the originating financial institution or the FDIC; participants in the obligation(s) of the individual; officers and employees of the failed or assisted financial institution; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in its capacity as liquidator or receiver.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0014

SYSTEM NAME:

Personnel Benefits and Enrollment Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See Appendix A for a list of the FDIC regional offices.) The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees. The FDIC also has agreements with T. Rowe Price, Benefit Allocation Systems, and other benefit plan contractors to provide employee benefits and related administrative services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC employees and their dependents who are enrolled in the FDIC-sponsored Savings Plan, health, life, and other insurance or benefit programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains general personnel and enrollment information for the FDIC-sponsored Savings Plan, flexible spending account (FSA) plans and insurance plans (life, dental, vision, or long-term disability). The FDIC maintains information on earnings, number and name of dependents, gender, birth date, home address, social security number, employee locator information (including email and office addresses), claims for FSA reimbursements, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Executive Order 9397.

PURPOSE(S):

The records are collected, maintained and used to support the administration and management of the FDIC personnel benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests,

identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(13) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(14) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(15) To the Office of Child Support Enforcement for release to the Department of the Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return;

(16) To Benefit Allocation Systems, T. Rowe Price, and other benefit providers, carriers, vendors, contractors, and agents to process claims and provide related administrative services involving FDIC personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name or social security number of the employee.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets in a locked room accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR part 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0015

SYSTEM NAME:

Personnel Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429, and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See Appendix A for a list of the FDIC regional offices.) The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC or OIG employees, contractors, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to personnel actions and determinations made about

individuals while employed or seeking employment. These records may contain information about an individual relating to name, birth date, Social Security Number (SSN), personal telephone numbers and addresses, employment applications, background, identity verification and credentials, duty station telephone numbers and addresses, compensation, performance, separation, Internal Revenue Service (IRS) or court-ordered levies, emergency contacts, and related records and correspondence. These records may also contain Equal Employment Opportunity (EEO) group information about FDIC employees, such as race, national origin, sex and disability information. NOTE: Records maintained by the FDIC in the official personnel file are described in the government-wide Privacy Act System Notice known as OPM/GOVT–1 and other government-wide system notices published by the Office of Personnel Management, and are not included within this system. Also not included in this system are records covered by FDIC–30–64–0009 (Safety and Security Incident Records), FDIC–30–64–0014 (Personnel Benefits and Enrollment Records), FDIC–30–64–0026 (Transit Subsidy Program Records), and FDIC–30–64–0027 (Parking Program Records).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), Executive Order 9397; and Section 8C(b) of the Inspector General Act, as amended (5 U.S.C. app.).

PURPOSE(S):

The records are collected, maintained and used to support the administration and management of the FDIC personnel and benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(13) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(14) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(15) To the Office of Child Support Enforcement for release to the Department of the Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name or social security number of the employee.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets in a locked room accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street NW., Washington, DC 20429; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR part 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0016

SYSTEM NAME:

Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives, and U.S. Government Securities Brokers/Dealers.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Risk Management Supervision, Risk Management Policy and Exam Oversight Branch, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who are or seek to be associated with municipal securities brokers or municipal securities dealers which are FDIC-insured, state-chartered financial institutions (including insured state-licensed branches of foreign financial institutions), not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such financial institutions;

(2) Persons who are or seek to be persons associated with U.S. Government securities dealers or brokers which are FDIC-insured state-chartered financial institutions, other than members of the Federal Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain identifying information, detailed educational and employment histories, examination information, disciplinary information, if any, and information concerning the termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 15B(c), 15C, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4, 78o–5, and 78q and 78w); and Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The records are maintained to comply with the registration requirements of municipal securities dealers, municipal securities representatives, and U.S. Government securities brokers or dealers and associated persons contained in the Securities Exchange Act of 1934 and to support the FDIC's regulatory and supervisory functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation

concerning personnel policies, practices, and matters affecting working conditions;

(10) To the appropriate Federal, State, local, or foreign agency or authority or to the appropriate self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)), to the extent disclosure is determined to be necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or regulation, rule or order issued pursuant thereto;

(11) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in this system, in which the FDIC or one of its past or present employees is a party, to the extent that the information is relevant to the proceeding;

(12) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to an FDIC inquiry concerning a person who is or seeks to be associated with a municipal securities dealer as a municipal securities principal or representative or a U.S. Government securities broker or a U.S. Government securities dealer;

(13) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization in connection with the issuance of a license or other benefit to the extent that the information is relevant and necessary; and

(14) To a registered dealer, registered broker, registered municipal securities dealer, U.S. Government securities dealer, U.S. Government securities broker, or an insured financial institution that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Indexed by name and dealer registration number or FDIC financial institution certificate number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in file folders in lockable metal file cabinets accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Examination Specialist, Risk Management Policy and Exam Oversight Branch, Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, municipal securities dealers and U.S. Government securities dealers and brokers (as such dealers are described in ''Categories of Individuals Covered by the System'' above), and Federal, State, local, and foreign governmental authorities and self-regulatory organizations or agencies which regulate the securities industry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0017

SYSTEM NAME:

Employee Medical and Health Assessment Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Health Unit, Corporate Services Branch, Division of Administration, FDIC, located at the following addresses: 550 17th Street NW., Washington, DC 20429; 3501 Fairfax Drive, Arlington, VA 22226; 1310 Courthouse Road, Arlington VA 22226; and Health Units located in FDIC regional offices; and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC and OIG employees and other individuals who seek information, treatment, medical accommodations, participate in health screening programs administered by the FDIC, or file claims seeking benefits under the Federal Employees' Compensation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of the employee, including name, age, height, weight, history of certain medical conditions, health screening records; dates of visits to the FDIC Health Unit, diagnoses, and treatments administered; ergonomic reviews and assessments; the name and telephone number of the person to contact in the event of a medical emergency involving the employee; and reports of injury or illness while in the performance of duty. The system used by the Office of Inspector General contains the results of physical and other medical examinations of OIG employees. Note: This system includes only records maintained by the FDIC. Associated records, if any, are described and covered by the Office of Personnel Management government-wide system of records OPM/GOVT–10 (Employee Medical File System Records) or the Department of Labor government-wide system of records DOL/GOVT–1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); and

Sections 4(b), 6(e), and 8C(b) of the Inspector General Act, as amended (5 U.S.C. app.).

PURPOSE:

The records are collected and maintained to identify potential health issues and concerns of an individual, to identify and collect information with respect to claims for injury or illness while in the performance of duty, medical conditions reported by an individual to the FDIC Health Unit, and to identify necessary contacts in the event of a medical emergency involving the covered individual. The records collected and maintained by the Office of Inspector General are used to determine compliance with Office of Inspector General policies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the appropriate Federal, State or local agency when necessary to adjudicate a claim (filed by or on behalf of the individual) under the Federal Employees Compensation Act, 5 U.S.C. 8101 et seq., or a retirement, insurance or health benefit program;

(11) To a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease;

(12) To health or life insurance carriers contracting with the FDIC to provide life insurance or to provide health benefits plan, such information necessary to verify eligibility for payment of a claim for life or health benefits;

(13) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Health Unit; and

(14) To the person designated on the appropriate form as the individual to contact in the event of a medical emergency of the employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Paper format records are stored in lockable metal file cabinets. Access is limited to authorized employees and contractors responsible for servicing the records in the performance of their duties.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The records are compiled during the course of a visit to the Health Unit for treatment, participation in a health screening program, in the performance of accident/incident investigations, or if the individual requests an ergonomic assessment or health or medical accommodation. OIG employees also provide the results of physical and other medical examinations required for compliance with Office of Inspector General policies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0018

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations are located in the FDIC regional office where originated (See Appendix A for a list of the FDIC regional offices and their addresses). For non-headquarters employees, duplicate copies may be maintained by the Human Resources Branch, Division of Administration, Arlington, VA for the purpose of coordinating grievance and arbitration proceedings.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC or OIG employees who have submitted grievances in accordance with part 771 of the United States Office of Personnel Management's regulations (5 CFR part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. Case files contain documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance procedures that FDIC may establish through negotiations with recognized labor organizations. The system used by the Office of Inspector General contains records related to grievances filed by OIG employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act, as amended (5 U.S.C. app.); 5 U.S.C. 7121; 5 CFR part 771.

PURPOSE:

The information contained in this system is used to make determinations and document decisions made on filed grievances and settle matters of dissatisfaction or concern of covered individuals. Information from this system may be used for preparing statistical summary or management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To any source during the course of an investigation only such information as determined to be necessary and pertinent to process a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Electronic files are password protected and accessible only by

authorized personnel. Paper format records are stored in lockable metal file cabinets in a locked room accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director of Personnel, Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. The appropriate FDIC Regional Director for records maintained in FDIC regional offices (see Appendix A for a list of the FDIC regional offices and their addresses).

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information in this system is provided: (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0019

SYSTEM NAME:

Potential Bidders List.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have purchased or submitted written notice of an interest in purchasing loans, owned real estate, securities, or other assets from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, telephone number and electronic mail address, if available; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on prior sales.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11 and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821 and 1823).

PURPOSE:

The system collects, identifies and maintains information about potential purchasers of assets (primarily loans and owned real estate) from the FDIC. The information is utilized by the FDIC in the marketing of assets, to identify qualified potential purchasers and to solicit bids for assets. The information in this system is used to support the FDIC's liquidation/receivership functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies,

practices, and matters affecting working conditions; and

(10) To other Federal or State agencies and to contractors to assist in the marketing and sale of loans, real estate, or other assets held by the FDIC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format in file folders.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by name of prospective purchaser or unique identification number assigned to the prospective purchaser.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets or offices.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual about whom the record is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0020

SYSTEM NAME:

Telephone Call Detail Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Information Technology, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers by the FDIC, including current and former FDIC employees and contractor personnel, who make local and long distance telephone calls and individuals who receive telephone calls placed from or charged to FDIC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, including telephone number, location, dates and duration of telephone call, relating to use of FDIC telephones to place or receive long distance and local calls; records of any charges billed to FDIC telephones; records indicating assignment of telephone numbers to individuals covered by the system; and the results of administrative inquiries to determine responsibility for the placement of specific local or long distance calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSES:

The records in this system are maintained to identify and make a record of all telephone calls placed to or from FDIC telephones and enable the FDIC to analyze call detail information for verifying call usage; to determine responsibility for placement of specific long distance calls; and for detecting possible abuse of the FDIC-provided long distance telephone network.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or

the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To current and former FDIC employees and other individuals currently or formerly provided telephone services by the FDIC to determine their individual responsibility for telephone calls;

(11) To a telecommunications company providing telecommunications support to permit servicing the account; and

(12) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Records are indexed and retrieved by telephone number and office location.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed after the close of the fiscal year in which they are audited or after three years from the date the record was created, whichever occurs first.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Infrastructure Services Branch, Division of Information Technology, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance and local calls.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0021

SYSTEM NAME:

Fitness Center Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Fitness Centers, Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA, 22226, and 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC employees who apply for membership and participate in the Fitness Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, gender, age; fitness assessment results; identification of certain medical conditions; and the name and phone number of the individual's personal physician and emergency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE:

The records are collected and maintained to control access to the fitness center; to enable the Fitness Centers' contractor to identify any potential health issues or concerns and the fitness level of an individual; and to identify necessary contacts in the event of a medical emergency while the individual is participating in a fitness activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts

to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To the individuals listed as emergency contacts or the individual's personal physician, in the event of a medical emergency; and

(11) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Fitness Centers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper format within individual file folders. Information recorded on index cards is stored in a card file box.

RETRIEVABILITY:

Individual file folders and cards are indexed and retrieved by name.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets. Access is limited to authorized employees of the contractor responsible for servicing the records in the performance of their duties. Note: In the future, all or some portion of the records may be stored in electronic media. These records will be indexed and retrieved by name and will be password protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information is principally obtained from the individual who has applied for membership and Fitness Center personnel. Some information may be provided by the individual's personal physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0022

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATIONS:

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit requests and administrative appeals pursuant to the provisions of the Freedom of Information Act (FOIA) or the Privacy Act; individuals whose requests, appeals or other records have been referred to FDIC by other agencies; attorneys or other persons authorized to represent individuals submitting requests and appeals; individuals who are the subjects of such requests; and FDIC personnel assigned to process such requests or appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain requesters' and their attorneys' or representatives' names, addresses, email addresses, telephone numbers; online identity verification information (username and password); and any other information voluntarily submitted, such as an individual's social security number; tracking numbers; correspondence with the requester or others representing the requester; internal FDIC correspondence and memoranda to or from other agencies having a substantial interest in the determination of the request; responses to the request and appeals; and copies of responsive records. These records may contain personal information retrieved in response to a request. Note—FOIA and Privacy Act case records may contain inquiries and requests regarding any of the FDIC's other systems of records subject to the FOIA and Privacy Act, and information about individuals from any of these other systems may become part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), 12 CFR parts 309 and 310.

PURPOSES:

The records are collected and maintained to process requests made under the provisions of the FOIA and Privacy Act and to assist the FDIC in carrying out any other responsibilities relating to the FOIA and Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C.

552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal agencies and other public authorities for use in records management inspections;

(6) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement, or project;

(7) To another Federal government agency having a substantial interest in the determination of the request or for the purpose of consulting with that agency as to the propriety of access or correction of the record in order to complete the processing of requests; and

(8) To a third party authorized in writing to receive such information by the individual about whom the information pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format records are indexed and retrieved by the requester's name or by unique number assigned to the request. Records sometimes are retrieved by reference to the name of the requester's firm, if any, or the subject matter of the request.

SAFEGUARDS:

Electronic files are password-protected and accessible only by authorized personnel. File folders are maintained in lockable metal file cabinets in a locked room accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records for Freedom of Information Act requests which are granted, withdrawn or closed for non-compliance or similar reason, are destroyed two years after the date of the reply. Records for all other Freedom of Information Act requests (e.g., requests denied in part, requests denied in full, and requests for which no responsive information was located) are destroyed six years after the date of the reply, unless the denial is appealed, in which case the request and related documentation are destroyed six years after the final agency determination or three years after final adjudication by the courts, whichever is later. Records maintained for control purposes are destroyed six years after the last entry. Records maintained for processing Privacy Act requests are disposed of in accordance with established disposition schedules for individual records, or five years after the date of the disclosure was made, whichever is later. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER AND ADDRESS:

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Requesters and persons acting on behalf of requesters, FDIC offices and divisions, other Federal agencies having a substantial interest in the determination of the request, and employees processing the requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The FDIC has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) and 12 CFR part 310.13. During the processing of a Freedom of Information Act or Privacy Act request, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other FDIC systems of records are entered or become part of this system, the FDIC has claimed the same exemptions, and any such records compiled in this system of records from any other system of records continues to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

FDIC–30–64–0023

SYSTEM NAME:

Affordable Housing Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and prospective purchasers of residential properties

offered for sale through the FDIC's Affordable Housing Program. Note: To be considered a prospective purchaser for purposes of this record system, the individual must have: (1) Completed and signed an FDIC ''Certification of Income Eligibility;'' and (2) delivered the form to an authorized representative of the FDIC's Affordable Housing Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the purchaser's or prospective purchaser's income qualification form and substantiating documents (such as personal financial statements, income tax returns, asset or collateral verifications, appraisals, and sources of income); copies of sales contracts, deeds, or other recorded instruments; intra-agency forms, memoranda, or notes related to the property and purchaser's participation in the FDIC's Affordable Housing Program; correspondence; and other documents related to the FDIC's Affordable Housing Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, 13, and 40 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, 1823, 1831q).

PURPOSE:

The records are collected and maintained to determine and verify eligibility of individuals to participate in the FDIC Affordable Housing Program and to monitor compliance by individuals with purchaser income restrictions. The information in the system supports the FDIC's liquidation of qualifying residential housing units and the FDIC's goal to provide home ownership for low-income and moderate-income families.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(10) To mortgage companies, financial institutions, federal agencies (such as the Federal Housing Administration, the Housing and Urban Development Agency, the Farm Service Agency, and the Veterans Administration), or state and local government housing agencies where information is determined to be relevant to an application or request for a loan, grant, financial benefit, or other type of assistance or entitlement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Electronic media and paper format are accessible by name of purchaser or prospective purchaser and by address of the property purchased.

SAFEGUARDS: ELECTRONIC FILES ARE PASSWORD-PROTECTED AND ACCESSIBLE ONLY BY AUTHORIZED PERSONNEL. FILE FOLDERS ARE MAINTAINED IN LOCKABLE METAL FILE CABINETS ACCESSIBLE ONLY BY AUTHORIZED PERSONNEL.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Resolutions and Receiverships Specialist, Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address, and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it,

and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual seeking to participate in the FDIC's Affordable Housing Program. Information pertaining to an individual may, in some cases, be supplemented with reports from credit bureaus and/or similar credit reporting services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0024

SYSTEM NAME:

Unclaimed Deposit Account Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, Field Operations Branch, FDIC, 1601 Bryan Street, Dallas, Texas 75201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as deposit account owners of unclaimed insured deposits of a closed insured depository institution for which the FDIC was appointed receiver after January 1, 1989.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposit account records, including signature cards, last known home address, social security number, name of insured depository institution, relating to unclaimed insured deposits or insured transferred deposits from closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 12 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1822).

PURPOSE:

The information in this system is used to process inquiries and claims of individuals with respect to unclaimed insured deposit accounts of closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989, and to assist in complying with the requirements of the Unclaimed Deposits Amendments Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(10) To the appropriate State agency accepting custody of unclaimed insured deposits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format.

RETRIEVABILITY:

Electronic media and paper format are indexed and retrieved by depository institution name, depositor name, depositor social security number, or deposit account number.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel. Hard copy printouts are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

If the appropriate State has accepted custody of unclaimed deposits, a record of the unclaimed deposits will be retained by the FDIC during the custody period of ten years. Such records will subsequently be destroyed in accordance with the FDIC's records retention policy in effect at the time of return of any deposits to the FDIC from the State. If the appropriate State has declined to accept custody of the unclaimed deposits of the closed insured depository institution, the FDIC will retain the unclaimed deposit records and upon termination of the receivership of the closed insured depository institution, the records will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Field Operations Branch, Division of Resolutions and

Receiverships, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information originates from deposit records of closed insured depository institutions and claimants. Records of unclaimed transferred deposits are provided to the FDIC from assuming depository institutions to which the FDIC transferred deposits upon closing of the depository institution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0025

SYSTEM NAME:

Beneficial Ownership Filings (Securities Exchange Act).

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934, and (2) Any person who is directly or indirectly the beneficial owner of greater than 10% of a class of equity securities issued by an FDIC-insured depository institution that are registered under section 12 of the Securities Exchange Act of 1934; including any trust, trustee, beneficiary or settlor required to report pursuant to Securities and Exchange Commission Rule 16a–8.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reporting persons submit electronically or on paper reports on any of the following three forms: ''Initial Statement of Beneficial Ownership of Securities,'' ''Statement of Changes in Beneficial Ownership of Securities'' and ''Annual Statement of Beneficial Ownership of Securities.'' Reporting persons are required to use these forms to disclose ownership and transactional information relative to their beneficial ownership of securities of FDIC-insured depository institutions with securities registered under the Securities Exchange Act of 1934. Under section 403 of the Sarbanes-Oxley Act of 2002, these forms must be submitted in electronic form and must be made available to the public on a Federal agency's external internet Web site. The forms require disclosure of the name of the financial institution, relationship of reporting person to the financial institution, reporting person's name and street address, date of form or amendment, and filer's signature and date. A description of the securities' terms and transactional information including transaction date, type of transaction, amount of securities acquired or disposed, price, aggregate amount of securities beneficially owned, and form and nature of beneficial ownership must also be disclosed on the forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 12(i) and 16(a) of the Securities Exchange Act of 1934 (respectively, 15 U.S.C. 78l(i) and 78p(a)).

PURPOSE:

In accordance with Section 16(a) of the Securities Exchange Act of 1934, as amended by section 403 of the Sarbanes-Oxley Act of 2002, this information is being made available to the public on the FDIC's external internet Web site in order to facilitate the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information in a manner that will benefit investors, filers and financial institution regulatory agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies,

practices, and matters affecting working conditions;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(10) To the appropriate governmental or self-regulatory organizations when relevant to the organization's regulatory or supervisory responsibilities or if the information is relevant to a known or suspected violation of a law or licensing standard within that organization's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or on paper format in file folders.

RETRIEVABILITY:

Electronically filed reports are indexed and retrieved by the name of the reporting party. Paper-filed reports are indexed by the name of the depository institution issuing the securities being reported, with sub-indexing by the filer's name.

SAFEGUARDS:

Access to the information in this electronic system of records is unrestricted. The filing and amendment of electronic records is restricted to authorized users who have been issued non-transferable user ID's and passwords.

RETENTION AND DISPOSAL:

These records will be maintained for fifteen years from the date of filing, at which time they will be retired or destroyed in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Accounting & Securities Disclosure Section, Division of Risk Management Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information originates from (1) any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934; and (2) any beneficial owner of greater than 10% of an FDIC-insured depository institution with a class of equity securities registered under the Securities Exchange Act of 1934, including any trust, trustee, beneficiary or settlor required to report pursuant to SEC Rule 16a–8.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0026

SYSTEM NAME:

Transit Subsidy Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429 and the FDIC regional or area offices. (See Appendix A for a list of the FDIC regional offices.) Records for FDIC Headquarters and all regional and area offices are also housed electronically at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees who apply for and receive transit subsidy program benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed transit subsidy application forms (FDIC Form 3440). The applications include, but are not limited to, the applicant's name, home address, title, grade, Division, Office, work hours, room and telephone numbers, commuting schedule, and transit system(s) used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are used to administer the FDIC transit subsidy program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or

confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the transit subsidy program participant.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FDIC Division of Administration, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information taken from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0027

SYSTEM NAME:

Parking Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429 and regional offices with FDIC parking facilities. (See Appendix A for a list of the FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees and others who have applied for and/or been issued a parking permit for the use of FDIC parking facilities; individuals who car-pool with employees holding such permits; and employees interested in joining a car pool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed parking application forms (FDIC Forms 3410), car pool information, disability parking applications, special parking authorizations, and visitor parking requests. The information includes, but is not limited to, the applicant's name, home address, title, grade, make, year and license number of vehicle, Division, Office, work hours, room and telephone numbers, and arrival/departure times.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are used to administer the parking program, to allocate the limited number of parking spaces in the FDIC parking facilities among employees and visitors, to facilitate the formation of car pools with employees who have been issued parking permits, and to provide for the safe use of FDIC facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm

to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the permit holder, employee identification number, or license tag number.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FDIC Division of Administration, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR part 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain, information retrieved from official FDIC records, or information from other agency parking records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0028

SYSTEM NAME:

Office of the Chairman Correspondence Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who correspond to, or receive correspondence from, the Office of the Chairman; and individuals who are the subject of correspondence to or from the Office of the Chairman.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence, memoranda, Email, and other communications with the Office of the Chairman that may include, without limitation, name and contact information supplied by the individual as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to document and respond to correspondence addressed to the FDIC, Office of the Chairman.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the

security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint; and

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legislative Affairs, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0029

SYSTEM NAME:

Congressional Correspondence Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals whose inquiries relating to FDIC activities are forwarded by Members of Congress or Congressional staff to the FDIC for response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from Members of the U.S. Congress or Congressional staff making inquiries or transmitting inquiries, correspondence or documents from constituents that may include, without limitation, name and contact information as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to document and respond to constituent and other inquiries forwarded by Members of the U.S. Congress or Congressional staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests,

identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(11) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legislative Affairs, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0030

SYSTEM NAME:

Legislative Information Tracking System Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals who contact, or are contacted by the FDIC Office of Legislative Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains memoranda, email and other communications with the Office of Legislative Affairs that may include without limitation, name and contact information supplied by the individual as well as information related to the inquiry that was developed by FDIC staff.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to document and respond to inquiries regarding FDIC's views on proposed legislation, facilitate Congressional briefings, and coordinate preparation of FDIC responses to constituent inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(9) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(10) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(11) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, and subject.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Legislative Affairs, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who contact the FDIC for response, and FDIC personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0031

SYSTEM NAME:

Online Ordering Request Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

These electronic records are collected in a web-based system located at a secure site and on secure servers maintained by a contractor for the FDIC, Division of Administration, 550 17th Street NW., Washington, DC 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make an online request for publications, products, or other materials from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains names, business or organization affiliations, addresses, phone numbers, email addresses, order history, payment information (debit and/or credit card information), identity verification information (username, user ID, and password), fulfillment information (shipping and delivery instructions), and other contact information provided by individuals covered by this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to organize and process requests for publications, products, or other materials offered by the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in

the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal agencies and other public authorities for use in records management inspections;

(6) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(7) To Pay.gov to obtain debit or credit card approval or disapproval from the issuing financial institution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media at a secure site and on secure servers maintained by a contractor.

RETRIEVABILITY:

Records are indexed and retrieved by name, order number, and date.

SAFEGUARDS:

Electronic transmission records are password-protected and accessible only by authorized personnel. Debit and credit card information is encrypted.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Corporate Services Branch, Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who contact the FDIC, FDIC personnel, and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0033

SYSTEM NAME:

Emergency Notification Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429; FDIC regional or area offices (See Appendix A for a list of the FDIC regional offices and their addresses); and at a secure site and on secure web-based servers maintained by a contractor for the FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current FDIC employees, contractors, and other registered users.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes individual contact information including name, personal telephone numbers, personal email addresses, official business phone number, and official business email address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The system provides for multiple communication device notification to registered FDIC personnel during and after local, regional or national emergency events and security incidents, disseminates time sensitive information, provide personnel accountability and status during emergency events, and conduct communication tests. The system also provides for the receipt of real-time message acknowledgements and related management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the

security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal agencies and other public authorities for use in records management inspections;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media at a secure site and on secure servers maintained by a contractor.

RETRIEVABILITY:

Records are indexed and retrieved by groups and individual name.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FDIC Division of Administration, Security and Emergency Preparedness Section 550 17th Street NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information taken from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0034

SYSTEM NAME:

Office of Inspector General Inquiry Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals—including, but not limited to, members of the public, the media, contractors and subcontractors, Congressional sources, and employees of the FDIC or of other governmental agencies—who communicate with the Office of Inspector General (OIG) through written or electronic correspondence or telephonically including the OIG Hotline. The system also includes individuals who receive correspondence from OIG and those who are the subject of correspondence to or from OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence, memoranda, email, faxes, other electronic or digital communications, and additional documentation supplied by the source of the records. Records provided by the source may include personally identifiable information including name, addresses, email addresses, telephone numbers, and any other information voluntarily submitted such as Social Security Number, as well as information developed by OIG, such as the date the matter was received by OIG, the date the matter was closed, and the manner of disposition. Records that involve law enforcement matters are transferred to the OIG investigative function, whose applicable system of records is covered by FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended (5 U.S.C. app.).

PURPOSE:

This system of records is used to document and respond to correspondence addressed or directed to FDIC OIG; to track the receipt and disposition of correspondence; and to act as a means of referring allegations of illegality, fraud and abuse to the OIG investigative function.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To the appropriate Federal, State, local, foreign or international agency or authority which has responsibility for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order to assist such agency or authority in fulfilling these responsibilities when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal (collectively referred to as the adjudicative bodies) in

the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings (collectively, the litigative proceedings)when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary in order for the adjudicatory bodies, or any of them, to perform their official functions in connection with the presentation of evidence relative to the litigative proceedings;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding to assist those representatives by providing them with information or evidence for use in connection with such litigation or proceedings;

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals if needed in the performance of these or other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the OIG, FDIC or Federal Government in order to assist those entities or individuals in carrying out their obligations under the related contract, grant, agreement or project;

(10) To a financial institution (whether or not FDIC-insured, but subject to the FDIC's examination, supervision and/or resolution authority) which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(11) To the primary Federal or State financial regulator of a financial institution (whether or not FDIC-insured, but subject to the FDIC's examination, supervision and/or resolution authority) that is the subject of an inquiry or complaint in order to resolve the inquiry or complaint;

(12) To third-party sources, as authorized by OIG or the FDIC, during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint;

(13) To the U.S. Office of Personnel Management, Government Accountability Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with hiring or retaining an employee, rendering advice requested by OIG, issuing a security clearance, reporting an investigation of an employee, reporting an investigation of prohibited personnel practices, letting a contract or issuing a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter;

(14) To other Federal Offices of Inspector General or other entities for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components, or for statistical purposes; and

(15) To a Federal agency responsible for considering suspension or debarment action where such a record is determined to be necessary and relevant.

Note: In addition to the foregoing: (1) A record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived; and (2) records contained in this system that are subsequently transferred to OIG's investigative function may be disclosed as a routine use as specified in FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date received or closed, and/or subject.

SAFEGUARDS:

The electronic system files are accessible only by authorized personnel on a need-to-know basis. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods. For records transferred from this system to OIG investigative function, the retention period and manner of destruction will be governed by the applicable investigative-records retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

FDIC Inspector General, 3501 Fairfax Drive, Arlington, VA 22226.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in

this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity. Note: Records transferred from this system to the OIG investigative function are subject to the exemptions claimed under FDIC–30–64–0010, Investigative Files of the Office of Inspector General. See ''Exemptions Claimed for the System'' below.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system should specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR Part 310. **Note:** Records transferred from this system to the OIG investigative function are subject to the exemptions claimed under FDIC–30–64–0010, Investigative Files of the Office of Inspector General. See ''Exemptions Claimed for the System'' below.

RECORD SOURCE CATEGORIES:

Official records of the FDIC; current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None. Records transferred from this system to the OIG investigative function are subject to the exemptions claimed under FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

FDIC–30–64–0035

SYSTEM NAME:

Identity, Credential and Access Management Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street NW., Washington, DC 20429, and the FDIC regional or area offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system covers all FDIC employees, contractors, and other individuals who have applied for, been issued, and/or used a Personal Identity Verification (PIV) card for access to FDIC or other federal facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes all information submitted during application for the PIV card and any resulting investigative and adjudicative documentation required to establish and verify the identity and background of each individual issued a PIV card. The system includes, but is not limited to, the applicant's name, social security number, date and place of birth, hair and eye color, height, weight, ethnicity, status as Federal or contractor employee, employee ID number, email, biometric identifiers including fingerprints, digital color photograph, user access rights, and data from source documents used to positively identify the applicant, including passport and Form I–9 documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Executive Order 9397; and Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors.

PURPOSE:

The primary purpose of the system is to manage the safety and security of FDIC and other federal facilities, as well as the occupants of those facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, and local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, social security number, other ID number, PIV card serial number, and/or by any other unique individual identifier.

SAFEGUARDS:

Electronic records are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods. PIV cards are deactivated within 18 hours of cardholder separation, loss of card, or expiration. PIV cards are destroyed by shredding no later than 90 days after deactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR Part 310. Individuals requesting their records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, those authorized by the subject individuals to furnish information, and the FDIC's personnel records. Information regarding entry and egress from FDIC facilities or access to information technology systems is obtained from use of the PIV card.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A

FDIC Atlanta Regional Office, 10 Tenth Street NE., Suite 800, Atlanta, GA 30309–3906

FDIC Boston Regional Office, 15 Braintree Hill Office Park, Suite 200, Braintree, MA 02184–8701

FDIC Chicago Regional Office, 300 South Riverside Plaza, Suite 1700, Chicago, IL 60606

FDIC Dallas Regional Office, 1601 Bryan Street, Dallas, TX 75201

FDIC Kansas City Regional Office, 1100 Walnut Street, Suite 2100, Kansas City, MO 64106

FDIC Memphis Area Office, 6060 Primacy Parkway, Suite 300, Memphis, TN 38139

FDIC New York Regional Office, 350 Fifth Avenue, New York, NY 10118–0110

FDIC San Francisco Regional Office, 25 Jessie Street at Ecker Square, Suite 2300, San Francisco, CA 94105–2780

By order of the Board of Directors Dated at Washington, DC, this 8th day of October, 2013.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–24534 Filed 10–22–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL REGISTER

Vol. 78 Wednesday,
No. 205 October 23, 2013

Part III

The President

Presidential Determination No. 2013–17 of September 30, 2013—Determination With Respect to the Child Soldiers Prevention Act of 2008

Federal Register
Vol. 78, No. 205
Wednesday, October 23, 2013

Presidential Documents

Title 3—

The President

Presidential Determination No. 2013–17 of September 30, 2013

Determination With Respect to the Child Soldiers Prevention Act of 2008

Memorandum for the Secretary of State

Pursuant to section 404 of the Child Soldiers Prevention Act of 2008 (CSPA) (title IV, Public Law 110–457), I hereby determine that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Chad, South Sudan, and Yemen; to waive in part the application of the prohibition in section 404(a) of the CSPA with respect to the Democratic Republic of the Congo to allow for continued provision of International Military Education and Training (IMET) and nonlethal Excess Defense Articles, and the issuance of licenses for direct commercial sales of nonlethal defense articles; and to waive in part the application of the prohibition in section 404(a) of the CSPA with respect to Somalia to allow for the issuance of licenses for direct commercial sales of nonlethal defense articles, provision of IMET, and continued provision of assistance under the Peacekeeping Operations authority for logistical support and troop stipends. I hereby waive such provisions accordingly.

You are authorized and directed to submit this determination to the Congress, along with the accompanying Memorandum of Justification, and to publish the determination in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 30, 2013.

[FR Doc. 2013–25122
Filed 10–22–13; 11:15 am]
Billing code 4710–10

Reader Aids

Federal Register

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